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6 UNITED STATES NUCLEAR REGULATORY COMMISSION'S
7 ADVISORY COMMITTEE ON REACTOR SAFEGUARDS
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10 The contents of this transcript of the
11 proceeding of the United States Nuclear Regulatory
12 Commission Advisory Committee on Reactor Safeguards,
13 as reported herein, is a record of the discussions
14 recorded at the meeting.
15

16 This transcript has not been reviewed,
17 corrected, and edited, and it may contain
18 inaccuracies.
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1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

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4 ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

5 (ACRS)

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7 SUBCOMMITTEE ON PLANT OPERATIONS

8 AND FIRE PROTECTION

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10 MONDAY, NOVEMBER 1, 2010

11 + + + + +

12 ROCKVILLE, MARYLAND

13 + + + + +

14 The Advisory Committee met at the Nuclear
15 Regulatory Commission, Two White Flint North, Room
16 T2B1, 11545 Rockville Pike, at 8:30 a.m., John D.
17 Sieber, Chairman, presiding.

18 SUBCOMMITTEE MEMBERS:

19 JOHN D. SIEBER, Chairman

20 J. SAM ARMIJO

21 DENNIS C. BLEY

22 DANA A. POWERS

23 HAROLD B. RAY

24 MICHAEL T. RYAN

25 JOHN W. STETKAR

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NRC STAFF PRESENT:

GIRIJA SHUKLA, Designated Federal Official
and Cognizant Staff Engineer

BETHANY CECERE, NSIR/DPR/EP

ROBERT BEALL, NRR/DPRR

HOWARD BENOWITZ, OGC/RMR

HOLLY HALL, NSIR/DR

JEFF LAUGHLIN, EP

STEVE LaVIE, NSIR/DPR

EARL R. LIBBY, NRO/DNRL/NRQA

ROBERT KAHLER, NSIR/DPR

CHRIS MILLER, NSIR/DPR

BETH REED, NRR/DPR

RANDY SULLIVAN, EP

DON TAILLEART, NSIR/DPIR

ALSO PRESENT:

ANTHONY DeFELICE, FEMA

MARTIN HUG, NEI

JUSTIN KROMETIS, IEM

KEITH KEMPER, Exelon

SUE PERKINS-GREW, NEI

PAUL SERRA, Dominion

HARRY SHERWOOD, FEMA

MICHAEL SLOBODIEN, Entergy Nuclear

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P R O C E E D I N G S

8:29 a.m.

CHAIRMAN SIEBER: Well, I think we're ready to begin now. The meeting will now come to order. This is a meeting of the Advisory Committee on Reactor Safeguards, Subcommittee on Plant Operations and Fire Protection.

My name is Jack Sieber. I'm chairman of the Subcommittee. This meeting will be open to and is open to public attendance. Subcommittee members in attendance are John Stetkar, Sam Armijo, Dennis Bley, who isn't here right now but will be shortly. Oh, there they are. Mike Ryan, Harold Ray and Dana Powers is expected but not here. Girija Shukla of the NRC staff is the designated federal official for this meeting.

The Subcommittee will hear presentations from the NRC staff and the industry regarding the draft final rule, enhancements to emergency preparedness regulations, referring to 10 C.F.R. 50 and 10 C.F.R. 52, and related regulatory guidance documents.

We have received written comments from the Westchester Citizens Awareness Network regarding today's meeting. The Subcommittee will gather

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1 information, analyze relevant issues and facts, and
2 formulate proposed positions and actions as
3 appropriate for deliberation by the full committee.

4 The rules for participation in today's
5 meeting have been announced as part of the notice of
6 this meeting published in the *Federal Register* on
7 October 12th, 2010. A transcript of this meeting is
8 being kept and will be made available as stated in the
9 *Federal Register* notice.

10 Therefore, we request participants in this
11 meeting to use the microphones located throughout the
12 meeting room when addressing the Subcommittee.
13 Participants should first identify themselves and
14 speak with sufficient clarity and volume, so that they
15 may be readily heard.

16 I also would like you and I will myself
17 ask you to silence cell phones, and in my review and
18 preparation for this meeting, what I see before me is
19 an awful lot of work that has been going on, not only
20 by the NRC staff but by Department of Homeland
21 Security and the Federal Emergency Management
22 Administration, and also the industry, state
23 governments, local officials and actually as many as
24 87 public, members of the public.

25 To sort through of this and to get this in

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1 the fashion that it is in the time that was allowed to
2 develop this rulemaking shows a great effort on the
3 part of not only our staff but the other federal
4 agencies and state governments and local governments
5 involved, and for that I congratulate everyone for a
6 job well done.

7 I would point out that in the proposed
8 rulemakings that we will consider today, there are
9 technical issues. For example, evacuation time
10 estimation and how that fits into the emergency plan,
11 and also management issues, public relations issues,
12 all of which are important to make emergency planning
13 and execution effective in this country.

14 We have had examples in the past of good
15 emergency planning and execution in the United States,
16 and we've had some examples where emergency planning
17 and execution did not reach perfection. In this
18 particular business, we need to work hard and to make
19 good decisions at the rulemaking stage and also in the
20 drill and exercise stage, and also in the actual
21 execution stage, to make this work that we've devoted
22 over five years to, effective.

23 Now I would point out that there have been
24 a long history of emergency plan drills that have been
25 conducted since the original emergency plan rules, and

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1 I guess between Harold Ray and I, we have done quite a
2 few of these at different plants, not only as
3 officials of utilities but also as observers, and also
4 as part of INPO.

5 So we have seen it from every angle
6 possible, and the events of September 11th, 2001 have
7 brought new issues to the forefront, which I think are
8 important issues, and make emergency planning a little
9 bit more complicated, and calls upon us to be better
10 organized and better prepared in the areas of alerting
11 resource management, public communication and the on-
12 site handling of a security-related incident.

13 I would point out that some of the issues
14 related to emergency planning may be considered as
15 Safeguards information. Since this is a public
16 meeting, open to the public, we do not want to discuss
17 that. I would call upon our designated federal
18 official to interrupt the meeting and also the NRC
19 staff, to interrupt the meeting so that we maintain
20 the confidentiality of Safeguards information. So you
21 all are free to do that, and I think that's essential.

22 MR. SHUKLA: We will do that, sir.

23 CHAIRMAN SIEBER: That's sort of a long
24 explanation leading into today's meeting and today's
25 presentations, but I think it's necessary, because I

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1 think that what we will do today and what the full
2 committee will do in its review, maybe one of the --
3 among the most important things that we will do this
4 year.

5 So with that, I would like to now proceed
6 with the meeting, and I call on Chris Miller of the
7 NRC management, to make introductory remarks. Chris?

8 MR. MILLER: Thank you, Jack, and other
9 members of the ACRS, and thank you to all who came to
10 participate in this meeting. My name is Chris Miller,
11 Deputy Director for Emergency Preparedness within the
12 Office of Nuclear Security and Incident Response.

13
14 We are appreciative of the opportunity to
15 speak on this rulemaking effort and the associated
16 issues. As you referenced in your comments earlier,
17 this represents the culmination of efforts begun
18 shortly after September 11th, 2001, to address needed
19 changes to EP. It includes hostile action
20 preparedness elements, as well as several other
21 changes.

22 In fact, a top to bottom review of
23 emergency preparedness was conducted in 2004 and 2005,
24 and used as the basis for the additional elements that
25 you will hear about here.

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1 As EP has many interested stakeholders,
2 you referenced them, the federal agencies, states,
3 local governments, industry and members of the public,
4 and you will hear in our presentation the extra
5 measures that we took to involve the public and other
6 stakeholders in this rulemaking process.

7 Staff also noted the importance of having
8 the rulemaking guidance -- the rulemaking documents
9 out with the guidance documents, and so that the
10 public early on could have a better view of where we
11 were going with the rulemaking, and be better informed
12 with their comments to us, as we kept this a very open
13 process.

14 So the staff will also discuss the three
15 NRC guidance documents that were developed to provide
16 additional information regarding the rulemaking
17 topics, a regulatory guide for the amended emergency
18 plan change process, a NUREG CR document for
19 evacuation time estimates, and an interim staff
20 guidance document that cover the remaining topics.

21 You will also hear from our partners at
22 FEMA today, who have worked closely with us throughout
23 the rulemaking process, even before the rulemaking
24 process began, to ensure that the final rule and
25 guidance addresses important on-site and off-site

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1 documents in an integrated manner. You just can't do
2 without the other. You have to have on-site and off-
3 site coordinated together.

4 I want to take this opportunity to
5 personally thank the leadership team at FEMA,
6 represented today by Mr. Harry Sherwood from FEMA
7 Region 9 in Oakland, California, and Harry is back
8 there. Thank you, Harry. And you will hear from them
9 later, who helped our agencies remain aligned through
10 the process.

11 The staff will provide a brief history of
12 emergency preparedness rulemaking. Events that led to
13 the current rulemaking effort, and actions that we
14 have taken to make this effort more open to our
15 stakeholders, through the use of an expanded
16 rulemaking process, and Bob Kahler will get into that
17 a little bit more in detail as we go through.

18 Each of the rulemaking topics will be
19 covered, along with request for additional input that
20 we requested of the stakeholders in several areas that
21 were under consideration for rulemaking. Finally,
22 significant comments and their resolution will be
23 reviewed.

24 That being said, I would like to introduce
25 the members of my staff of the Division of

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1 Preparedness and Response, who are in attendance.
2 Many of them will also be making presentations to you
3 throughout the day.

4 To my right, Bob Kahler, Chief of the
5 Inspection and Regulatory Improvements Branch. To my
6 left, Don Tailleart, regulatory improvements team
7 leader. We have Randy Sullivan, Emergency
8 Preparedness specialist; Steve LaVie, senior emergency
9 preparedness specialist; Jeff Laughlin, emergency
10 preparedness specialist and Milt Murray, emergency
11 preparedness specialist sitting over in that corner
12 over there.

13 We have also worked closely with other
14 offices on this rulemaking effort, and I want to
15 acknowledge their contributions from the Office of
16 Nuclear Reactor Regulation. Lauren Quinones and Bob
17 Beall have served as project managers; Elizabeth Reed
18 has also been a subject matter expert on research and
19 test reactors.

20 From the Office of New Reactors, George
21 Tartal and Earl Libby provided their technical
22 expertise, back in back over there, involving combined
23 license and early site permit applicants, and Howard
24 Benowitz benefitted us, from the Office of General
25 Counsel provided legal advice and extensive assistance

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1 to improve the overall quality of the rulemaking and
2 guidance documents. Thank you, Howard.

3 In addition, Mike Harrison from the office
4 of Administration provided guidance on the formatting
5 and processing of the rulemaking documents. With that
6 introduction, I would like to turn the meeting over to
7 Bob Kahler.

8 MR. KAHLER: Good morning, everyone.
9 Again, I'm Bob Kahler. I'm with the Office of Nuclear
10 Security Incident Response, and I'm the branch chief
11 responsible for regulatory improvements and also for
12 the EP inspection program here at the NRC.

13 I'm going to be giving you the brief
14 background of how we got here today with the EP rule
15 and the guidance documents, and the events leading up
16 to today. I'll be going over the rulemaking topics
17 that are included in the rulemaking and the guidance
18 documents, and then going through the requests for
19 input that we also asked during the public comment
20 period. With that, I'd like to get started with my
21 presentation.

22 As you can see from our chart, we have an
23 enhanced rulemaking process that we use for the
24 emergency preparedness rule, of which there was great
25 involvement from public stakeholders and others along

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1 the way, which is a large addition to what the normal
2 rulemaking process would normally be.

3 This all started though, back following
4 the accident at Three Mile Island in 1979. The NRC
5 revised its regulations to incorporate additional
6 emergency preparedness requirements, and establish the
7 16 planning standards in 10 C.F.R. 5047 Bravo.

8 The planning standards are applicable to
9 off-site response agencies, who are also incorporated
10 in Federal Emergency Management Agency, FEMA
11 regulations, specifically in their 44 C.F.R. 350
12 regulations. For NRC licensees and applicants,
13 additional requirements in Appendix E to 10 C.F.R.
14 Part 50 supplemented these 16 planning standards.

15 The EP rulemaking we will be discussing
16 today provides enhancements to these 16 planning
17 standards, and also to Appendix E, the 10 C.F.R. 50.

18 Following the events of September 11th,
19 2001, the NRC staff reviewed the emergency planning
20 basis for nuclear power plants, and considered the
21 impact of hostile actions unanticipated at the time
22 that basis was established. The staff concluded that
23 the emergency planning basis remains valid.

24 The staff concluded that the emergency
25 planning basis was valid as a result of vulnerability

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1 studies, but these vulnerability studies revealed that
2 releases related to hostile action would be no more
3 severe than other accident sequences considered in
4 that emergency planning basis.

5 However, hostile action could present
6 unique challenges, as we heard from Jack Sieber this
7 morning, to emergency preparedness programs for which
8 licensees and off-site response organizations
9 typically plan for, train for and exercise.

10 Since 2001, the NRC staff has observed
11 numerous security event-based emergency preparedness
12 drills and security force-on-force exercises, and also
13 discussed EP issues with various stakeholders.

14 The staff issued a bulletin in 2005, 2005-
15 02, "Emergency Prepared Response Actions for Security-
16 Based Events," to address potential hostile action,
17 and to provide examples of enhancements for licensees
18 to consider in their response to security-based
19 events.

20 Nuclear power reactor licensees responded
21 that they had implemented or had planned to implement,
22 and have since have implemented the types of
23 enhancements outlined in that bulletin, 2005-02, for
24 security-based events.

25 During this same time period in 2005, a

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1 top to bottom review of the EP program and regulations
2 was performed by the staff. Joint public meetings
3 were held with FEMA during the review process, to
4 obtain stakeholder feedback early in the rulemaking
5 process, and results of the review and recommendations
6 for the rulemaking were provided to the Commission in
7 2006 in SECY 06-200, "Results of Review of EP
8 Regulations and Guidance."

9 The staff recommended pursuing emergency
10 preparedness program enhancements for several security
11 event related and non-security related, non-security
12 event related topics. Additionally, the comprehensive
13 review identified several areas for clarifying and
14 improving the EP program, based on experience since
15 the TMI accident, recent technological advances, and
16 lessons learned from actual events, drills and
17 exercises.

18 The review also identified other potential
19 lower priority enhancements that were not pursued in
20 this current rulemaking effort. Since then, the staff
21 has determined that these lower priority items should
22 be addressed through means other than rulemaking, such
23 as new or revised values, and not through a rulemaking
24 effort.

25 Continuing with the rulemaking process,

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1 additional public meetings were held in 2008 until
2 the proposed rule was provided to the Commission in
3 January of 2009.

4 Following changes made to the proposed
5 rule as a result of the Commission's review and
6 subsequent SRM, the rule was published in the *Federal*
7 *Register* in May 2009, for what was ultimately an 150-
8 day comment period.

9 The staff felt it was critical to inform
10 our stakeholders early and often during the comment
11 period about the details of the rule and guidance, to
12 aid them in developing their informed -- aid them in
13 developing their comments.

14 In June of 2009, we held 11 joint NRC and
15 FEMA public meetings in six different locations across
16 the country, and due to state and local and industry
17 requests, we conducted an additional 12th NRC public
18 meeting here in September of 2009.

19 NRC staff made use of both telephone
20 calling capabilities and web conferencing over the
21 Internet, to allow effective remote interactive
22 stakeholder participation in each of these public
23 meetings. Our goals are to maximize attendance and
24 accessibility, and provide for a high quality exchange
25 of information, while being sensitive to stakeholder

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1 needs and travel budget constraints.

2 Approximately 290 people attended the
3 meetings in person, and 95 participated remotely.
4 When I say "95," 95 connections to the web were
5 logged, and some of these connections were in meeting
6 rooms where additional people were observing the
7 meeting.

8 In December of 2009, the Commission was
9 formally briefed on the status of this rulemaking
10 initiative, and an overview of the comments received
11 by both the NRC and FEMA was provided at that time.

12 In a staff requirements memorandum issued
13 following the briefing, NRC staff was directed to make
14 the draft final rule language and guidance documents
15 publicly available in conjunction with this, the ACRS
16 review process.

17 In October 2010, we provided you the
18 rulemaking documents, and we also posted them on
19 Regulations.gov, and you can find them there
20 underneath NRC 2008-0122, as well as any member of the
21 public. We used that same docket number that we used
22 during the public comment period. So there it was a
23 one-stop shop for all of the documents. That occurred
24 on October 8th of this year.

25 The NRC staff was also directed by the

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1 Commission to assess the cumulative effect of this
2 rulemaking and other NRC regulatory changes on
3 licensees. The efforts to assess the cumulative
4 effect of the rulemaking is still ongoing, and a
5 public meeting will be held on November the 15th, two
6 weeks from today, to obtain additional information
7 from stakeholders on the proposed implementation dates
8 for this rulemaking.

9 This brings us to the current draft final
10 rule and guidance we are here to discuss today.

11 With that, I'll present to you this chart,
12 which identifies the 12 topics that are addressed in
13 the draft final rule, and indicates the associated
14 guidance documents for each of those rulemaking
15 topics, and it's high level, the guidance. Some of it
16 has some additional guidance in other minor areas.

17 The first six topics are really related to
18 the security issues that were born of the September
19 11th, 2001 review. Topic 7 through 11 were a result
20 of the comprehensive review, and the final 12th topic
21 is associated with the removal of completed one-time
22 requirements and is more administrative in nature.

23 The rest of my presentation is to provide
24 an overview of each of these rulemaking topics, and
25 also of the request for input that were out in the

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1 *Federal Register* notice during the public comment
2 period.

3 The first rulemaking topic I'd like to
4 discuss with you today is on on-shift multiple
5 responsibilities.

6 MEMBER STETKAR: Can I ask you a general
7 question before we get into specific topics?

8 MR. KAHLER: Sure.

9 MEMBER STETKAR: Why does the rule exclude
10 non-power reactors?

11 MR. KAHLER: The rule doesn't exclude non-
12 power reactors on the whole. There is a portion --

13 MEMBER STETKAR: Okay. Well, let me
14 rephrase it. Why does the rule in all practical
15 senses functionally exclude non-power reactors?

16 MR. KAHLER: We did do a review of some of
17 the non-power reactor, where it would be appropriate
18 to have it apply to non-power reactors, research and
19 test reactors. I do have that further on in my
20 presentation.

21 MEMBER STETKAR: Oh, you do? Okay. If
22 you're going to address it later, thanks.

23 MR. KAHLER: Because that was one of the
24 requests for input was whether this should be
25 applicable to non-power reactors.

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1 MEMBER STETKAR: I'll save it. Continue.
2 Thank you.

3 CHAIRMAN SIEBER: I might add to that, we
4 licensed and relicensed recently a non-power reactor,
5 one of the largest ones and the biggest issue is that
6 the nine conditions under which they operate, low
7 temperature, low power, and the other one is minimal
8 source term. Because the source term is low compared
9 to a power reactor, and because the operating
10 conditions are relatively benign, the potential for a
11 major off-site consequence is far less than it would
12 be for a power reactor, and in its judgment, the staff
13 has lessened the requirements on non-power reactors,
14 research reactors, for example, because of these two
15 factors.

16 MEMBER STETKAR: If you're going to
17 address it later, I'll ask a few questions on that.

18 (Simultaneous discussion.)

19 MR. KAHLER: Yes.

20 MEMBER BLEY: I have two kind of overview
21 questions too.

22 MR. KAHLER: Yes.

23 MEMBER BLEY: The first one is all EP now
24 in NSIR or some elsewhere?

25 MR. KAHLER: All of power reactor EP is in

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1 NSIR.

2 MEMBER BLEY: Yes, okay.

3 MR. KAHLER: Yes. We have some oversight
4 of reviewing some documents that we received from
5 research and test reactors with their emergency plans,
6 for review for the licensing basis, but everything
7 else is held by research and for the RTRs.

8 MEMBER BLEY: Okay, and the other
9 question, which I hope you're going to get to and
10 just say that if that's true, I don't see anything
11 about risk or risk-informing in any of this. Is there
12 -- is that the way it is, or are you going to talk
13 something about that along the way?

14 MR. KAHLER: Risk-informing of EP, when we
15 talked about the reviewing the basis for emergency
16 preparedness.

17 MEMBER BLEY: Yeah.

18 MR. KAHLER: Part of that was to go back
19 and take another look at risk and everything that was
20 involved with it.

21 So the 9/11 aspects were risk-informed,
22 and as we're going through evaluating each of the
23 rulemaking topics, you don't have it in front of you
24 today, but the staff used analysis sheets which did
25 talk about the significance of the rulemaking changes

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1 and the risk side of things and all that.

2 MEMBER BLEY: But any of that you can
3 mention as you go through, I'd appreciate. Or if you
4 -- if it can't be in a public session, if you can just
5 maybe point it out.

6 MR. KAHLER: Okay. Hang on. Randy, you
7 want to --

8 MR. SULLIVAN: Hi. This is live, right?

9 MR. KAHLER: Yes.

10 MR. SULLIVAN: Randy Sullivan, Emergency
11 Preparedness. We have an initiative ongoing to risk-
12 inform, to establish a technical basis to consider
13 risk-informing the EP regulatory regimen.

14 It's really quite a different approach
15 than the deterministic rules as they stand now. But
16 that is not fully baked. It's ongoing research for
17 the technical basis, to allow management and the
18 Commission to make a decision if we even want to go
19 forward.

20 I believe it's possible and that we could
21 go forward, but this is a year or two out yet.

22 MEMBER BLEY: Okay. I was aware of
23 something going on a few years back, and I'd just say
24 the committee will be real interested in hearing about
25 that at some point in time.

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1 MR. SULLIVAN: Yes, I bet you will. This
2 is an extension of what was going on a couple of years
3 ago, and trying to establish a more robust technical
4 basis to accomplish that.

5 MEMBER BLEY: Okay, thanks.

6 MR. KAHLER: And if I can, at SECY 06-200,
7 we had discussed the project for risk informed EP, and
8 they at the time said continue with the rulemaking,
9 wait to initiate that, and we just initiated that as
10 recently as last year.

11 MEMBER BLEY: Thanks. That rings a bell.
12 Thanks.

13 MR. KAHLER: Yeah. That's where it's
14 coming from. But we did use some sort of a safety
15 significance approach to the rulemaking effort that we
16 had, but as Randy said, it's more deterministic than
17 the technical basis. Any other questions at this
18 time?

19 Going on, then the first rulemaking topic
20 is on on-shift multiple responsibilities. I'd like to
21 go through what was -- what is in the actual fine
22 rule, and talk a little bit about the guidance, just a
23 short bit.

24 We have created a new section (4)(a)(9) to
25 Appendix E, to 10 C.F.R. Part 50, which will address

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1 the concerns regarding the assignment of multiple
2 responsibilities to on-shift emergency response
3 organization personnel that potentially would be
4 overburdened and prevent the timely performance of
5 their emergency plan functions.

6 As I stated, the first six topics are
7 security-related events, were borne out of security-
8 related review, and this is one of the ones where
9 during a hostile action and so on, we wanted to take
10 another look at the on-shift staffing.

11 Currently, the licensees must have enough
12 on-shift staff to perform specified emergency response
13 tasks as you know, 24 hours a day, seven days a week.

14 Existing NRC regulations, however, state that on
15 shift staffing levels shall be adequate, but don't
16 give a firm definition of what that term adequate
17 really encompasses.

18 So the final rule will better ensure
19 sufficient on shift staffing in this post 9/11 threat
20 environment. It would limit the assignment of
21 additional responsibilities which on shift error
22 numbers would likely perform, concurrently with their
23 emergency plan functions.

24 The interim staff guidance identifies the
25 need for the licensee to define the spectrums of

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1 accidents, a design basis accident, design basis
2 throughout, to consider, perform an analysis of
3 emergency response functions, such as a job task
4 analysis, and compare their current staffing levels
5 with the results of this analysis.

6 The guidance also states that these
7 results shall be available for inspection and shall be
8 documented. So that's really the first EP rulemaking
9 topic that we had for the rule.

10 MEMBER ARMIJO: Has any exercise been done
11 to go through this process to identify, see how it
12 works, just this particular multiple responsibilities?

13 MR. KAHLER: We at the NRC have not
14 performed any job task analyses of the separate
15 emergency response functions. So the industry is
16 creating some sort of a document internally for their
17 use, on how to go about doing the job task analysis.
18 We do currently have a table in our current guidance
19 documents, that outlines the functions that they are
20 to analyze.

21 MEMBER ARMIJO: I'm just trying to get at
22 how many, how much additional staffing do you
23 anticipate will be required by this part of the rule?

24 MR. KAHLER: I would say that would be
25 highly dependent upon the site itself and the

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1 specifics in the site. A lot of them have done that
2 sort of analysis, but nothing formalized that I'm
3 aware of. There may be some that have done it, but
4 it's mostly through drills and exercises, identifying
5 the tasks that are performed and identifying the
6 needs.

7 I am aware of some licensees who have run
8 drills and exercises, and as a result of it, have
9 increased their staffing levels on shift or their
10 augmented emergency response organization as a result
11 of exercises and the need to have additional staff.

12 CHAIRMAN SIEBER: That has happened on
13 quite a few cases, where licensees have learned from
14 EP drills. But in the old days, those of us who
15 remember the old days, it was allowed at one time for
16 an on duty license person with the right
17 qualifications to also be the shift technical advisor,
18 which created a job task problem.

19 Then when you're in an emergency, in the
20 early stages, somebody in the control room has to
21 communicate with the off-site people. They said well,
22 there's the STA, he's not busy. That automatically
23 takes him out of the picture as far as emergency
24 management at the site; in other words, managing the
25 accident at the reactor, and puts him into another

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1 role.

2 This is where these kinds of conflicts
3 occur. Sometimes drills show that; sometimes they do
4 not, because drills, as good as they can be, do have
5 some artificial aspects to them, and --

6 MEMBER ARMIJO: If I could also, just to
7 put it in a little bit different way --

8 CHAIRMAN SIEBER: You know, what I'm
9 trying to get at is is these hostile actions are
10 probably not going to be frequent, right? So that
11 means when somebody -- but you have to do your
12 planning as if this event had occurred, and so you
13 might wind up with a staffing level that is
14 disproportionate to the actual threat.

15 You know, you have to have -- if you go
16 through the exercise, you'll say "Gee, I have to have
17 additional people to handle this particular problem."

18 But this problem won't occur very often, perhaps
19 never. So how do you address that, and that's my
20 question. How do you -- what do you do in this
21 analysis to prevent overstaffing for a very low
22 probability hostile action?

23 MR. MILLER: Let me just step back a
24 second, because there's two parts of what you said.
25 One is the recognition that over the years, since

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1 9/11, not only the NRC but the industry and states and
2 locals have understood that additional actions need to
3 be taken to address hostile action and other similar
4 kind of events, really in an all-hazard environment,
5 but certainly in the preparedness for around nuclear
6 power plants.

7 That being said, we recognize the fact
8 that, you know, different site had addressed this in
9 different ways, and what we were -- with the staff and
10 the Commission we were concerned about is that we
11 didn't have some people, you know, committing
12 resources that they really didn't have.

13 So this first element really doesn't, we
14 wouldn't expect that any additional resources were,
15 would have to be added because of it, just the
16 recognition of all the functions that needed to be
17 addressed and were they addressed adequately, so that
18 you didn't have a watering down of somebody's ability
19 to be able to perform one of their standard emergency
20 functions because somebody has added something over
21 the last five, ten years.

22 MEMBER ARMIJO: I think I understand where
23 you're going, yeah.

24 CHAIRMAN SIEBER: As far as security
25 threats to the plant, there was an order in 2002 that

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1 the Commission issued, which increased the
2 effectiveness or the security force, including talking
3 about some minimum numbers of people that were to be
4 available around the clock.

5 While that has an impact on plant
6 staffing, that doesn't -- that by itself did not
7 change the emergency response organization staffing,
8 other than it recognized that there is a new area of
9 potential causes of emergencies at nuclear power
10 plants.

11 On the other hand, I think that the
12 staffing questions that are addressed by the revised
13 proposed rule addresses the mechanics of all kinds of
14 emergencies. For example, mixtures of fire brigade
15 people with plant operations people.

16 Some plants had enough foresight to make a
17 separation between who fights fires and who operates
18 the plants, as opposed to having plant operators go
19 out and do that. So those are the kinds of issues
20 that we're really talking about here.

21 MEMBER STETKAR: Yes, I think that's the
22 point I was going to make. I think although this is
23 presented under the guise of perhaps hostile actions
24 or precipitated from 9/11, we've had some recent
25 operating experience with folks who have had fires and

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1 have had flooding events, where there's not
2 necessarily been a very well-defined set of roles of
3 people in the control room in terms of
4 responsibilities and communicating with the NRC, and
5 even internal responsibilities, as Jack mentioned.

6 So I think this, you know, what Jack
7 said. This addresses the broad spectrum of events
8 that can happen, not just hostile action.

9 CHAIRMAN SIEBER: Yes. If you read
10 through the rulemaking process that went on here, it
11 not only considers the new class of events, which are
12 security events, but it also looks at performance
13 during drills and actual events of the regular staff.

14 The NRC staff has done, I think, a very
15 good job at doing that to determine, first of all,
16 that there are some resource problems at nuclear
17 sites, and secondly, that the rule has to recognize
18 and address those, and I think they do. Perhaps not
19 as far as I would like to see them go, but the rule,
20 the new rule does address these matters. It's for us
21 to decide whether it's adequate or not.

22 MEMBER BLEY: Just to telegraph ahead,
23 maybe industry this afternoon can give us a little
24 more detail on how they're trying to deal with these.

25 CHAIRMAN SIEBER: Yes. I intend to ask a

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1 number of questions.

2 MR. KAHLER: And to let you also know a
3 part of it was we did run, during 1990 -- 1990; yes,
4 I'm going back in time -- since 2006, you can see how
5 long I've been involved. Since 2006 through 2009, we
6 ran pilot exercises with the industry on not force-on-
7 force but hostile action events.

8 Every utility, every site had to run
9 hostile action exercise as a pilot, of which there was
10 -- in order to gain lesson learned, we were involved
11 with that. We observed that -- there was a lessons
12 learned document written from it.

13 The rule after that, 2009, was informed
14 from those lessons learned. So there's a lot to be
15 had from that process also, on how the licensee would
16 respond on shift, the ERO, to the hostile action
17 event.

18 But also with the fire brigade and such,
19 we've known over the years type of thing, where there
20 hasn't been this formal job task analysis performed,
21 and some licensees do double-dip into the staffing
22 levels. We want to see that happen.

23 It's happened for operations, it's
24 happened for mechanical response during events. It's
25 just never happened for the ERO, where it was required

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1 to have that done. I think answering the general
2 question of do we expect an increase in staffing? It
3 depends.

4 I would expect for multiple units at a
5 site. I wouldn't expect that to be an issue. Maybe
6 for a single, small output type of site, sitting out
7 in the country field. They may have some challenges
8 that they need to address, which they should have
9 always been addressing, quite honestly, as we know
10 about the fire response and police response and such.

11 MEMBER BLEY: Well and just some of the
12 things we've seen recently. You know, they may be
13 rolling into an outage, you get busy with other
14 things, you cut back and all of the sudden that's when
15 things happen.

16 MR. KAHLER: That's when things happen.

17 (Simultaneous discussion.)

18 CHAIRMAN SIEBER: I think the areas of
19 concern are fire brigade --

20 MR. KAHLER: Medical response.

21 CHAIRMAN SIEBER: Medical response. It
22 depends on -- that depends on the site also.

23 MR. KAHLER: Yes sir.

24 CHAIRMAN SIEBER: Communications with the
25 off-sites. You don't want to -- you want to have that

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1 capability without interfering with the operating
2 period. There are a number of other areas where you
3 really need on shift staffing all the time, or a
4 really rapid response, and some plants can achieve
5 that; some others find that more difficult.

6 But there are a number of human resource
7 areas that need to be looked at in detail, in order to
8 be able to come up with the proper amount of staffing
9 to be able to function properly.

10 MR. SULLIVAN: I guess at the risk of
11 adding more to a topic you've already discussed, this
12 did bubble up -- Randy Sullivan, NRC staff. This did
13 bubble up in our review of hostile action response.
14 However, if you think about where we're at currently
15 with the regulations, the post-TMI EP regulations were
16 developed in about 14 months, from accident to issue.

17 As part of that, there was a staffing
18 table promulgated in NUREG 0654. This is really the
19 first look at staffing, to bring it into the modern
20 era. I mean we laid down the criteria we want
21 licensees to perform against. That is, the on shift
22 staff will deal with design basis accidents and design
23 basis threat.

24 Beyond those things, we're expecting the
25 augmented ERO to come in and help, okay? We've never

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1 drawn that guideline before. Now we'll see what the
2 task analyses look like and we'll review those, but
3 this is the first look to sort of standardize the way
4 on-shift staffing is done, and have a better technical
5 basis than a table that was customized site-by-site 30
6 years ago.

7 MR. KAHLER: Quite honestly, we may even
8 find by technological advances and such staffing
9 levels may even go down on shift quite honestly.
10 That's a possibility. It can't be ruled out.

11 MEMBER ARMIJO: But your focus then is
12 really on the organization and management of what --
13 of the problem, not sort of forcing additional staff
14 to be hanging around --

15 MR. KAHLER: We want to know what the
16 right size is. That's the thing. We want the utility
17 and the site to determine what is the right size for
18 them, for their on-shift staffing.

19 CHAIRMAN SIEBER: Well, it's an important
20 area and to the staff's credit, the new proposed rule
21 addresses that question, as to whether it's adequate
22 or not and we'll all have to ponder that.

23 MR. KAHLER: Okay. If that's all the
24 questions, I could go on to the second topic. That's
25 regarding emergency action levels for hostile action

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1 events.

2 Previously, emergency action levels for
3 security-based events were not focused on a hostile
4 action event that's possible in the present 9/11 post-
5 threat environment. The change to the NRC regulations
6 in Appendix E, Section 4(b) of 10 C.F.R. Part 50 would
7 codify the requirement that licensees incorporate
8 emergency action levels, based on hostile action
9 events, into their emergency action level scheme.

10 As I stated before, we previously issued,
11 both in 2005 and '02, for implementation of emergency
12 action levels to address these hostile actions and
13 other security-based events. Current guidance for
14 incorporating hostile action based emergency action
15 levels is contained in an NRC-endorsed Nuclear Energy
16 Institute document, NEI 99-01, currently in its
17 Revision 5.

18 So at this time, licensees do have hostile
19 action EALs incorporated within their emergency plans.

20 This would codify what's already out there.

21 Rulemaking Topic No. 3. This is the
22 emergency response organization augmentation and also
23 alternative facilities. Section 4(e)(8) of Appendix
24 E, 10 C.F.R. Part 50 would be amended to address
25 concerns regarding emergency response organization

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1 augmentation during a hostile action.

2 Licensees must have the capability to
3 augment the on-shift staff within a short period of
4 time after the declaration of an emergency, usually 30
5 or 60 minutes. However, during a hostile action,
6 emergency responders will likely not have access to
7 the site. But these events still warrant a timely
8 augmentation.

9 The final rule would require licensees to
10 identify alternative facilities as staging areas for
11 augmentation staff, when on-site emergency response
12 facilities are not accessible. The objective is to
13 minimize delays in overall site response, and allow
14 for a swift, coordinated augmented response when the
15 site is eventually secured.

16 As stated in the final rule, the
17 alternative facility will have certain characteristics
18 associated with it. For one, accessibility, even if
19 the site is under the threat of or during an actual
20 hostile action. We'll have communication links with
21 our emergency operations facility, which is normally
22 located off site.

23 The control room and plant security,
24 capability to perform those off-site notifications,
25 and the capability for engineering assessment

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1 activities, including damage control team planning and
2 preparation. So you can see it is in preparation for
3 a swift, coordinated response once the site is
4 secured.

5 The alternative facility is going to be
6 equipped with general plant drawings, procedures,
7 telephones and computer links to the site. Details of
8 these characteristics are provided in the interim
9 staff guidance document, which will be talked through
10 later. Any questions on this part?

11 MEMBER STETKAR: Yeah, a couple of
12 questions. I don't know if it's under the topic of
13 emergency action levels or here or perhaps some time
14 later. The genesis of the 15 minute notification
15 capability criterion, I didn't have enough time to
16 personally go back and read NUREG 0654. But it was
17 published in 1980, so it's 30 years old.

18 There is a quote that says NUREG 0654
19 planning basis provides that the onset of the release
20 to the environment following the onset of the event
21 may range from 0.5 hours to one day. There seem to be
22 criteria that says well, off-site people probably need
23 about 15 minutes to get mobilized, so you back out
24 sort of a 15 minute from that minimum half hour
25 release.

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1 How has the rule considered ongoing
2 research that says that the onset of a release may be
3 substantially delayed, even for the most serious
4 accidents? There's been a lot of work done on
5 containment response and degraded core interactions,
6 and the timing of releases.

7 MR. KAHLER: I'd like to have Randy, who's
8 involved in some of that research that has been going
9 on.

10 MR. SULLIVAN: Yes. It's an interesting
11 question. However, we'd have to say that as we sit
12 here today, the EP planning basis has not changed.
13 It's a matter of policy and the staff really hasn't
14 put forth the basis to change it. You know right now,
15 we're on a 30 minute trigger, and we have a ten mile
16 EPZ.

17 Now those things can be considered in the
18 future. That's the EP planning basis, is that a
19 release could start in about 30 minutes, although
20 that's unlikely, and that the EPZ is protected, right,
21 and that those harken back to WASH 1400, believe it or
22 not, so it's very old.

23 MEMBER STETKAR: Well, that's right. But
24 we've probably learned some in 30 to 40 years.

25 MR. SULLIVAN: Yes.

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1 MEMBER STETKAR: The question is are we
2 forcing people to make very rapid judgments and
3 perhaps, in some cases, excessively conservative
4 judgments, just simply because we've started a time
5 clock. According to the rule, we've set now much more
6 clear criteria about when that time clock starts,
7 whereas in the past there could have been different
8 interpretations about exactly when the clock starts.

9 So I'm curious whether or not that 15
10 minutes, and kind of in the heat of the battle, is
11 still a supportable, from a technical basis, not from
12 an historical basis, but from a technical basis, a
13 supportable time.

14 MR. SULLIVAN: We have work ongoing now to
15 look at that issue and other risk-informing issues.
16 But I have to tell you that while mechanistic events
17 seem to be the not-yet-published SOARCA project and
18 that sort of thing, seem to indicate that accidents do
19 take a while to develop, in hostile action space that
20 may or may not be the case, and we need to take a
21 closer look at that.

22 CHAIRMAN SIEBER: That's right.

23 MEMBER BLEY: Just following up on that
24 though, after this becomes a rule, it would take a
25 rulemaking to change that.

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1 MR. SULLIVAN: Definitely.

2 MR. KAHLER: That's correct, and I think
3 we do have to go back. I understand. Like this was
4 created, NUREG 0654 1980 and such. We started the
5 rulemaking effort before actually the SOARCA project
6 or those type of technical analyses actually began.
7 So we were working with that emergency planning basis
8 we had in front of us.

9 (Simultaneous discussion.)

10 MR. KAHLER: So we're going to finish it
11 before -- quite nicely, but -- well, that's my current
12 plans. And so, you know, we had to deal with our
13 comprehensive review with our planning basis that we
14 had in place at the time. So very good questions for
15 future considerations, but at this time, this is the
16 rule, this is what it's based upon.

17 CHAIRMAN SIEBER: I think that would be
18 hard to implement. Somebody would have to make a
19 judgment as to how long it's going to take. It's like
20 telling the fire department it's a little fire or an
21 old house. You don't have to drive as fast to get
22 there, you know.

23 MR. KAHLER: That's true too.

24 CHAIRMAN SIEBER: And so I think that's
25 going to take a lot of thought, in order to be able to

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1 -- as does everything in design basis space. You
2 know, a lot of the design basis for the design and
3 construction of power plants causes some aspects of
4 the plant to be quote "overdesigned," compared to what
5 the realistic accident sequences would be.

6 That's done on the basis of safety, and
7 that's done because that's what they knew how to do 50
8 years ago, when all these designs came out. On the
9 other hand, in emergency space, it's not clear to me
10 that you know exactly what's going to happen next,
11 because the future can have surprises.

12 MR. KAHLER: So in response to the
13 shortest event, you can also be assured that you can
14 take adequate protective action during the longest
15 release type event.

16 CHAIRMAN SIEBER: Yes.

17 MEMBER STETKAR: Let me ask you a
18 completely different question, but it is germane to
19 this slide. I got a bit confused. When I was reading
20 the statement of considerations regarding the
21 capabilities for a site that may define or designate
22 multiple alternative facilities, there are some
23 criteria that are specified, and I won't repeat them,
24 accessibility under hostile action communications,
25 those types of things.

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1 And there partly was some discussion in
2 response to comments about whether, if a site has
3 designated multiple facilities, and let's use the
4 number two as a multiple, whether each of those
5 facilities must have all of the capabilities, or
6 whether combined between the two of them they satisfy
7 all of the capabilities.

8 Apparently, the conclusion was that
9 collectively, the two of them have to have all of the
10 capabilities. Now I'm starting to think to myself
11 well suppose one of the facilities is accessible
12 during a hostile action, but it can't communicate with
13 the outside world, doesn't have any technical
14 documents, and I've forgotten what the other one is,
15 can't communicate with the outside world, doesn't have
16 the ability to support off-site notifications, and
17 doesn't have any technical documents, so you can't
18 perform any assessments, because all of that stuff is
19 in the other place that's not accessible.

20 Those two facilities still meet the rule,
21 but I'm not quite sure what is useful to me, to be
22 sitting in the place that I can get to but I can't do
23 anything.

24 So I'd like to understand how this notion
25 of collective satisfaction of the capability

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1 requirements, among the, you know, to be determined
2 facilities, actually provides the capability that
3 we're looking for.

4 MR. KAHLER: And what you're talking about
5 is hardware versus like functional capability of the
6 facility, if I can understand that, and ours is
7 collectively the functions of the alternative
8 facility, whether it be one or multiple, has to be
9 able to be performed.

10 So if you do decide to do more than one
11 alternative facility, you still have to ensure all of
12 these functions can collectively be performed for the
13 type of response you're talking about. All these
14 alternative facilities have to be accessible, first of
15 all. That's a requirement. So when you're saying --

16 MEMBER STETKAR: All?

17 MR. KAHLER: All of them.

18 MEMBER STETKAR: That's why I got
19 confused, though, reading the -- in the statement of
20 considerations, the discussion of what is meant by
21 "collective," and how will that be implemented in
22 practice by people? Collective could mean that I have
23 one capability in this facility, and I have the other
24 -- I don't know, there are three, say, the other three
25 in this facility.

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1 Collectively between those two facilities,
2 I indeed have all of those capabilities.
3 Individually, I don't have all of the capabilities in
4 either of the facilities.

5 MR. KAHLER: Well, that would not be the
6 intent of the rule then.

7 MEMBER STETKAR: If neither words of the
8 rule then are not -- because I understood the comment
9 to specifically ask that question. Do you require all
10 of the capabilities to be satisfied by each facility?

11 In other words, they are 100 percent totally
12 redundant to one another, regardless of whether I have
13 one or 30 of these things.

14 It seemed to be that the conclusion was
15 no, that just collectively as a group, they must be
16 able to provide those functions.

17 MR. KAHLER: And the way we read the
18 comment and the reason for the response was you may
19 already have set up an alternative facility, say for
20 off-site communications, in an alternative facility
21 already, in an alternative EOF that's located at 20
22 miles.

23 So you're claiming my communication
24 capabilities for off-site notifications would be at
25 that facility, whereas an EOF would not necessarily

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1 have the engineering assessment capabilities that the
2 TSC would have on site.

3 So I would have to now choose another
4 alternative facility in order to house that
5 engineering expertise in, okay. But it doesn't
6 necessarily have to have the communication links to
7 the off-site notification portion, because that's
8 being conducted at another facility somewhere.

9 So long as collectively all of the
10 functions are able to be performed.

11 MEMBER STETKAR: So you kind to have a
12 situation where one of my facilities, and only one is
13 accessible, but yet it doesn't have any communications
14 or engineering support activities. That's what I just
15 heard you say.

16 MR. KAHLER: No.

17 MEMBER ARMIJO: I heard it differently. I
18 heard that if you had accessibility and you had
19 communication, maybe that among these things --

20 MEMBER STETKAR: The rule doesn't say,
21 I'll quote from the rule. This is from the rule.
22 "For nuclear power reactor licensees, an alternative
23 facility (or facilities) to function as a staging area
24 for augmentation of emergency response staff, and
25 collectively having the following characteristics.

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1 Accessibility, even if the site is under a threat of,
2 or during a hostile action; communications" and I
3 won't continue it.

4 The list applies collectively. It doesn't
5 say each one must be accessible. It applies
6 collectively.

7 MR. KAHLER: I understand where you're
8 getting that from.

9 MEMBER STETKAR: So if I have -- you know,
10 if I can separate communications and engineering, I
11 can also separate accessibility and everything else.

12 MR. KAHLER: I understand where you're
13 coming from.

14 MR. MILLER: That wasn't the intent, but
15 you pointed out a good -- it's a good point. You have
16 to have accessibility or it's not an alternative
17 facility.

18 MEMBER STETKAR: Okay. Well, the rule --
19 the rule doesn't require me to have that.

20 MR. KAHLER: That's correct. By the way,
21 the strict reading of the rule, yes. I can understand
22 where that --

23 MEMBER BLEY: I may be read strictly, I
24 assume. It may be read strictly by some people to --

25 (Simultaneous discussion.)

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1 MEMBER BLEY: --who want to have two.

2 MR. KAHLER: I understand. No, thank you
3 very much. I see he's making some pending changes on
4 his copy right now, "good point."

5 CHAIRMAN SIEBER: Well, we're both taking
6 notes, because that will be in our letter.

7 MR. KAHLER: Thank you. Again, trees,
8 forest.

9 CHAIRMAN SIEBER: Thank you, John.

10 MR. KAHLER: Thank you, John. Any other
11 questions on the alternative facilities?

12 MEMBER STETKAR: One more.

13 MR. KAHLER: Oh yes.

14 MEMBER STETKAR: And this may come under
15 EOFs, but I'll bring it up here, because it could be
16 an EOF. In the, and I've lost my notes. Bear with
17 me. It's good things and bad things about being very
18 organized. The bad thing is once things fall apart,
19 you're lost.

20 This again is in the statement of
21 considerations, I think, and I don't believe it's
22 actually in the rule. But their discussions about,
23 and I think you mentioned in the presentation,
24 computer links with the site, a mention is made of
25 those computer links, examples being Internet access.

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1 Is that really what we want?

2 I understand communications, the need for
3 communications. But one would suspect we would like
4 secure communications, especially if we're going to
5 handle a broad range of types of evolving situations.

6 I perhaps wouldn't like my neighbor's 14 year old to
7 be sitting in his bedroom, you know, listening to
8 what's going on from the remote facilities to the
9 control room.

10 MR. MILLER: I believe -- mentioned about
11 having Internet accessibility. It's not saying that
12 it shouldn't be a secure type of access required. It
13 would be that type of, to gain plant data and such,
14 that you could access in the other facilities. Locals
15 and states can access it through some method.

16 MEMBER STETKAR: Are current
17 communications set up for local and state authorities
18 to access that information via the Internet, or are
19 there secure links, datalinks?

20 MR. MILLER: It depends on what the
21 information is. For ERDS data and that kind of thing,
22 it would be secure. There's Web EOC, for example,
23 that's Internet-based and they're sharing emergency
24 information real time, and you know, it depends on the
25 level of security that the entity that's putting it

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1 out wants to include.

2 MEMBER STETKAR: Thank you.

3 CHAIRMAN SIEBER: Is this the part of the
4 rule that says that a licensee who has multiple sites
5 can have one EOF?

6 MR. MILLER: No. That's another topic.

7 CHAIRMAN SIEBER: Okay. Remind me when we
8 get there.

9 MR. MILLER: We're coming to that.

10 MR. KAHLER: We're coming to that one,
11 yes. Any further questions ERO augmentation,
12 alternative facilities?

13 (No response.)

14 MR. KAHLER: I'd like to move on then to
15 rulemaking topic number four, which is licensee
16 coordination of off-site response, organization
17 response. A unique challenge during hostile action is
18 the increased demand on off-site emergency responders,
19 who are expected to implement their emergency plans,
20 such as traffic control points or route alerting, as
21 well as respond to hostile action activities at the
22 nuclear power plant site.

23 Currently, regulations are -- excuse me,
24 current regulations would be enhanced to require
25 licensees to identify the off-site resources that

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1 would be expected to be responding to the plant site
2 during a hostile action event.

3 Specifically, a modification to Section
4 4(a)(7) of Appendix C to 10 C.F.R. Part 50, would
5 require licensees to identify and describe the
6 assistance expected from off-site response
7 organizations, for example, local law enforcement,
8 firefighting, medical assistance providers, that would
9 respond to the site during events involving hostile
10 action.

11 The guidance documents talk to that the
12 licensee should review their current arrangement for
13 off-site resources, such as currently for local law
14 enforcement, medical and firefighting, and revise
15 existing or obtain new agreements for these resources
16 as appropriate, to include hostile action event.
17 That's the rulemaking topic No. 4. Going on to number
18 five --

19 CHAIRMAN SIEBER: That's not a lot
20 different than what's now required, right?

21 MR. KAHLER: It is not. All we're saying
22 is that we want you to now include in your letters of
23 agreement, memorandum of understanding with off-site,
24 not only would you provide us,
25 the on-site the licensee, assistance for firefighting

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1 activities, medical activities, but also during a
2 hostile action event, the appropriate response and
3 resources needed.

4 CHAIRMAN SIEBER: Now if I remember those
5 letters of agreement, those are sort of good faith
6 letters, you know. They will call, for example, the
7 fire department would have a mutual aid fire pact, and
8 they would sign them among themselves. They would
9 sign them with the licensee, which meant that in the
10 event a fire truck is disabled down the street, that
11 the next fire house would send one of theirs.

12 But that is not a -- those mutual aid
13 pacts are not firm agreements. For example, if you
14 take a power plant that's out in, you know, away from
15 a big city and you're looking to local police
16 departments to do traffic or action in the event of
17 evacuation, plus assistance at the plant for hostile
18 action, that may -- you may be -- you may have signed
19 up for something that really isn't going to happen, if
20 you know what I mean.

21 Now what is the licensee supposed to do?
22 Are they supposed to say well, this town has so many
23 police officers and this town has so many, and I have
24 so many and here's the design basis threat. Here's
25 what it's going to take to repel them, or is it good

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1 enough to go out and sign all these mutual aid pacts?

2 MR. KAHLER: It is not the intention to
3 require the licensees to do analysis of what is
4 available off-site to respond to on-site. It's the
5 intention for the off-sites to provide for that
6 response. And in our public meetings we've had with
7 the off-site agencies, the states and the locals,
8 they've asked those kind of questions.

9 "Does that mean licensees are going to
10 come out and start evaluating us," the NRC, and we
11 told them no. That is something that you should be
12 prepared for as a matter of, you know, expectancy, to
13 respond to a plant site, and we're being told by off-
14 site agencies they already have these type of
15 agreements for hostile action, terrorist-type events,
16 where they can call on additional resources from the
17 outside, not only for the nuclear power plant but for
18 other areas.

19 CHAIRMAN SIEBER: True.

20 MR. KAHLER: So they would just call upon
21 those agreements and implement them for the licensee.

22 CHAIRMAN SIEBER: But there's no place
23 where, in Title X or anyplace else, where it requires
24 anybody to determine whether the resources that they
25 have are adequate to perform what they're expected to

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1 perform.

2 MR. KAHLER: However, I must say that we
3 are going, as we're going to talk about in the future
4 here, require hostile action type of exercises during
5 an eight-year planning cycle, and that that time
6 period, that will be a FEMA type of evaluation, in
7 order to ensure that the activities that the off-site
8 agencies can respond to on-site, and still implement
9 their emergency plan, are still being performed, and
10 there's adequate personnel for it.

11 So we would rely upon FEMA then, to
12 provide us an analysis of that response.

13 CHAIRMAN SIEBER: But if there's no
14 requirement to do it, it's hard to make a finding
15 against it, correct?

16 MR. KAHLER: It would be a FEMA, though,
17 evaluation criteria of determining if they can
18 properly respond to that type of activity.

19 CHAIRMAN SIEBER: I understand that FEMA
20 has to say it's okay before you guys will bless it.

21 MR. KAHLER: Right. That is correct.

22 CHAIRMAN SIEBER: Right, okay.

23 MR. KAHLER: And FEMA can also tell us
24 it's not okay.

25 CHAIRMAN SIEBER: I understand that.

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1 MEMBER ARMIJO: What would happen then?
2 Let's say these outside resources aren't available,
3 budget cuts, changes in personnel, policies of a small
4 community, police forces and fire departments, and
5 let's say they simply don't meet the FEMA expectations
6 and FEMA informs NRC. What happens to the plant?

7 MR. KAHLER: Well, there is a process
8 current in place about where FEMA, if they do put into
9 question the reasonable assurance, as we call it, for
10 off-site capabilities to respond, then they would
11 notify us of that. There is a certain time period of
12 which FEMA goes and try to have the situation
13 rectified.

14 The same type of situation could occur
15 today for firefighting, for medical assistance, that
16 sort of a thing, at which time we would then become
17 involved in ensuring that the licensee and the off-
18 site agencies do have a plan that's appropriate, to
19 able to be implemented, to provide for public health
20 and safety.

21 We would go back and again, for that
22 portion of off-site, rely upon FEMA to reevaluate any
23 changes to the plan or additional resources that may
24 have been needed or however the approach is from the
25 off-site agencies. That is a question for FEMA then

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1 to provide us that response. But we would invoke 10
2 C.F.R. 5054(S)(2) I believe it is.

3 Yes. I've got Steve. He's shaking his
4 head, because he's been involved in that in the past.

5 That's where we would then begin our process of
6 reevaluating licensee reasonable assurance, which
7 starts internally another 120 day clock for us, at
8 which time we have to make that determination, and
9 provide recommendation to the Commission.

10 MR. LaVIE: 5054(S)(2), after we get
11 notified by FEMA, or we make a finding ourselves on
12 site, if there's on-site deficiencies we get the same
13 process, requires, identifies that the Commission will
14 require the licensee to demonstrate how he's going to
15 address the situation.

16 Basic in our fundamental regulations is
17 the licensee cannot operate the facility unless there
18 is a finding of reasonable assurance. So if we get
19 that far out, if it's an off-site problem, there's
20 also a part of the regulation that allows the licensee
21 to develop off-site plans. You might remember back
22 many, many years ago, Long Island Lighting.

23 MR. KAHLER: Does that help?

24 MEMBER ARMIJO: I think I understand what
25 would happen, and in the event that the plant couldn't

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1 basically do everything themselves, then they'd have
2 to shut down. Well, if the off-site facilities were
3 unavailable to them for whatever reason, then they'd
4 have to do it, be stand-alone as far as --

5 CHAIRMAN SIEBER: What some licensees have
6 done is that where the tape, there is a shortfall in
7 off-site capability, they provide their own.

8 MEMBER ARMIJO: Yes. Well, that's what
9 I'm saying. They have to either upgrade it or do
10 something else, and count on the community or -- and
11 FEMA can't force anybody to do, you know, a local fire
12 department or a local police department doesn't have
13 to do what FEMA tells them to.

14 CHAIRMAN SIEBER: Right. I don't know if
15 San Onofre still has their own fire truck and fire
16 department, but that's an example. It was there when
17 I was there.

18 (Simultaneous discussion.)

19 MEMBER STETKAR: From a regulatory
20 perspective, basically as soon as the staff, as soon
21 as the NRC receives notification that there's a
22 deficiency, that starts a 120 day time block.

23 MR. KAHLER: A FEMA 120 day time clock
24 when they issue the deficiency, yes.

25 MEMBER STETKAR: I thought -- isn't it

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1 under 5054(S) (2) a Commission 120 day --

2 MR. KAHLER: Well, the first iteration of
3 the 120 days, there's two of them.

4 MEMBER STETKAR: Oh.

5 MR. KAHLER: The first one is a FEMA time
6 clock. FEMA identifies the deficiency, which they
7 then give basically notice to whoever the deficiency
8 is levied against, the state, the local, the fire
9 department, whatever, that they can't perform their
10 duties, that they have 120 days to rectify the
11 situation and to have FEMA come back in to reevaluate
12 it.

13 When we are notified, the NRC through our
14 memorandum of understanding with FEMA promptly of that
15 deficiency, we acknowledge it and FEMA goes about it
16 and then tells us when that deficiency is rectified,
17 when it's remedied.

18 If it is not remedied in that 120 days,
19 that is when FEMA then goes into an internal process
20 of determining whether or not they feel they need to
21 withdraw reasonable assurance. Once they tell us,
22 it's not the deficiency issuance that triggers our
23 clock; it's the notification of FEMA that they are
24 withdrawing reasonable assurance that the off-site
25 agencies can respond to an event at the plant site,

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1 and that's what triggers our 120 day clock.

2 MEMBER STETKAR: So it could be as long as

3 --

4 MR. KAHLER: It could be as long as --

5 MEMBER STETKAR: Eight months.

6 MR. KAHLER: Well, it could be even
7 longer. Some of these last years, because the
8 remedies may take longer than the 120 days for FEMA;
9 they get something in place.

10 MEMBER STETKAR: Well, but I mean the way
11 5054(S)(2) is written, it says, and I was trying to
12 understand the timing of these notifications.

13 MR. KAHLER: Yes.

14 MEMBER STETKAR: You know, 120 days after
15 the agency, our agency is notified, whatever that
16 means, at that point our agency needs to make a
17 determination of whether or not the plant can remain
18 operating with reasonable assurance for protection of
19 the health and safety.

20 MR. KAHLER: Essentially yes.

21 MEMBER STETKAR: So is that right?

22 MR. KAHLER: That's correct.

23 MEMBER STETKAR: The timing of when this
24 agency is notified is not when the initial deficiency
25 occurs apparently.

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1 MR. KAHLER: That is not when our 120 day
2 clock starts. That is correct.

3 MEMBER STETKAR: Okay.

4 MR. MILLER: We become aware when FEMA
5 issues the deficiency and is dealing with the matter
6 on their 120 day clock. They send us notification.
7 But that's not the notice --

8 MEMBER STETKAR: But that doesn't start
9 our 120 days.

10 (Simultaneous discussion.)

11 MR. KAHLER: They call -- when FEMA issues
12 a deficiencies, if it brings reasonable assurance into
13 question, but they do not withdraw it at that time.
14 They give an opportunity for the off-site agencies, we
15 have our FEMA representatives back here, they give an
16 opportunity to the off-site agencies to remedy the
17 deficient issue.

18 MEMBER BLEY: The other side that gives
19 comfort though, John, I think, would be when NRC gets
20 notice, we could decide it's really serious and act on
21 our own.

22 MR. KAHLER: We honestly could, yes.

23 MEMBER STETKAR: Yes. I mean you know, in
24 Jack's example of my volunteer fire department of, you
25 know, three people and a dog decides to move to a

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1 different state, leaving me without an offsite fire
2 response capability --

3 CHAIRMAN SIEBER: You could provide your
4 own.

5 MEMBER STETKAR: --would seem something
6 that you wouldn't necessarily want to walk through a
7 240 day period until the time you recognize that this
8 is probably not a good situation.

9 MR. KAHLER: You would want a prompt
10 correction to that situation, yes.

11 MEMBER STETKAR: Okay. But you, you are,
12 this agency is notified by FEMA when the initial
13 deficiency is --

14 MR. KAHLER: Absolutely.

15 MEMBER STETKAR: Okay.

16 MR. KAHLER: And now underneath on our
17 memorandum of understanding, I believe it's within
18 five days.

19 MEMBER ARMIJO: And the licensee gets,
20 should know that even sooner probably.

21 MR. KAHLER: We as an agency, we -- well,
22 they know of it, because they're close to the
23 situation. But we formally provide them notification,
24 the regions do, because the regions are notified from
25 FEMA in addition to us and the regions actually

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1 forward the deficiency to the licensee.

2 So we are formally notifying the licensee
3 you are now put on record of being notified of this
4 deficiency.

5 MEMBER STETKAR: Does FEMA notify the
6 licensee or does it come the way you said it comes?
7 FEMA to the region --

8 MR. KAHLER: It comes through us.

9 MEMBER STETKAR: Through, okay.

10 MR. KAHLER: FEMA writes directly to the
11 deficient agency, whatever that might be.

12 MEMBER STETKAR: Right.

13 MR. KAHLER: State, local, fire
14 department, hospital.

15 CHAIRMAN SIEBER: Okay. I think our next
16 challenge will be to move to Topic 4.

17 (Simultaneous discussion.)

18 MR. KAHLER: I think we're done. We're on
19 five now.

20 CHAIRMAN SIEBER: You have three minutes
21 to --

22 MR. KAHLER: To finish up the other six
23 and --

24 CHAIRMAN SIEBER: Okay.

25 MR. KAHLER: Protection for on-site

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1 personnel then. We added a new section 4-I, to
2 Appendix C, "Address concerns regarding protection of
3 on-site personnel during a hostile action." Current
4 regulations require the nuclear -- that licensees
5 provide protection for on-site emergency responders
6 during a radiological emergency.

7 The NRC is concerned that hostile action
8 against the site could result in the loss of these
9 emergency responders, and potentially affect the
10 ability of the licensee to perform a reactor shutdown
11 and implement their emergency plan.

12 So the final rule would require licensees
13 to provide for the protection of personnel necessary
14 to safely shut down the reactor and implement the
15 emergency plan during a hostile action, and by
16 specifying these measures for emergency responders,
17 other on-site workers would benefit, because they
18 would also be protected, because the protective
19 measures that would be provided to the site as a
20 whole, and would not be directed toward any particular
21 group of workers. That's the intent of the rule.

22 The interim staff guidance document
23 outlines measures that the licensee should consider as
24 a range of those protective actions during a hostile
25 action. That's topic number five. Any questions?

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1 (No response.)

2 MR. KAHLER: Topic No. 6, the last that
3 gave birth, that were born as a result of the security
4 review. Current NRC regulations are general in
5 nature, do not explicitly require licensees to include
6 hostile action scenarios in drills and exercises, nor
7 do they directly allow the NRC to require specific
8 scenario content.

9 Changes to Section 4(f)(2) of Appendix E
10 would ensure that licensees develop and maintain key
11 skills in the post-9/11 threat environment, by
12 requiring the conduct of a hostile action exercise
13 once every exercise cycle.

14 Additionally, the staff recognized that
15 certain predictable scenario attributes are on almost
16 all biennial exercise scenarios today. They include
17 the ERO is not allowed to mitigate the accident before
18 a release occurs. The release is going to occur after
19 a general emergency is declared.

20 The release is going to be terminated
21 before the exercise ends, the exercise will escalate
22 sequentially through all four emergency
23 classifications. In short, over the last 30 years, we
24 believe emergency responders may have been
25 preconditioned to accident sequences that are not

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1 likely to resemble what they would realistically face.

2 For these reasons, the staff has developed
3 a rulemaking to address this issue. Specifically, the
4 licensees will be required to enhance their drill and
5 exercise programs by incorporating a wide range of
6 scenario elements, including of course the hostile
7 action.

8 A no release or an unplanned minimal
9 release, such that off-site protective actions are not
10 required, but still escalate at least to a site area
11 emergency declaration, and an initial classification
12 or a rapidly-escalating scenario to site area
13 emergency or a general emergency.

14 Currently, regulations do not specify the
15 content of the drill and exercise scenarios, or allow
16 us to specify that content, as I said before. The
17 final rule identifies the principal functional areas
18 of EP that we want to see included in scenarios and
19 emergency response personnel's key skills we want to
20 see demonstrated during these exercises. We also want
21 these exercise scenarios submitted to the NRC for
22 prior NRC review, okay, which is not a requirement
23 now.

24 CHAIRMAN SIEBER: Now you changed the
25 length of the cycle, the drill cycle, right?

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1 MR. KAHLER: We have changed the exercise
2 planning cycle from six to eight years.

3 CHAIRMAN SIEBER: And to fill all of the
4 requirements, the drills that you conduct within that
5 period have to hit the functions at least one time,
6 all of the drills, right?

7 MR. KAHLER: Some of them more than once.
8 It's dependent upon the type of the skill and the
9 function. Some of them have to be in every biennial
10 exercise. Others are only once every exercise cycle.

11 CHAIRMAN SIEBER: Okay.

12 MR. KAHLER: So and that's outlined in the
13 interim staff guidance document, which ones are, the
14 frequency of what.

15 CHAIRMAN SIEBER: Yes. In the old days,
16 everybody knew. Now from now, we have to go to here,
17 and that may be --

18 (Simultaneous discussion.)

19 MR. KAHLER: --the site area, launch
20 general emergency release terminates, everybody starts
21 gathering their notes. We're getting away from that.

22 CHAIRMAN SIEBER: Good.

23 MR. KAHLER: That's the intent.

24 MEMBER STETKAR: Do you have some specific
25 hostile action scenarios that would incorporated into

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1 these drills and exercises, or do they have to make
2 them up themselves?

3 MEMBER ARMIJO: We have, we say -- what we
4 have is the Fort Hood incident. Some guy comes in
5 with guns and kills his co-workers, say anybody he saw
6 on-site, okay. They could have been reactor
7 operators. They could have been a number of key
8 people in a nuclear, plant.

9 You know, just how -- and that's kind of a
10 infinite matrix of a threat. So how is a licensee
11 supposed to come up with something that would you find
12 acceptable?

13 MR. KAHLER: We have in the guidance
14 document -- of course, first of all the emergency
15 action levels themselves for hostile actions, they
16 have to be exercised also, and the guidance document
17 talks to exercising all emergency action levels during
18 the exercise planning cycle. Not necessarily during
19 the biennial evaluate exercise, but still exercise.

20 We also talk to the emergency planning,
21 the basic functional areas which take care of some of
22 it. We talk to 5054(HH), the airplane crash scenario
23 and the implementation of that regulation.

24 So we don't require a specific type of
25 scenario, more than the fact that whether it be land,

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1 sea or air-based, as would be a design basis threat,
2 and that that's the type of scenario we want.

3 The actual development of that scenario,
4 be it land, sea or air, is determined by the licensee,
5 but we want to see that type of scenario some time
6 over the cycle.

7 MEMBER ARMIJO: Well, does Homeland
8 Security have any scenarios that they can provide
9 guidance on, what the threats are likely, you know,
10 are more important to deal with?

11 MR. MILLER: Let me help a little bit, and
12 then Bob you can continue with that. There's a couple
13 of things that we have provided guidance with. First
14 of all, the scenario you used, you know. We didn't
15 try to address tactical scenarios. So force-on-force
16 is still a robust program that's still operating, and
17 so we're operating outside of the force-on-force.

18 There's many different scenarios you can
19 propose, where an insider could do things, and we're
20 not asking in this rule that that be addressed for an
21 emergency planning scenario. However, how, you know,
22 what kinds of things should be considered.

23 Bob mentioned the three years of hostile
24 action-based drills that were voluntarily conducted by
25 the industry over a three year period. There was a

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1 guidance document, NEI 0604, that we endorsed.
2 Actually, there's a couple of revisions to that that
3 we endorsed as -- that gave significant guidance to
4 how you might structure these types of drills and
5 events, and in fact there's another iteration of that,
6 two more iterations.

7 VOICE: No, Rev. 2.

8 MR. MILLER: Oh, I'm sorry, Rev. 2. So
9 anyway, NEI is coming up with additional information
10 on that, to which we're going to look at and endorse
11 the appropriate parts. That's how we feel that we're
12 getting that information out.

13 MR. MILLER: Okay, thank you.

14 MR. SULLIVAN: If I could chime in, I
15 contributed quite a bit to this part of the rule and
16 the guidance. We're not expecting a lot of
17 specificity on the security part of the exercise. As
18 a matter of fact, these are public documents and
19 they're needed to be used by controllers on-site and
20 off-site.

21 So the actual, in the case of an armed
22 attack, the actual, you know, you know, what is it
23 numbers, tactics and weapons, you know, will kind of
24 be blurry. That's not really going to be laid out
25 very well in the scenario. Now the damage footprint

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1 will be, and that's a concern also, you know, because
2 there's targets of that information enveloped
3 somewhere in there.

4 Aircraft is a little bit different animal,
5 but once again, there's information there that you
6 need to have in this scenario that needs to be blurry,
7 so as not to provide any information that would be
8 useful to adversaries.

9 CHAIRMAN SIEBER: Thank you.

10 MR. KAHLER: Okay. Any other questions on
11 challenging drills and exercises --?

12 (No response.)

13 MR. KAHLER: Moving on to the first non-
14 security related rulemaking topic that we created, it
15 is Topic No. 7, a backup means for alert notification
16 systems. Current regulations require capability to
17 promptly alert and notify the public if there's an
18 emergency.

19 However, there is no requirement for a
20 backup alert or notification capability in the event
21 that primary system is unavailable. The final rule is
22 going to amend Section 4(d)(3) of Appendix E to
23 require a backup alert notification capability,
24 without specifying the type of methodology.

25 This approach would allow flexibility in

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1 the selection of the method best-suited for each site,
2 and would also allow the use of newer technologies or
3 alternative methods now and also into the future.

4 Currently, the most common primary
5 alerting method is sirens. The most common primary
6 notification method is EAS messages on the radio.
7 Guidance is provided in the interim staff guidance
8 document to clarify the design objectives and other
9 criteria for alert notification and backup methods, of
10 which would be evaluated by FEMA eventually in their
11 submittals to FEMA for approval.

12 MEMBER STETKAR: And this comes under the
13 purview of FEMA, right?

14 MR. KAHLER: Yes.

15 MEMBER STETKAR: For example, if there is
16 a deficiency here, that feeds back into the time
17 clocks that we were talking about earlier?

18 MR. KAHLER: That is correct. That is a
19 FEMA, a FEMA oversight. It's FEMA oversight.

20 MEMBER STETKAR: Ask them this afternoon
21 or whenever they --

22 MR. KAHLER: The licensee has just got to
23 demonstrate the capability exists, is the requirement
24 of the licensees. But the FEMA evaluates that
25 portion.

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1 MEMBER STETKAR: Right.

2 MR. KAHLER: Topic No. 8 is emergency
3 declaration timeliness, excuse me. We're adding a new
4 paragraph to Section 4 of Appendix E. First, we're
5 going to require nuclear power reactor licensees to
6 maintain a capability to assess, classify and declare
7 an emergency within 15 minutes after indications are
8 available to plant operators that an emergency action
9 level has been exceeded.

10 Second, we're going to require licensees
11 to promptly declare that emergency condition following
12 identification of the appropriate emergency
13 classification level. The NRC is requiring a
14 capability criterion, rather than an inflexible
15 performance criteria. This allows some degree of
16 flexibility in addressing extenuating circumstances
17 that may arise during an emergency.

18 For example, a declaration may need to be
19 delayed in the interest of performing plant operations
20 needed to protect the public health and safety.

21 NRC considers the 15 minute criteria to
22 commence when plant instrumentation, alarms, computer
23 displays or verbal reports corresponding to emergency
24 condition becoming available to cognizant personnel.
25 All recognition, assessment, verification and

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1 classification actions required for a declaration are
2 encompassed within this 15 minute period.

3 I have to state again, this is a
4 capability requirement, not a performance requirement.

5 And again, the interim staff guidance document
6 provides implementation, guidance on how to implement
7 this new rule.

8 CHAIRMAN SIEBER: Now how do you evaluate
9 whether that capability exists or not?

10 MR. KAHLER: That would be normally
11 through performance, to observe, just as we do now
12 with notification capability, which is also a current
13 rule, the 15 minute capability for notification, that
14 we would evaluate the performance to see what that
15 performance is like in order to direct us toward
16 whether the capability exists.

17 MEMBER STETKAR: How well did people do?
18 You know, we've had the rules for many years and we
19 have a lot of plants.

20 MR. KAHLER: Two ways we can evaluate
21 that.

22 MEMBER STETKAR: No, historically.

23 MR. KAHLER: Historically?

24 MEMBER STETKAR: Is the industry scoring
25 90 percent or 30 percent --

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1 MR. KAHLER: I'll tell you what. Industry
2 is scoring greater than 90 percent.

3 MEMBER STETKAR: Okay, thanks.

4 CHAIRMAN SIEBER: Right.

5 MR. KAHLER: We have a performance
6 indicator for that in our ROP program for EP.

7 MEMBER STETKAR: Okay, thank you.

8 MR. KAHLER: So and also we would consider
9 changes to our ROP program as a result of the new
10 rule. So there are some performance items we may want
11 to add as a result of the new rule. We're not going
12 there yet. It's just something we would need to
13 consider in the future, working with industry.

14 CHAIRMAN SIEBER: Okay.

15 MR. KAHLER: Okay. The next slide please.
16 Emergency operations facility performance-based
17 approach. This is where we talked about the multiple
18 sites' use of a combined EOF. Section 4(e)(8) of
19 Appendix E is going to be amended to permit licensees
20 to use a performance-based approach when citing their
21 EOF.

22 The final rule incorporates the EOF
23 distance criteria currently found in guidance, and
24 specifies that an EOF is to be located within the 10
25 to 25 miles of a site, or if it's less than 10 miles

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1 from the site, then a backup facility must be provided
2 within 25 miles of the site. It's currently found in
3 guidance document NUREG 0696.

4 An EOF may be located greater than 25
5 miles, but then the licensee must provide a facility
6 close to the site for NRC and local responders, and
7 that comes as a result of Commission approval of past
8 combined EOFs.

9 CHAIRMAN SIEBER: So this allows a
10 corporation with five, six, seven sites to have an EOF
11 that may not be in the same state?

12 MR. KAHLER: That is correct. We have
13 that currently.

14 CHAIRMAN SIEBER: Not in the plant, and
15 obviously it's not going to be staffed by plant
16 personnel. It's going to be staffed by corporate
17 personnel, I presume?

18 MR. KAHLER: It will be staffed by
19 emergency response organization personnel necessary to
20 perform the functions in the EOF. But your answer is
21 yes.

22 CHAIRMAN SIEBER: Probably.

23 MR. KAHLER: Probably.

24 CHAIRMAN SIEBER: Probably, and is that a
25 good idea?

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1 MR. KAHLER: Again, we're looking at a
2 performance-based approach. So the functions of that
3 EOF, as they are currently been evaluated in order to
4 permit the granting of these combined EOFs, would need
5 to be provided --

6 CHAIRMAN SIEBER: Yes. I think from a
7 public relations standpoint and an emergency
8 preparedness effectiveness standpoint, that reduces
9 its effectiveness.

10 MR. KAHLER: But that would be something
11 that the licensees would need to evaluate during
12 their change process, when they relocate that EOF, is
13 what the effectiveness impact is upon their
14 capabilities to respond, just to --

15 MR. MILLER: Jack, it seems to me it kind
16 of implies a higher training requirement, to keep
17 people who are not normally at the plant tuned up with
18 the plant, particularly you know, ongoing changes in
19 small things that happen as a plant

20 CHAIRMAN SIEBER: Well, let's take a
21 couple of examples. I think that it's important, for
22 example, for the local town officials, county
23 officials and the state officials to know directly who
24 the plant management is, and in order to be able to
25 drill properly, to be able to coordinate all of these

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1 actions, and to be able to respond in an emergency.

2 Further away, and the more you divorce the
3 licensee personnel from the local officials and the
4 local responders, the more difficult it becomes. I
5 think it's something that may be able to be evaluated,
6 but I think licensees should take that into
7 consideration when they plan such kinds of things.

8 I think local officials and state
9 officials expect people in the EOF to know the plant.

10 You may have a corporate entity that has PWRs and
11 BWRs, and the BWR person may come up with different
12 ideas about what's going on in the plant, if the plant
13 is not the type that they are trained and familiar
14 with.

15 I'm not sure whether the rule should
16 prevent it, but I do want to call attention to the
17 staff and to FEMA that it is something that should be
18 carefully evaluated, because it has a multitude of
19 pitfalls.

20 MR. KAHLER: And there are some -- the
21 performance capabilities that we're talking about does
22 address those type of issues. The performance-based
23 approach does state that all these functions still
24 need to be in place, and one additional function is
25 that the EOF has to respond to two simultaneous events

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1 at different sites. Be able to handle that type of
2 situation, because they're necessary. I mean it's
3 supposed to support at least two sites by the term
4 "multiple." So it should be able to handle two events
5 at once.

6 CHAIRMAN SIEBER: Yeah, and I think that
7 there are lessons to be learned from natural disasters
8 that have occurred around the country, where the
9 emergency, the apparent emergency management is coming
10 from a long distance away from the site of the
11 incidence, and that has caused problems.

12 MR. KAHLER: And again --

13 CHAIRMAN SIEBER: From a public relations
14 standpoint and from an actual, emergency response
15 standpoint.

16 MR. KAHLER: And that's why Jack, quite
17 honestly, we are keeping in what has been in the past
18 required by the Commission, is that if you do have an
19 EOF located 25 miles, further than 25 miles from the
20 site, the licensee is to provide a facility for the
21 NRC and the local responders, to able to have -- to be
22 there to meet with site personnel if they desire,
23 something available to them. So we're still not --

24 MEMBER STETKAR: Is there an upper limit
25 to this distance?

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1 MR. KAHLER: Pardon?

2 MEMBER STETKAR: Is there an upper limit?

3 CHAIRMAN SIEBER: No. It could be --

4 MR. KAHLER: Not really. As far as
5 technology can permit.

6 MEMBER STETKAR: It could be the moon.

7 MR. KAHLER: And still have the
8 performance-based functions --

9 MEMBER STETKAR: It could be a call center
10 in India.

11 (Simultaneous discussion.)

12 MR. TAILLEART: --because the licensee has
13 to be able to staff it with knowledgeable personnel
14 and personnel that respond to the facility have to be
15 able to get to it. So, you know, it can't be --

16 MEMBER RYAN: There's a practical limit, I
17 guessing though.

18 MR. KAHLER: There's a practical limit,
19 right.

20 MEMBER RYAN: What is that?

21 MR. KAHLER: And I'll tell you what. Some
22 of these combined -- well, some of these combined
23 facilities isn't just the licensee desiring to combine
24 sites. Now they have to get agreement from the
25 states.

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1 So if you're talking about like say North
2 Carolina, South Carolina, where now South Carolina
3 state representatives have to travel to an EOF in
4 North Carolina, they may be highly disagreeable to
5 crossing the state line in order to perform that.
6 That's something that they would need to agree to.

7 So that's something. Again, coordinating
8 off-site response to maintain that effectiveness. How
9 would you be able to handle that situation?

10 CHAIRMAN SIEBER: But that's not
11 impossible. You and I and Steve are aware of a plant
12 that had, within ten miles, three states, three
13 counties and 27 municipalities, all of which had to
14 work together.

15 MR. KAHLER: And that's a challenge upon
16 itself. So I can't imagine having multiple sites,
17 multiple states, multiple technologies.

18 CHAIRMAN SIEBER: It's work.

19 MR. KAHLER: Yes, it work.

20 CHAIRMAN SIEBER: Yes, and that one was
21 functional.

22 MR. KAHLER: Yes.

23 CHAIRMAN SIEBER: Well anyway, I have --
24 if I were the licensee, I would really consider that
25 carefully before I would try that, and I would not do

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1 it from the standpoint of I don't have to rent another
2 room and put in more laptops, you know. I don't think
3 that's a good enough excuse.

4 MEMBER STETKAR: Well, the rule requires
5 them to rent a room anyway, even if it's empty.

6 CHAIRMAN SIEBER: Yeah, but you have to
7 rent more rooms if you have a shorter distance. Okay,
8 let's move on.

9 MR. KAHLER: Rulemaking Topic No. 10,
10 Evacuation Time Estimate Updating, talking about ETES
11 now. Current regulations require development of ETES,
12 evacuation time estimates, but do not require a
13 periodic update frequency.

14 NRC is going to amend 10 C.F.R.
15 50.47(b)(10), one of the planning standards, to
16 include additional requirements regarding ETES. It
17 would require licensees to develop ETES and update
18 them on a periodic basis, and that will be stated in
19 the rule.

20 Additionally, the evacuation time
21 estimates and updates must be submitted to the NRC for
22 review and confirmation of adequacy prior to their
23 use. Section 4 of Appendix E would be amended to
24 require that evacuation time estimates be used by
25 licensees, and be provided to state and local

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1 governmental authorities for use in developing their
2 protective action strategies.

3 As a minimum, we expect these ETEs to be
4 updated within 365 days of the availability of the
5 decennial census data. So at least once every ten
6 years, the ETEs will be updated as soon as all the
7 data becomes available.

8 CHAIRMAN SIEBER: They're not a
9 requirement to look at the -- I found, after reading
10 the documents, that the Census Bureau provides an
11 estimated update every two years.

12 MR. KAHLER: And that's something that
13 again, we'll be getting into the guidance document.

14 CHAIRMAN SIEBER: Yes. You have to -- you
15 actually have to look at that and make sure that
16 you're not out of bounds.

17 MR. KAHLER: That's correct, and we
18 require them to take a look at whether they need to
19 have an update on an annual basis. But the
20 requirement to actually update is a once every ten
21 year requirement.

22 CHAIRMAN SIEBER: Right.

23 MR. KAHLER: Regardless of what a
24 population change is.

25 CHAIRMAN SIEBER: Okay, and there's a new

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1 NUREG.

2 MR. KAHLER: A new NUREG that goes along
3 with it.

4 CHAIRMAN SIEBER: That explains how to do
5 it in a little more sophisticated way than was done in
6 the past.

7 MR. KAHLER: Yes, quite so. It includes
8 also, and we'll get into an appendix, on how to
9 evaluate the ETEs that are developed by licensees.

10 CHAIRMAN SIEBER: Right.

11 MR. KAHLER: The final rulemaking topic of
12 any, you know, significance, I guess you want to call
13 it, is the amended emergency plan change process. A
14 licensee is required by 50.54(Q) to follow and
15 maintain effectiveness emergency plans to that meet
16 the requirements of Appendix E and for nuclear power
17 reactors, the standards of 5047 Bravo.

18 Section 54(Q) provides a process for a
19 licensee to make changes to its approved emergency
20 plan without prior NRC approval, provide the plan, as
21 changed, meets two specific criteria, and it continues
22 to comply with the requirements of Appendix E and the
23 planning standards of 50.47(B), and the changes do not
24 reduce the effectiveness of the plan. So it's a two,
25 two trigger point requirement for determining whether

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1 you can make a change.

2 The current rule does not clearly describe
3 what constitutes a reduction in effectiveness. The
4 amended rule language, with the support of a new reg
5 guide you'll hear later on this morning, Reg Guide
6 1.219, provides clarification of this issue. The reg
7 guide, as I said before, will be discussed later.

8 The final rule amendments to 54(Q)
9 provides a method for determining what constitutes a
10 reduction in effectiveness, provides definitions for
11 all significant terms used in the rule, and requires
12 licensee amendment process of 10 C.F.R. 50.90 when
13 applying to the NRC for prior NRC approval of changes
14 that the licensee has determined to be a reduction in
15 effectiveness. And again, we'll b discussing the reg
16 guide in detail on this issue. Any questions on that
17 at the moment?

18 (No response.)

19 MR. KAHLER: The final rulemaking topic is
20 the removal of completed one-time requirements.
21 Several regulatory provisions have required holders of
22 licenses to take certain one-time requirements
23 following the TMI incident in 1979.

24 These would be removed. These actions are
25 considered complete, and they're no longer binding on

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1 any current licensee or any future applicant. So
2 administratively, we're removing these one-time
3 requirements. Questions on that .

4 CHAIRMAN SIEBER: With that, this may be a
5 good time for us to take a break.

6 MR. KAHLER: Okay. I do have only one
7 more slide honestly, that if you want to, I can.

8 CHAIRMAN SIEBER: Seventeen?

9 MR. KAHLER: Seventeen, yes.

10 CHAIRMAN SIEBER: Yes. Let's do that one.

11 MR. KAHLER: Yes.

12 MEMBER STETKAR: You'll be sorry, Jack.

13 MR. KAHLER: Maybe we should take a break.

14 CHAIRMAN SIEBER: I've got the hammer.

15 (Laughter.)

16 MR. KAHLER: If you'd care to take a
17 break, we can.

18 CHAIRMAN SIEBER: No. Let's finish this
19 last slide and then I guess you're off the hook,
20 right?

21 MR. KAHLER: Yes, I'm done. I get to move
22 to the other table. The final slide I have is request
23 for stakeholder input. When we issued the rule in May
24 of 2009, we gave a general invitation to submit
25 comments on seven topic items.

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1 The first one is the NRC requested input
2 as to whether licensees should be required to include
3 a National Incident Management System and the Incident
4 Command System, referred to as NIMS and ICS, into
5 their emergency plans.

6 After revealing all the comments received,
7 the staff did not incorporate that requirement into
8 the rulemaking, and that was based upon the staff's
9 determination that current NRC regulations, as amended
10 by this final rule, contain adequate requirements to
11 ensure licensee compliance with these regulations that
12 are currently in place, would result in effective
13 coordination of the emergency response activities
14 between off-site agencies and the licensees.

15 The staff expectations are provided in the
16 guidance document, and that the licensee should
17 understand and be able to coordinate with the offsite
18 response in the areas of using incident command
19 concepts such as those identified in NIMS and ICS, in
20 order to ensure this effective response.

21 So we're not requiring them to do it;
22 we're telling them they should, they must be able to
23 coordinate their response within these incident
24 command concepts. That's the first request for input.

25 The second one was on that on-shift

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1 staffing. The staff requested input on whether we
2 should explicitly state the number of the positions,
3 for both the on shift staff of the augmented emergency
4 response organization, and this would be in addition
5 to that task analysis. So you could use either one of
6 the ways to staff.

7 But the NRC requested comments on a
8 specific draft staffing table, and after reviewing the
9 comments received, staff determined that a staffing
10 table should not be included in the regulations, and
11 we agreed with the commenters that a table would be
12 too prescriptive and would not accommodate differences
13 in staffing levels at each site.

14 So we're going back onto the analysis for
15 site-specific shift staffing.

16 CHAIRMAN SIEBER: Yes. There is another
17 factor, and that is the way a licensee writes the job
18 descriptions and the way they train people, and that
19 can have an impact on how many people were required to
20 do a specific number of tasks.

21 I don't think, once you start regulating
22 the number, that means that you have some magic
23 insight into what different people are supposed to be
24 assigned and what their education level is. So I
25 think that what you've done here is probably

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1 appropriate, provided it's evaluated on a performance
2 basis.

3 MR. KAHLER: Yes. The next request for
4 input was for the -- basically goes back to the
5 effective date of this rule, is 30 days after its
6 publication in the *Federal Register*. NRC was
7 requesting input on how that effective date may impact
8 the currently docketed new reactor applications by
9 combined license and early site permit applicants.

10 NRC comments that the NRC should not
11 require pending combined license and early site permit
12 applicants to implement the final rule changes until
13 after the NRC issues the license or permit.

14 CHAIRMAN SIEBER: Right.

15 MR. KAHLER: In response to these
16 comments, in working with the Office of New Reactors,
17 the final rule will offer applicants the option to
18 defer compliance with the final rule until a time
19 after the license or permit issued.

20 That period of compliance deferral,
21 currently being the effective date of the rule, and
22 December 31st of 2013, was selected specifically to
23 apply only to those applications that have already
24 been docketed, and are nearing completion of the
25 safety review, and any applicable subsequent hearings

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1 prior to a licensing decision being made on that
2 application.

3 NRC decided to limit the duration of that
4 deferral because future applicants and currently
5 docketed applicants not nearing a licensing decision,
6 would have ample opportunity and time to bring their
7 applications into compliance with this final rule,
8 without the need to defer their compliance. So we're
9 giving them that deterrence time period.

10 Item No. 4 is the implementation dates.
11 As currently proposed, the rule will be implemented on
12 a schedule that varies from 30 days to three years,
13 depending upon the topic. Based on input received
14 during the public comment period, several adjustments
15 were made to the implementation dates for various
16 portions of the final rule.

17 However, on November 15th, we will conduct
18 another public meeting to provide an additional
19 opportunity for stakeholders to provide input on the
20 implementation dates themselves.

21 CHAIRMAN SIEBER: So this will be public
22 meeting number 12?

23 MR. KAHLER: Public meeting number 13.

24 CHAIRMAN SIEBER: Thirteen, okay.

25 MR. KAHLER: On the implementation dates.

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1 We are currently, and I'll talk about that in my
2 summary, we are currently holding meetings as we
3 speak. I was -- just two previously. Randy's going
4 to one later this week. I'm going to one next week.

5 Now that the rule is public, we're out
6 discussing what the draft final rule looks like.

7 CHAIRMAN SIEBER: Okay.

8 MR. KAHLER: So we're still engaging our
9 stakeholders.

10 CHAIRMAN SIEBER: And that's a good idea.
11 I'd like to see the staff taking that approach on
12 rulemakings and other major actions that they're
13 taking, that public involvement is important.

14 MR. KAHLER: Very important.

15 MR. MILLER: Yes. We didn't add them to
16 the time line, to the time line of how we added on to
17 this rulemaking process, but we have quite a number of
18 new meetings coming up, and we feel the same way as
19 you, that it's very important.

20 CHAIRMAN SIEBER: Right, good.

21 MR. KAHLER: And finally, a request for
22 inputs five, six and seven were directed toward the
23 non-power reactor licensees, the research and test
24 reactors, and it was asking for input on three
25 specific areas of the rule, and whether or not RTRs

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1 should perform that staffing analysis, as we're
2 requiring power reactors to do, for their on-shift
3 staff.

4 Should we require capability time limit
5 for declaring an emergency such as we did, 15 minutes,
6 and should we have them include hostile action
7 emergency action levels. Well after receiving the
8 comments from our stakeholders, they were all in
9 opposition to the inclusion of these requirements on
10 non-power reactors.

11 We went back and took a look at these
12 comments, and the NRC staff agreed with the
13 commenters, that these three items did not need to be
14 included, and we did not incorporate these three
15 topics into the draft final rule.

16 MEMBER STETKAR: The simple question is
17 why?

18 MR. KAHLER: The concept --

19 MEMBER STETKAR: I understand if I'm an
20 owner-operator of a research reactor, I don't want to
21 necessarily augment my staff and put in place
22 emergency planning actions. So therefore, if I'm a
23 stakeholder, I'll say I really oppose that.

24 From an agency's perspective, why does the
25 agency agree with that attitude? What is the

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1 fundamental technical reason why I don't need to worry
2 about a hostile action against a research reactor in
3 my back yard?

4 MR. KAHLER: And I have behind you Ms.
5 Beth Reed with the Research and Test Reactor Group.

6 MEMBER STETKAR: And I'll put that in the
7 context first, because if I'm a power reactor, and
8 somebody throws a cigarette in a waste basket and sets
9 the waste basket on fire, I start a 15 minute time
10 clock to notify the off-site emergency planning
11 people.

12 CHAIRMAN SIEBER: It depends on the waste
13 basket.

14 MEMBER STETKAR: It depends on the waste
15 basket, but it's as fire on site, yeah.

16 MR. KAHLER: But if I can, that's in -- it
17 would be a precursor to a possible more significant
18 event, where the outcome would have an impact upon
19 public health and safety.

20 MEMBER STETKAR: Okay. I want to
21 understand how come a hostile action against a
22 research and test reactor can have no impact on public
23 health and safety.

24 MS. REED: Well, one answer to that, I
25 think this gentleman touched on it a little bit

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1 earlier, was about the source term. You have to look
2 at the consequence of the non-power reactors versus
3 the power reactor. The EPZs for the majority of non-
4 power reactor, do not go beyond the building.

5 The few that do go beyond the building, it
6 probably goes maybe 100 yards past the building. You
7 don't have that type of impact to the public as you
8 would for a power reactor. To go back to your
9 specific example of somebody throws a cigarette in a
10 trash can and starts a fire, that's actually covered
11 under Safeguards events.

12 So that would be in 73, Appendix G, which
13 requires any type of fires, suspicious smells, those
14 sort of things, that starts a one hour clock. The NRC
15 -- the thing about that, that is the only time limit
16 that non-power reactors have for declaring anything is
17 that Appendix G.

18 While Appendix E in Part 50 addresses non-
19 power reactors, it defers to Reg Guide 2.6 on a case-
20 by-case basis, which of the Appendix E, would apply to
21 non-power. Reg Guide 2.6 actually refers to ANSI
22 Standard, ANS Standard 1516, but that's guidance on
23 what constitutes an EAL.

24 Nothing in there talks about time limits
25 either, and again that all goes back to the

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1 consequence, the source term. There is not going to
2 be a release that requires evacuation of the public,
3 and it's not going to be a release that requires
4 anything but maybe evacuates the building itself.

5 So you don't need a prompt 15 minute let's
6 hurry up and start route alerting, things like,
7 because there are no routes to --

8 MEMBER STETKAR: We know that with
9 certainty for hostile actions.

10 MR. REED: Well, by definition "hostile
11 action" right now is only defined as power reactors.
12 So --

13 MEMBER STETKAR: No, I'm sorry. I'm not
14 an attorney. I'm a technical guy. I understand that
15 because you said that a hostile action is defined as
16 being with respect to a power reactor; therefore, it
17 is with respect to a power reactor.

18 I'm saying that if a hostile action is
19 taken against a research reactor, by definition we
20 know that there's no release to the public.

21 MR. REED: Right, because the EPZ does not
22 go beyond the building, so it's not going to go out to
23 the neighborhoods, a mile, two miles, three miles for
24 the EPZ. The EALs in 1516, ANSI Standard 1516, do
25 address hostile action-type events. They're more

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1 security-related. A bomb threat. It even goes up to
2 a loss of control of the whole facility.

3 Again, it has requirements of no defined
4 off-site response organizations, but doesn't have a
5 time limit. That is one thing that the staff was
6 looking at, saying okay, do we need this. In this
7 time period, we do not have the time to develop a
8 technical basis, and say yes or no. So that's one
9 reason we said it's not incorporated in this one, to
10 allow the RTR staff to look at that and say do we
11 need to, along with these EALs, put a time limit, and
12 what is that time limit? Is it an hour, half hour, 15
13 minutes.

14 CHAIRMAN SIEBER: Well, I think you can
15 look at it from a technical standpoint. Source term
16 is one issue. Another one is any hostile action that
17 you would take that I can imagine against a non-power
18 reactor results in it shutting down, okay. You've
19 lost coolant; the fuel from full power can --

20 MEMBER STETKAR: As does a power reactor
21 shutdown.

22 CHAIRMAN SIEBER: Okay, and the only other
23 thing you can do is steal the fuel elements or
24 manufacture, make some kind of a device. I think that
25 there's plenty of time to stop that.

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1 MEMBER RYAN: John, I understand your
2 train of thought, and I'm just trying to think ahead
3 of what's the sequence that would get enough material
4 out of the reactor.

5 MEMBER STETKAR: I'm not trying to develop
6 scenarios here. I'm trying to understand consistency
7 in concerns about emergency planning, okay, because we
8 have in place very, very, very detailed and even now
9 more detailed rules for declaring different level
10 emergency action levels for nuclear power reactors,
11 some of those being triggered by some, by conditions
12 that have an extremely remote possibility of releasing
13 any activity to the outside world.

14 MR. REED: Correct.

15 MEMBER STETKAR: And yet we're essentially
16 silent for research reactors, and I'm not sure that
17 we've done similar types of evaluations of research
18 reactors, to give us assurance that there aren't
19 scenarios that could release, certainly not the same
20 source term as a power reactor, but something that's
21 measurable.

22 I just don't know that. I'm trying to
23 search for a basis for saying that we don't -- I
24 don't say we don't care, but we're less interested.

25 MR. KAHLER: Well, maybe I simplified it

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1 too much.

2 MEMBER STETKAR: In the sense of time, let
3 me just see if we can, if I can close this out,
4 because we could discuss this for a long time. Is
5 there in place a program and a schedule to evaluate
6 changes or enhancements to emergency planning rules
7 for research and test reactors?

8 MR. KAHLER: The quick answer to that is
9 yes.

10 MEMBER STETKAR: And when -- okay, good.

11 (Laughter.)

12 MEMBER STETKAR: Are we looking at -- what
13 sort of time frame are we looking at?

14 MR. KAHLER: That would be -- they have
15 that schedule.

16 MR. REED: I don't have the exact time
17 frame, but I do know what's included in NRR's short
18 term plans. We're looking at all the different
19 regulations in the short term, and developing
20 technical bases, what needs to be updated to match the
21 9/11, post-9/11 type atmosphere.

22 So it should be within the next year or so
23 we're going to look at it and determine disposition of
24 Amendment 4.

25 MEMBER STETKAR: Okay. So we're looking

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1 something in the next year and not five years?

2 MR. REED: In the short term, yes.

3 MR. KAHLER: That was part of the
4 question, was the staff looked at non-power reactors,
5 and stated should we begin that type of activity now,
6 or could that -- or should we defer it, or is it even
7 necessary? We saw that the current regulations in
8 place are adequate to still provide for a response and
9 for public health and safety.

10 So we didn't want to undertake that
11 activity at this time, and just to keep the RTR
12 regulations as they were. Asked if anybody out there
13 thought we should undertake that analysis at this
14 time, and everybody told us no, not right now, defer
15 it, and that's what we did. I think we're ready for
16 our break.

17 CHAIRMAN SIEBER: Yes, we are, and I would
18 suggest we come back at 10:40.

19 MR. KAHLER: 10:40.

20 CHAIRMAN SIEBER: 10:40.

21 MR. KAHLER: Okay, thank you.

22 (Whereupon, a short recess was taken.)

23 CHAIRMAN SIEBER: So I think we'll begin
24 now.

25 MR. KAHLER: If I can from the side here,

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1 I'd like to introduce my staff, who will be presenting
2 the three guidance documents. That will be Jeff
3 Laughlin is going to present the NUREG, CR 7002
4 regarding the evacuation time estimates.

5 Then Steve Levine will be making a
6 presentation in Reg Guide 1.219 regarding emergency
7 plan changes, and finally Don Tailleart will present
8 the interim staff guidance document, which encompasses
9 the remaining rulemaking topics. With that, I'd like
10 to turn the meeting over to Jeff, who will begin with
11 the evacuation time estimate NUREG.

12 CHAIRMAN SIEBER: Okay.

13 MR. LAUGHLIN: Okay. I will be going over
14 NUREG CR 7002, which is criteria for development of
15 evacuation time estimate studies. The evacuation time
16 Estimate is a calculation of the time to evacuate the
17 plume exposure pathway in the emergency planning zone,
18 which is an area with a radius of about ten miles
19 around the nuclear power plant.

20 Section 4 of Appendix C of 10 C.F.R. Part
21 50 requires that an analysis of the time required to
22 evacuate be provided for various sectors and distances
23 within the plume exposure pathway, EPZ, for transient
24 and permanent residents.

25 The ET is primarily used to inform

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1 protection evacuation strategies, and may also be used
2 in the development of traffic management plans to
3 support an evacuation. This document provides
4 guidance on key criteria, such as (1) development of
5 ETEs for the staged evacuation protective action;
6 secondly, consideration of shadow evacuations in the
7 analysis; third, consideration of the evaluation tail;
8 and finally, the ETE updates.

9 Research in evacuations has shown that
10 implementation of staged evacuations can be more
11 beneficial to the public health and safety. A staged
12 evacuation is where one area is ordered to evacuate,
13 while adjacent areas are ordered to shelter in place
14 until directed to evacuate.

15 This guidance document established an
16 approach to develop ETEs for the staged evacuation.
17 The guidance also establishes the need to include a 20
18 percent shadow evacuation in the analysis. A shadow
19 evacuation is defined as an evacuation of people from
20 areas outside an officially declared evacuation zone.

21 The shadow population is considered in the
22 analysis to account for any effect that this
23 population group impede the evacuation of those under
24 evacuation orders. ETEs provide information for use
25 in the formulation of the licensee's protective action

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1 recommendation, and the OROs' protective action
2 strategies.

3 ETEs that overestimate or underestimate
4 evacuation time are not helpful in making the best
5 protective action decision. Research of previous
6 evacuations shows that approximately ten percent of
7 the population takes a longer time to evacuate, which
8 is referred to as the evacuation tail.

9 Planning is established to evacuate all of
10 the public, but decision-makers should use the 90
11 percent ETE values when making protective action
12 decisions. This provides the estimated time to
13 evacuate the vast majority of the public without
14 overestimating the evacuation time, due to a small
15 percent of evacuees.

16 Therefore, the time to evacuate 90 and 100
17 percent of the population should be provided in the
18 ETE study.

19 Section 4 of Appendix E to 10 C.F.R. Part
20 50 requires ETE updates after a decennial census, or
21 when the EPZ permanent resident population increases,
22 such that it causes a material change to the ETE
23 values.

24 Licensees shall estimate EPZ permanent
25 resident population changes at least annually during

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1 the years between decennial censuses, using U.S.
2 Census Bureau data and state and local government
3 population data, if available.

4 This guidance describes how to use this
5 information to determine if an ETE update is required.

6 This document is an acceptable template for use by
7 licensees to meet the requirements for the development
8 and updating of ETE studies.

9 The NRC expects that an ETE analysis
10 report be formatted consistent with this template, or
11 an appropriate alternative, and submitted to the NRC
12 in accordance with 10 C.F.R. 50.4 for review, to
13 confirm the adequacy of the ET analysis.

14 The NRC will use Appendix B of the
15 document, titled "Evacuation Time Estimate Evaluation
16 Criteria," to make that determination of adequacy.

17 MEMBER STETKAR: Jack, I'll ask you first.

18 CHAIRMAN SIEBER: Yes.

19 MEMBER STETKAR: I had several questions
20 about this NUREG, and they could take quite a while to
21 discuss. I don't know what we should about time. How
22 are you -- how should we address this?

23 I don't want to launch off into a long
24 thing that's going to drive us way over time, but
25 there are some fundamental issues in this NUREG that I

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1 would like to discuss, but I don't know that we have
2 time to do that.

3 CHAIRMAN SIEBER: I have some questions
4 too. I'm not sure that mine will take an extremely
5 long time, but we did have a pre-meeting with the
6 staff, trying to plan what the agenda would be, and
7 our agenda shows us finishing at 3:30, which in my
8 opinion is quite early.

9 MEMBER STETKAR: Oh, so you're saying
10 maybe we can run it over?

11 CHAIRMAN SIEBER: I think that I would
12 prefer if we could, and our notice in the *Federal*
13 *Register* to my knowledge does not prevent us from
14 running over.

15 MR. SHUKLA: No. The meeting is until
16 five o'clock.

17 CHAIRMAN SIEBER: Okay, and so I would
18 prefer to address your questions as they come up, as
19 opposed to trying to arrange some differing schedule
20 to do that, and in my opinion, the day ends at
21 midnight.

22 MEMBER STETKAR: That's what I like to
23 hear.

24 CHAIRMAN SIEBER: And so ask your
25 questions.

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1 MEMBER STETKAR: Okay, thanks. Let's hit,
2 you mentioned shadow evacuation, and I had one
3 specific question regarding that. This one should be
4 easier. In Section 252 of the reg, where it discusses
5 treatment of shadow evacuation, it says "It is not
6 necessary to estimate a shadow population for
7 transient or special facility populations."

8 Now I understand why you don't need to
9 treat special facility populations in the shadow,
10 because they're in kind of a controlled environment,
11 and if they're told they don't need to evacuate, they
12 won't.

13 On the other hand, transient populations,
14 if I'm in an area where outside the ten mile zone,
15 this is a comfort thing -- outside the ten mile zone I
16 have resort areas or sports arenas or things like
17 that, it would strike me that if that transient
18 population became aware of a notification of an
19 emergency at the nuclear facility, it seems to me
20 quite likely that a very, very large percentage of
21 those folks would decide to leave.

22 So I'm not sure why the evaluation of the
23 shadow evacuation excludes what on a site-specific
24 basis could be a relatively large number of people
25 clogging up those roads. So could you explain why

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1 it's not necessary to treat those people?

2 CHAIRMAN SIEBER: Well, let me ask you a
3 question. You're talking about a transient population
4 outside the ten mile zone?

5 MEMBER STETKAR: Right.

6 CHAIRMAN SIEBER: Okay.

7 MEMBER STETKAR: But the NUREG says that
8 there, you know, a nominal, I think it's 20 percent of
9 the resident, of the permanent residents are assigned
10 to that shadow evacuation, so that they clog, you
11 know, clog arteries and things like that, and impede,
12 you know, evacuation of the folks inside the ten mile
13 zone.

14 But the NUREG says that I don't need to
15 consider the transient population outside, and my
16 sense is that okay, I'm not -- I know there's
17 probably some basis for the 20 percent of the resident
18 population who may decide to relocate, but it would
19 strike me that a fairly large percentage of the
20 transients might.

21 In fact, you know, depending on the site-
22 specific characteristics, it could be a fairly large
23 population.

24 MR. SULLIVAN: I think we can help with
25 that to some extent. I don't know that we'll satisfy

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1 your itch, because it's fundamental, but let's go
2 through a couple of things on evacuation. 20 percent
3 is just our estimate. In fact, we've been dressed
4 down by eminent sociologists for specifying a number,
5 because the number is actually dependent on the
6 hazard, the messaging, the education of the population
7 and everything else that I can't know in advance.

8 So our research with our public telephone
9 survey of a couple of years back, gave us a number of
10 23 percent. We picked 20. What I'm trying to get
11 across is I don't want to infer a false sense of
12 precision with this kind of stuff. This is a standard
13 that we're using as our best estimate of what the
14 situation might be.

15 So when we say 20 percent, we thought
16 that's a good place to come down. But the transient
17 population is likely event- and perhaps season-
18 dependent.

19 MEMBER STETKAR: Sure.

20 MR. SULLIVAN: And we were attempting not
21 to give the control room operator a really complicated
22 matrix to work from. In other words, if there's a
23 road race going on, use this number or make this
24 recommendation. If it's summer and it's a busy
25 weekend, use this one.

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1 So we're attempting to come down
2 reasonably in the middle, and not make it event and
3 season-based. MEMBER STETKAR: I'm not
4 sure -- I guess I don't understand how this relates to
5 the control room operator, because this is evacuation
6 time estimates that have more off-site response
7 planning and I as a control room operator have to have
8 faith that they're going to move the people away when
9 I say we have an event of a certain magnitude, you
10 know, a certain classification level.

11 MR. SULLIVAN: I can help with that.

12 MEMBER STETKAR: But let me just -- my
13 concern is that I recognize that this is some type of
14 stylized analysis. Fine. But I also recognize that
15 we have distinct nuclear power plants that are located
16 at distinct sites. They are not stylized sites.

17 If I 12-1/2 miles away from my nuclear
18 power plant have Wally World, then the typical number
19 of people in it, Wally World on an average summer day
20 is 50,000 people, and given today's communications,
21 where everyone has cell phones and they spend most of
22 their time looking at their cell phones and looking at
23 news bites and things while they're waiting in line at
24 Wally World, these folks are going to know that
25 something is happening 12 miles away.

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1 It strikes me that mom and pa are probably
2 going to decide that they want to collect their kids
3 and leave Wally World, and that's only from my site.
4 It isn't for a stylized generic site. It's a
5 particular facility at my site that may indeed cause
6 problems evacuating the folks that I really do want to
7 evacuate.

8 So I was just -- apparently we're not
9 going to reach any resolution over this. I'll just,
10 you know leave it at that. It's not clear to me why a
11 blanket exclusion of transient population out in that
12 10 to 15 mile zone makes sense for every site.

13 MR. KAHLER: If I can add on to what Randy
14 was saying, the ETEs to be used by off-sites and also
15 for the on-site licensees in the development of their
16 protective action strategies.

17 I think what Randy was alluding to was not
18 to have decision points based upon an event being had
19 or a season or whatever, in order to complicate that
20 issue, when what you're trying to do is provide
21 immediate protection, and to take what would be an
22 action, in order to evacuate people.

23 But again, these kind of decisions quite
24 agreeably, they're for the development of pre-plan
25 protective action strategies. Off-site agencies can

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1 incorporate events into their emergency plan, and
2 incorporate these other type of facilities as they do
3 now with hospitals, as they do now with prisons, as
4 they do now with Seabrook and the seasonal shore, and
5 evacuating people during the summer season after a
6 site area emergency.

7 So these type of things are currently
8 looked at. So what we're saying is when you develop
9 the ETEs, okay, our guidance is you don't need to
10 accommodate a shadow evacuation from transient
11 population.

12 MEMBER STETKAR: Okay. We agree that I
13 understand that, I'm questioning why you don't need
14 to accommodate the shadow evacuation of the transient
15 population.

16 MEMBER RYAN: Well, did I not hear that
17 you, that Seabrook does address seasonal populations.

18 MEMBER STETKAR: No. It's within the ten
19 mile zone, Mike. Seabrook is within the ten mile
20 zone. This is 10 to 15 miles I'm talking about. In
21 fact, the guidance as it exists in the NUREG says you
22 do need to consider events and seasons, and within the
23 ten mile zone.

24 But outside of the ten mile zone, 10 to 15
25 miles, it says you take this nominal stylized 20

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1 percent of the resident population and assume that
2 they're going to move, and therefore they'll clog the
3 roads. But no transients.

4 MEMBER RYAN: Let me ask you a question,
5 John. It seems to me like you're kind of reaching
6 toward -- well, let's take an example like inside the
7 ten's covered and there may be an adjacent population
8 from 11 to 14 that's in the same ballpark as inside
9 the ten. Let's just make that hypothetically the
10 argument you're trying to make.

11 It would seem to me that there's two ways
12 to do it. One is to require transient populations,
13 and you define them and we'll agree or not agree to go
14 that route, or you could take the alternative view and
15 say, you know, not include it and then we'll approve
16 it or not approve it. But justify why they're not
17 part of it. You could do it the other way too.

18 MEMBER STETKAR: Well, except that the
19 guidance, and people follow guidance. They read the
20 words and they --

21 MEMBER RYAN: So the guidance --

22 MEMBER STETKAR: The guidance specifically
23 says "It is not necessary to estimate a shadow
24 population for transient or special facility
25 populations" --

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1 MEMBER RYAN: But you'd like to say the
2 requirement is not --

3 MEMBER STETKAR: The special facilities I
4 understand, because they're essentially controlled.
5 But people will read that as saying the regulatory --
6 the NUREG says I don't need to do that. Therefore, I
7 do not need to do that. It doesn't say that I need --

8 MEMBER RYAN: We can change the word to
9 say "confirm that," and then --

10 MEMBER STETKAR: Something. You know, I'm
11 not -- I'm just trying to understand the rationale.

12 MR. SULLIVAN: I think you've got it. I
13 mean it's a matter of burden and precision, and that's
14 where we came down. But you know, people could
15 differ, and I understand that.

16 MEMBER STETKAR: Okay. Let me ask kind of
17 -- that was a specific one. I was hoping there was
18 some sort of fundamental answer to that one. I sort
19 of had three issues with the NUREG, and let me see if
20 I can ask them at that level.

21 First of all, the NUREG in several places
22 says that I don't need to consider, for example under
23 adverse weather, I don't need to consider severe
24 weather with a return period of longer than 100 years,
25 for example.

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1 It essentially, although adverse weather,
2 sort of normal everyday storms, is included as one of
3 the criteria that form the scenarios that people have
4 to evaluate, there are several places where the NUREG
5 essentially discounts very rare severe events.

6 Now if you look at Dr. Bley earlier this
7 morning mentioned risk informing the process. I
8 wouldn't call this risk information. I would just
9 call it risk knowledge. If you look at the results of
10 risk assessments that are indeed being performed,
11 certainly for all of the new reactors that are being
12 proposed for the U.S., the dominant cause for core
13 damage and off site release is indeed severe external
14 events.

15 Now those reactors have not yet quantified
16 seismic risk, but everyone is in pretty well agreement
17 that large seismic events, for example, are probably
18 the largest contributor to accidents. Severe storms
19 could be a large contributor, storm-induced blackouts.

20 And indeed, even for many of our current
21 operating fleets, they've identified as contributors
22 to core damage and off-site releases, not necessarily
23 just core damage events or transience, seismic events
24 and severe external events.

25 So indeed, although there are very, very

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1 rare events, a severe off-site release is also a very,
2 very rare event, and indeed there might be an
3 extremely high correlation between conditions when you
4 want to evacuate people, and have coincidentally
5 either a very, very severe storm, hurricane, tornado,
6 or a very severe seismic event.

7 So the question is if we're discounting
8 those events and our emergency planning guidelines and
9 our estimates of evacuation times, are we in fact
10 being responsive to the types of events that we would
11 indeed expect to give us severe accidents at nuclear
12 plants?

13 In other words, are we planning for things
14 that won't give us severe releases? Granted, TMI
15 happened. But we've learned since TMI and people have
16 designed reactors in many ways to reduce the risk from
17 those types of events.

18 And certainly for new plants, they are
19 well protected against those internal events. So
20 could you respond to that? I mean one kind of theme
21 here is that this is sort of evacuation under normal
22 external conditions. Granted, it could be summer, it
23 could be winter. I could have adverse weather.

24 But the adverse weather at most reduces my
25 or increases my evacuation time by 15 percent or

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1 something like that, depending on however you do the -
2 - there's a couple of numbers in there for road
3 congestion and average travel times and things like
4 that.

5 MR. LAUGHLIN: I will defer to Mr.
6 Sullivan.

7 MR. SULLIVAN: Yes. I think I should --
8 well yes maybe. But I think can help with that. I'd
9 like to discuss how this document's going to be used,
10 and in the new protective action logic that will be
11 used by the control room, there's a couple of decision
12 points for the operators. They don't have to look at
13 the ETE, but the ETE will provide criteria for their
14 flow logic. That criteria would be proceduralized in
15 a one-page flow logic, and the ETE will go back on the
16 shelf after that information is embedded in the site
17 procedure.

18 This procedure has to be implemented in 15
19 minutes. Hence, we had to make some simplifying
20 assumptions. I don't want them to have a matrix that
21 would change their decision points with a whole lot --

22 I mean we have, I think we have day and
23 night and summer and winter, and that's already four
24 dimensions of freedom, and we don't want much more
25 than that and be able to work through it in 15 minutes

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1 in the middle of an accident.

2 MEMBER STETKAR: You keep trying to drag
3 me back into the control room. I used to be a shift
4 supervisor, so I know what goes on in the control
5 room. I need to have a set of criteria, and I need to
6 understand what the level of the accident is, and to
7 whom I must communicate that information.

8 The outside emergency planners, the local
9 police, fire department, National Guard, state,
10 federal, whoever, are responsible for, given that
11 alert, making sure they have in place plans that can
12 mobilize people.

13 I thought that the purpose of this NUREG
14 is more guidance that is input to their process also,
15 not me in the control room.

16 MR. SULLIVAN: It's input to you in the
17 control room.

18 MEMBER STETKAR: Okay.

19 MR. SULLIVAN: There's been a revolution,
20 and they'll be a new Supplement 3 to NUREG 0654, that
21 has different protective action strategies, and this,
22 the data from this document will be embedded in those
23 strategies.

24 Now off site, we would expect that OROs,
25 off-site response organizations, may use this

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1 information. But I've got to tell you, the local
2 police know their county better than my study from
3 Washington. So whatever guidelines I lay out for
4 licensees to perform a study, the local cops know what
5 bridge it out, better than me telling them what the
6 100 year event looks like.

7 So we drew a line in the sand, and said
8 just depend on local knowledge above this, below this
9 frequency rate.

10 MEMBER STETKAR: Well, we did that on
11 Katrina, and it didn't work all that well, did it?

12 MR. SULLIVAN: Katrina actually worked
13 well.

14 MEMBER STETKAR: Well, it worked --

15 MR. SULLIVAN: The evacuation worked well.
16 Those who chose not to evacuate were stuck in the
17 flood. However, the evacuation moved two million
18 people, and this is a Congressional finding, not only
19 mine. So it's that you didn't get -- your emergency
20 messaging was not correct, to get everybody out.
21 Those who were left behind was the disaster that you
22 saw.

23 So we're counting on the locals to know
24 what's in and what's out in these low frequency
25 events, better than our study can tell them.

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1 MEMBER STETKAR: They certainly will know
2 what's in and what's out. The question is are we
3 providing, are we ensuring that they have enough
4 contingencies in place to at least acknowledge the
5 fact that at a certain area, if I'm in a hurricane-
6 prone area, that indeed this -- their planning for a
7 response from a radiological emergency might want to
8 consider a coincident hurricane, rather than this
9 guidance saying "no, I don't have to do that."

10 Their planning for a radiological
11 emergency might want to consider a coincident large
12 earthquake, whereas this guidance says "no, I don't
13 need to do that." So that's the genesis of my
14 question, is that this guidance, regardless of whether
15 this is a guidance, you know, as you say, from the
16 federal government for, you know, our studies, versus
17 the local plan.

18 The whole sense is that the emergency
19 planning is an integrated function, and I understand
20 the limitations of doing these studies. But I also
21 understand that we want to be prepared for events that
22 -- a large release from a nuclear power facility is a
23 very, very rare event, and if that is highly
24 correlated to other very, very rare events that might
25 affect the local infrastructure and evacuation plans,

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1 that we at least ought to understand that and
2 acknowledge it, and not basically say well, our
3 guidance hasn't considered those things.

4 MR. KAHLER: If I can, and let me offer
5 this up also. What I think we're doing is the
6 discussion between a pre-planned protective strategy
7 versus performance during an actual event, and I think
8 what Randy was trying to get to was we're trying to
9 develop a cadre of situations that is dependent on the
10 more frequent type of things, in order to develop that
11 protective strategy.

12 But for those rare occurrences, it can
13 then be used to accommodate it off-site in response.
14 Maybe I'm going around the horseshoe here, that this
15 is providing a basis for an ETE to be used, and then
16 that baseline ETE and the strategy that accompanies it
17 can then be modified, as the rare occurrences would
18 dictate.

19 That's what we see in this document.

20 MEMBER STETKAR: But you used an important
21 term. You said the more frequent events. My
22 contention is that you have the thought process that
23 all of these events will occur due to some failures of
24 internal equipment inside the nuclear power plant,
25 that are completely independent of the external

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1 environment.

2 My contention is that for real severe
3 accidents, especially with the newer plant designs,
4 they will be completely correlated. The rare events
5 indeed will be the things that happen inside the
6 nuclear power plant, that are completely independent
7 of the external environment.

8 And that indeed when you're thinking
9 about planning for conditions, when you would expect
10 to have a release. What are the conditions in the
11 world when you would expect to have a release from
12 that nuclear power plant?

13 At least for the new plant designs, it is
14 very, very likely that they will be severe external
15 conditions, either very, very severe storms,
16 tornadoes, perhaps hurricanes, perhaps severe
17 flooding, depending on the location plant design,
18 earthquakes, bigger earthquakes than you've ever
19 experienced.

20 And that indeed those, although they're
21 very, very, very rare in an absolute sense, the
22 correlation between those events and the conditions
23 that you're trying to protect the health and public
24 from, from a radiological perspective, could be highly
25 correlated.

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1 So in the sense of your pre-planning, you
2 should at least acknowledge those conditions. You
3 certainly do also want to plan. I'm not saying you
4 don't want to plan for the internal events. You
5 certainly do need to do that. What I'm saying is
6 should there be guidance that says we have a set of
7 evacuation plans. We understand mobility of people.
8 We understand traffic patterns, integration with off-
9 site responders for let's say normal environmental
10 conditions, with some variation, summer to winter, you
11 know, normally expected storms.

12 That if indeed an event happens at a
13 nuclear power plant under those conditions, we have
14 good assurance that we have a plan in place, and good
15 communications; people can be moved. However, should
16 we also have, I don't know whether it's another set of
17 plans.

18 I'm not trying to be very specific here,
19 but should the integrated on-site and off-site
20 personnel also be aware of the fact that indeed, there
21 could be a very high correlation with very severe
22 events, that could substantially disrupt the local
23 infrastructure.

24 So you make reference to the local people.
25 They know where their weak bridges are, for example,

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1 you know. So when they have an earthquake, you know,
2 they want to make sure they've got a couple of
3 reasonably robust bridges to get the people across.

4 MEMBER RYAN: So I'm going to try and
5 restate your question in a different way. So what I
6 get out of what you've just said is that you're trying
7 to suggest that people, you know, that licensees
8 should explore what the weak parts of infrastructure
9 are, and they could be affected by a concurrent event
10 to whatever the emergency event is.

11 So for example, is there weakness in
12 communication equipment? In other words, they have
13 above-ground power lines and they're under trees, and
14 if they lost communication, what would that do, or if
15 communication was only 50 percent. So you're talking
16 about some sort of an exploration of how
17 infrastructure could be affected by a concurrent
18 event.

19 MEMBER STETKAR: Right, because --

20 MEMBER RYAN: That could impact the
21 ability to respond to the primary event.

22 MEMBER STETKAR: That's right, because at
23 least in the new plant designs, there's some evidence
24 th at when you say "concurrent," that could imply
25 independence, that they're correlated, that indeed --

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1 MEMBER RYAN: Well, correlated in the
2 sense that whatever response you're trying to initiate
3 is affected by both in some combined way yet to be
4 determined.

5 MEMBER STETKAR: Well, and that the
6 radiological emergency is a consequence of that --

7 MEMBER RYAN: That's the part I'm still
8 struggling with. I don't see how you get to that. I
9 mean I can understand bridges go out and power lines
10 go down.

11 MEMBER STETKAR: Seismic events.

12 MEMBER RYAN: Well --

13 MEMBER STETKAR: Disrupt my nuclear power
14 plants. Hurricanes tear down off-site power and can
15 cause damage to non-safety related pieces of
16 equipment, leaving me just my core of safety-related
17 equipment, then some of that fails.

18 MEMBER RYAN: Again, I get to the -- in my
19 own mind, I'm saying so what's the probability of
20 these events?

21 MEMBER STETKAR: They're very, very rare
22 events. We're planning here -- you know, emergency
23 planning is for things that don't happen every day.

24 MEMBER RYAN: Yeah, but some --

25 MR. LaVIE: I want to take exception to

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1 that statement. The planning basis for emergency
2 planning talks about a spectrum of events, starting
3 from minor things all the way up to severe accidents.

4 With the understanding in all that
5 emergency planning is the Commission expressed in the
6 rulemaking, they put the current rules in place, and
7 that is we can't plan for every event, okay, and that
8 also that when we picked the ten mile EPZ, it was with
9 the understanding that there could be events that went
10 beyond that, but the planning that we had in place for
11 the more probable events gave us a basis for expansion
12 into the less likely events that may occur.

13 So I'm not sure that there is a great deal
14 of benefit from going after all these rare events, if
15 the planning we have put in place gives us a basis for
16 expansion, if that should occur while the response is
17 going on.

18 MR. KAHLER: And that's what I was trying
19 to talk to before, Steve, is that these ETEs that are
20 provided in the protective action strategies will
21 provide that basis that could be used for these rare
22 events, and then can be modified as necessary in
23 response.

24 Because to state that we would have a
25 catastrophic earthquake that would render off-site to

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1 the point of where evacuation is almost an
2 impossibility, then the protective action strategy
3 pre-planning is non-existent anyway.

4 I mean this is where you do begin to get
5 to that -- to the end point of to predict the 100 year
6 flood and such, and how it would impact evacuation
7 strategy. Should that be included into an evacuation
8 time estimate?

9 That's where, that is where we're saying
10 we don't want to have it where it's a predisposed
11 analysis with an ETE associated with it. What we're
12 saying is the ETE that is there, you can then utilize
13 to understand if I do have this area that's
14 inaccessible, how is that going to impact my strategy
15 that I thought of ahead of time for that type of rare
16 occurrence.

17 So we're looking at those that are more of
18 things that happen, like day, night, weekday, weekend,
19 people at work, school's in session, certain
20 activities are happening during seasonal events, and
21 then that provides us a basis for development of a
22 protective action strategy.

23 Once we have that basic protective action
24 strategy, it can be applied to all of these numerous
25 types of events, and that's where the staff says this

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1 ten mile EPZ, what Randy is currently working on in a
2 change to Supplement 3 with a new protective action
3 strategy of staged evacuations and looking at
4 sheltering, more than the evacuation, and that's a
5 whole other project.

6 CHAIRMAN SIEBER: I think that's an
7 important point that you just hit on, is that
8 evacuation is not the only protective action that can
9 be taken. Whether you decide between sheltering in
10 place and evacuation depends on, to some extent, on
11 the source term that you expect realistically to be
12 delivered, and what the off-site condition truly is.

13 If there's a seismic event that takes out
14 infrastructure like bridges and highways, the licensee
15 does not make the evacuation decision. He may
16 recommend it, but that decision is made by generally
17 the state.

18 For example at TMI, it was Governor
19 Thornburg that made the decision as to whether
20 evacuation should occur or not, and it takes into
21 account the advice and consideration of the data from
22 the licensee, plus the advice and consideration from
23 local government, county government, as to whether
24 evacuations are possible or not.

25 As far as the event that occurs beyond the

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1 ten mile zone, for example, a major football game. I
2 come from a town that has Super Bowl champions, and
3 they evacuate almost every weekend in the fall and
4 winter, and it takes about an hour and 20 minutes to -
5 -

6 MR. KAHLER: If I can then, then a lot of
7 your concern is addressed in the protective action
8 recommendation strategy arena, rather than in the
9 development of an ETE. That is something that we do
10 address there. It is based upon the impediments to
11 evacuation, as we call it.

12 There are alternative types of protective
13 actions that should be taken, such as sheltering,
14 staged evacuation or delay in the evacuation, until
15 the infrastructure offsite is restored. That kind of
16 stuff is in the protective action strategy, rather
17 than the development of an ETE.

18 CHAIRMAN SIEBER: Or a sector evacuation,
19 which at one time was the way to go, until it was
20 decided that a 360 degree evacuation was more
21 appropriate.

22 MEMBER STETKAR: Let me try one last
23 thing, because I have two other topics that I'd like
24 to discuss. Let me try one last thing on this one.
25 These are ETEs, evacuation time estimates.

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1 Those evacuation time estimates then, as
2 you've said, feed into the more detailed emergency
3 plans and recommendations for particular types of
4 protective actions, and in fact strategies fore even
5 which sector we might evacuate and whether it's a
6 staged or wholehearted evacuation or whatever you call
7 it.

8 By excluding even any consideration of
9 what might be the evacuation time estimates under
10 these extreme environmental conditions, you have
11 absolutely no knowledge of what they might be,
12 because you've created a world under which you've
13 constrained the evacuation time estimates to be as
14 they are within the world that you've defined.

15 That world excludes things like
16 hurricanes, tornadoes and seismic events that
17 could substantially increase those evacuation time
18 estimates. Why is the knowledge of those
19 evacuation time estimates excluded? I mean it may
20 very well be that if we have a very severe seismic
21 event, the appropriate recommendation is to
22 shelter in place, because we know that we can't
23 get people away.

24 But wouldn't it be good to know that
25 we can't get people away, that the estimated

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1 evacuation time for that event is, you know, seven
2 days, because we've done an evaluation of our site
3 and our local infrastructure, and it basically
4 can't support an evacuation under a seismic event,
5 or under a severe hurricane, that we might not be
6 able to evacuate 30 percent of the population for
7 a week, for example? Wouldn't it be good to at
8 least know that, because that might affect our
9 decisions if one of those events happened.

10 MR. SULLIVAN: Well, let's just -- I
11 think I'm tracking with you maybe. Hurricanes, we
12 have a few days' warning, the evacuation really
13 takes place before the nuclear plant requires an
14 evacuation. So I'm not so worried about
15 hurricanes. It's really a different logistical
16 issue.

17 Tornadoes come and go, all right. So
18 we're not going to evacuate in the middle of a
19 tornado. Everybody knows that. The plant may be
20 damaged; a bridge could be out. I don't know how
21 to plan for that. Now earthquake is problematic.

22 MEMBER STETKAR: Earthquake is
23 problematic.

24 MR. SULLIVAN: Now floods also take a
25 couple of days to develop, so they don't just

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1 happen.

2 MEMBER STETKAR: It's when that dam
3 breaks.

4 MR. SULLIVAN: Right. So once again,
5 floods, the locals are already on alert, they're
6 already working. I know people get trapped and
7 levies break and that sort of thing does happen,
8 but it's not without warning. Earthquake is
9 really of a concern, and that's an issue where I
10 don't have a good answer for you.

11 MEMBER STETKAR: Let's just leave it,
12 because we are short on time, although it doesn't
13 end until midnight, I don't want to --

14 (Simultaneous discussion.)

15 MEMBER STETKAR: 11:59:59, okay. Let
16 me ask. The NUREG identifies ten scenarios that
17 people need to evaluate, and you know, there's
18 some words in the NUREG that says particular
19 licensees could augment that list if they felt it
20 was necessary, but since it is a NUREG, people
21 will probably pretty much follow that list.

22 What's the basis for that list? The
23 list is obviously incomplete. The number of
24 parameters that you have, there are 32 possible
25 scenarios. If you look at the possible number of

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1 combinations of weekday or night, summer-winter,
2 special event, adverse weather.

3 So I'm curious -- and road conditions.
4 I'm curious why those ten were selected, and not
5 the full set, because -- well, I'll just leave it
6 at that. I know you'll shoot me up front.

7 MR. SULLIVAN: Yes. I'm kind of the -
8 - this update of the ETE, I'm sort of a champion
9 of that. We had to draw the line somewhere. I
10 mean really, once again, I'm back to burden and
11 what it's going to be used for. You know, you get
12 a false sense of precision when you have 32
13 scenarios, and I'm not going to use them.

14 MEMBER STETKAR: Well, you have a
15 sense of precision if you have ten scenarios also.

16 MR. SULLIVAN: That's right. We just
17 drew a line.

18 MEMBER STETKAR: And you know again,
19 coming back to something Dr. Bley asked about this
20 morning, is that you may not use all 32 scenarios.

21 You may be able to indeed group them together and
22 do your evaluations for classes of those
23 scenarios. It's also obviously it's possible to
24 assign probabilities to each of those scenarios.
25 We know how many days in the week there are.

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1 So for example, 5/7ths of the week
2 we're in a weekday; 2/7ths of the week we're in a
3 weekend. We pretty much know summer and winter
4 are each half of the year, according to this, so
5 there's a .5 there. We can estimate the frequency
6 of the special events on a site-specific basis,
7 you know, depending on what we have around, summer
8 or winter, depending on whether I'm in a ski area
9 or Wally World.

10 So there are ways of essentially
11 developing this set of 32, a complete set of 32,
12 if those are the important parameters, and
13 essentially assigning a likelihood to each
14 combination.

15 Now if I have a small likelihood of
16 the most extreme combination, but the ETE for that
17 combination is 100 times longer than the rest of
18 them, that again is important information, I
19 think. It's information.

20 MR. SULLIVAN: Sure. Doctor, we're
21 coming from a place where we had 30 year-old ETes.

22 MEMBER STETKAR: No, I understand.

23 MR. SULLIVAN: So we're taking a big
24 step forward to improve the landscape. No, we
25 didn't go down that path. You're exactly right.

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1 We didn't.

2 MEMBER STETKAR: Okay. What I'm
3 concerned about is given what we know now, how
4 long will this thing be in place, you know, before
5 it gets resolved in the future? You know, I don't
6 want to be sitting here in 2030, period.

7 (Laughter.)

8 MEMBER STETKAR: I don't want anybody
9 else sitting here in 2030 and asking these
10 questions about why didn't people 20 years ago
11 think of that type of thought process, when indeed
12 we have the capability. We know how to do it.
13 It's not, you know, it's not rocket science, and
14 why wasn't that thought process sort of built into
15 this evaluation.

16 That's not risk-informed. You know, I
17 use the word "probabilities," but this is not a
18 risk-informed application. It's simply
19 structuring those scenarios to say that yes
20 indeed, we have a complete list and maybe I can
21 group things together.

22 Maybe if I look at the scenarios and
23 look at my site, and say well, for all practical
24 purposes, I'll do an ETE evaluation for this group
25 of five or six or ten or something like that,

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1 because I don't think there will be lot of
2 variability over that, and the likelihood that
3 that --

4 MR. KAHLER: Can I present that this
5 does not limit a licensee from performing that?
6 It does not limit a licensee from doing the 32?
7 What it says is the staff is saying to the
8 licensees if you do these ten, we consider this to
9 be a reasonable range of scenarios, to encompass
10 the most amount of possibilities for the 64 cites
11 that are out there, by writing this wide, generic
12 type of guidance document for the licensees to
13 take a look at, and provide them some guidance
14 where they had no guidance before.

15 So what we're saying is do these ten,
16 take a look at other ones. As a minimum, these
17 are the ones we expect, the ones specific to your
18 site. We can't write this for every possibility,
19 because there could be more than 32. There could
20 be 1,080.

21 MEMBER STETKAR: No fine.

22 MR. SULLIVAN: And I'm just saying at
23 this point, we just want to take this number.

24 CHAIRMAN SIEBER: An even more
25 important question is regardless of whether

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1 there's 32 or 3,200, you only have a choice of two
2 things you can do. You can either evacuate or
3 shelter, okay, and to make that decision, how much
4 do you need to know in advance?

5 MR. KAHLER: How much detail do you
6 need to provide that strategy --

7 CHAIRMAN SIEBER: Because that
8 decision is made after the event occurs, and
9 you're aware of what the circumstances is, and
10 you've got a choice of two. You either evacuate
11 or you shelter.

12 MEMBER STETKAR: Let me ask you a
13 simple question then. How come I can never have
14 adverse weather at night? Why is that? Why do I
15 only have adverse weather during the day?

16 MR. LAUGHLIN: They do happen at
17 night.

18 MEMBER STETKAR: Well, no, you know.
19 I've been through some pretty bad storms at night,
20 but according to this ten stylized scenarios, I
21 can never have adverse weather at night.

22 MR. LAUGHLIN: Well again, I think
23 it's just limiting the scenarios, you know, to the
24 --

25 MEMBER STETKAR: Oh sure. I would

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1 have probably put in adverse weather at night, for
2 example, if I was trying to limit scenarios. But
3 these don't, so there must be some rationale of
4 why I don't have adverse weather at night.

5 MR. LaVIE: I'd like to suggest that
6 one of the aspects that we considered in that most
7 recent question is looking at the larger picture.

8 The whole concept here is to take action to
9 protect the public. If this is happening at two
10 o'clock in the night, the public's in their homes.

11 They're being afforded some level of protection.

12 So the combination may no longer
13 really have meaning, other than in an academic
14 sense.

15 MEMBER STETKAR: Well, but a lot of
16 your other scenarios have no other meaning other
17 than an academic sense. You're looking at where
18 people are --

19 MR. LaVIE: But again, as Randy points
20 out, it was a place to cut the line. There's
21 nothing to say the combination isn't meaningful.

22 MR. SULLIVAN: Night is kind of less
23 challenging, because --

24 MEMBER STETKAR: I guess because you
25 never have storms at night.

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1 MR. SULLIVAN: Families are united and
2 schools are not in session. So it just isn't as
3 demanding of a case. That may be the only logic
4 that we have for you on that. But you know, that
5 could be included.

6 MEMBER STETKAR: See my whole point is
7 if you had looked at all 32, you might have run a
8 case with adverse weather at night. You might
9 have grouped it together.

10 MR. SULLIVAN: Might have. I'm just
11 grateful that there will no longer be 30 year-old
12 ETes. We thought we were making a step forward
13 here.

14 MEMBER STETKAR: Well, I think -- I
15 actually think this is a very good document. I
16 think that with small changes, it could be much,
17 much better. Let me ask -- that's enough on that
18 one. The final one is that there is --

19 MEMBER RYAN: You might put a mark on
20 that one, John.

21 MEMBER STETKAR: Yeah, I did.

22 MEMBER RYAN: On your last comment.

23 CHAIRMAN SIEBER: Or an X or --

24 MEMBER STETKAR: This is the last one.
25 I did.

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1 CHAIRMAN SIEBER: Okay.

2 MEMBER STETKAR: The last one is
3 there's absolutely no discussion of uncertainty
4 here. There are a few places where uncertainty is
5 mentioned very, very briefly.

6 Your statement about the fact that
7 telephone surveys indicate that, you know, a small
8 fraction of the population will take a very, very
9 long time. There's a discussion about well,
10 because we want realistic estimates, we can
11 truncate that tail, but you have to give me a
12 justification for that.

13 The 90 percent-10 percent is an effort
14 to sort of address uncertainty, in terms of the
15 fraction of the population that will evacuate
16 within a given time window. Why isn't there a
17 more -- this is guidance, remember. Why isn't
18 there, within this guidance, a more explicit
19 requirement to both evaluate and even perhaps
20 quantify uncertainties?

21 Because you know, as we said, there
22 could be fairly broad uncertainties in all of
23 these parameters, and some parameters have a
24 larger effect, apparently, and people who do these
25 studies and understand these things, that some

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1 parameters have a larger effect on mean evacuation
2 time than others.

3 But to me, it seems to be rather
4 important to at least try to evaluate the
5 uncertainties on those estimates.

6 MR. LAUGHLIN: Well, I'm not an expert
7 on this, but there is a lot of uncertainty. You
8 know, we base a lot of what we have in this
9 document on things like surveys, and we're
10 depending on people to give us an answer to a
11 question that they've really never actually
12 experienced maybe.

13 So yeah, there's a lot of uncertainty,
14 but we took the figures that we got from things
15 like surveys and we, you know, we took a shot at
16 what we thought was a reasonable expectation.
17 With that, Randy, do you have something to add to
18 that?

19 MR. SULLIVAN: Well, no. I was just
20 going to say yeah, there's definitely uncertainty.

21 By the way, the 10 and 90 comes from really an
22 analysis of road learning curves, that themselves
23 are not certain, right?

24 MEMBER STETKAR: Yes.

25 MR. SULLIVAN: I mean it's just what

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1 our models tell us, and you know, it may not be
2 ten percent. But you know, we just laid down that
3 line.

4 MEMBER STETKAR: I don't do these
5 studies, so I have no idea how they're done. But
6 the impression that I have is that there are a
7 large -- there's a very, very large amount of
8 information that's compiled from a large variety
9 of sources, extending out to, you know, telephone
10 surveys, for example.

11 MR. SULLIVAN: Right.

12 MEMBER STETKAR: And all of this
13 information is somehow compiled and it is cranked
14 through some type of simulation apparently, to
15 generate times. Fraction of population at an exit
16 point, I guess, is a function of time.

17 Is it simply that the simulation
18 routines do not have a Monte Carlo sampling
19 capability, such that I can sample from, you know,
20 uncertain distributions that I put in, so that you
21 -- instead of having a number, you have a
22 probability distribution? I mean that's easily
23 fixed.

24 MR. SULLIVAN: I bet they do.

25 MEMBER STETKAR: And if they do, why

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1 aren't we taking advantage of that? Because if I
2 had known, you know, four years ago that I had a
3 three percent chance of losing all of my money, I
4 might have made other decisions.

5 MR. SULLIVAN: Do you want to hear my
6 talk about relying on OROs to know what to do
7 during an emergency, because we're essentially
8 providing guidance to a group of folks that know
9 their counting pretty well.

10 When you get way out on the extreme of
11 the technical guidance we're talking about, there
12 really is a cop that lives there, who doesn't
13 need your one percent analysis of what the
14 evacuation will be.

15 Now it doesn't mean we shouldn't do
16 it. I mean I agree, you know. Earthquake,
17 uncertainty, those are valid questions. I'm not
18 saying that they're not. I'm just trying to give
19 you the lay of the land in local response.

20 MEMBER STETKAR: And you know, and I
21 understand all of that. My whole point is that a
22 bunch of smart people sitting around a table with
23 a computer, doing a little bit of this work
24 beforehand in pre-planning, might just give the
25 collective group a bit of information they didn't

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1 have before, that might affect the decision that
2 the local cop says oh, wait a minute.

3 Maybe we need to get people moving a
4 little bit sooner under these conditions, because
5 I had never thought of this combination of stuff
6 before. These smart guys sitting around the table
7 with computers, you know, did think about it.

8 CHAIRMAN SIEBER: I think when the
9 decision to order an evacuation is made about the
10 government authorities. They do not include in
11 that a time that one would delay before they
12 ordered the evacuation. They either order it or
13 don't, and we're still talking about a relatively
14 simple binary decision that has to be made, to
15 either evacuate or shelter or do nothing. I guess
16 -- is tertiary.

17 MEMBER STETKAR: Well, but that
18 decision could be affected by the knowledge that
19 there is a 30 percent probability that I will not
20 be able to evacuate 25 percent of my population
21 within what I thought was an acceptable time.

22 CHAIRMAN SIEBER: So you would shelter
23 them all?

24 MEMBER STETKAR: I would either --
25 well, I might shelter more, or I might start the

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1 evacuation. I may make the decision. I might
2 make that binary decision.

3 CHAIRMAN SIEBER: Either evacuate
4 those who are able to evacuate, and tell the ones
5 who don't evacuate to shelter.

6 MR. KAHLER: And again, I think in our
7 studies, there were large amounts of uncertainty
8 because of the fact that we are, as Jeff had said,
9 building upon survey results, without actually
10 having actual data from actual evacuations in
11 that specific area around the nuclear power site,
12 and that's correct.

13 So we're saying that the uncertainties
14 have to be to the point of saying when the time of
15 the event occurs, they can be accommodated by this
16 planning basis. Because I have something to work
17 with initially that I didn't have before, or that
18 I least have something to tell me that if the
19 stars, the moon and the sun all align, this is the
20 evacuation time estimate I would have.

21 If something would alter that, then I
22 have an expectation of which direction it would
23 be, whether it be extend the evacuation or make it
24 even quicker. So these kind of things, to try to
25 accommodate all the uncertainties by even surveys,

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1 to say it has a spread of a certain amount of
2 percentage points, does lend itself to more
3 possibilities for expanding the number of ETEs to
4 be considered.

5 As we've said, we drew the line in the
6 sand in saying these are what we're going to look
7 at, in order to provide for preparation, for
8 preparedness. From that point, it provides us
9 that basis. That's what we've been using. That's
10 what the staff used. That's what we moved forward
11 on.

12 CHAIRMAN SIEBER: Well --

13 MR. KAHLER: As best as can be
14 accommodated.

15 CHAIRMAN SIEBER: I think that we have
16 a record of the concern.

17 MEMBER STETKAR: We can move forward.

18 CHAIRMAN SIEBER: And to the extent
19 that it may reach a point in our deliberations,
20 particularly at the full committee, to become an
21 issue, then we will do so in writing, and I'm not
22 exactly sure where we can go from here to pursue
23 this issue.

24 So I would suggest, unless you have
25 additional questions or any other member does,

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1 that we move on.

2 MEMBER RAY: Well Jack, let me just
3 say, as you said at the beginning, I've been
4 involved in this like you have for a long, long
5 time.

6 CHAIRMAN SIEBER: Right.

7 MEMBER RAY: It's always been the case
8 that you have a non-mechanistic source term that
9 was inconsistent or is inconsistent with the
10 assumptions you make when it comes to evacuation,
11 in my opinion. Because any circumstance that
12 would result in the source term is going to have
13 significant other effects.

14 But as you said also, it's just a
15 question of do you evacuate or shelter.

16 CHAIRMAN SIEBER: Or do nothing.

17 MEMBER RAY: In other words, we don't
18 have a performance criteria that we're striving to
19 demonstrate can be met. So from that standpoint,
20 although I appreciate the seeming inconsistency,
21 as John has pointed out, it's not something I
22 haven't thought about before.

23 It just seems to me like maybe I've
24 been listening to all of this, trying to figure
25 out is there really something you would do

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1 differently as a result of taking into account the
2 fact that the source term that you assume is
3 going to have some other consequences, loss of
4 off-site power and so on.

5 And I have, I can't come up with
6 anything. I mean the upshot of it is that that is
7 the decision that I'm familiar with having to be
8 made, and as a matter of fact, John, I have
9 actually thought about that question, of
10 sheltering versus evacuation, based on what the
11 off-site conditions that are associated with the
12 assumed source term might be.

13 As I think the staff has pointed out,
14 ultimately that decision gets made by others,
15 based on their knowledge under the circumstances.

16 So I think that's probably as far as we can
17 advance the thing. If we were trying to meet some
18 performance criteria, as I said, under a range of
19 conditions and we had to show that that was
20 achievable, you know, I might feel differently.

21 MEMBER STETKAR: I'm certainly not
22 advocating performance criteria. I'm simply
23 advocating this is guidance. It's guidance to
24 provide input to that decision-making process, and
25 in some areas, this guidance is extremely

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1 detailed, where it tells people, you know, I need
2 to do -- I might have to go count the number of
3 cars going through a particular intersection and
4 think about the timing of traffic lights at that
5 intersection. It's really detailed.

6 Yet in other areas, it seems to be
7 quite lacking, you know. So for example, so why
8 would I put those resources into looking at the
9 timing of traffic lights, you know --

10 MEMBER RAY: I do it because I can,
11 right?

12 MEMBER STETKAR: Yeah, that's right,
13 because some traffic control engineer has had --

14 CHAIRMAN SIEBER: It's shovel-ready
15 work.

16 MEMBER STETKAR: That's yes. But in
17 other areas, again, it is just guidance. It's not
18 -- I'm certainly not advocating performance
19 criteria, but to have the knowledge that under the
20 conditions that exist today, that there is some
21 percent chance that I may not be able to evacuate
22 a large faction of my population.

23 Maybe I know that. Maybe I already
24 inherently know that in my gut, or maybe I haven't
25 thought about it in my gut today, you know.

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1 Having that information at least available in the
2 background for these planning documents seems like
3 it would be useful.

4 MEMBER RAY: Well, like I say, the
5 specific discussion you've been having has been
6 had before, in terms of well what other conditions
7 might exist associated with this emergency? It
8 always comes down to well, if bridges are down and
9 things like that, we will take that into account
10 and we'll shelter instead of evacuate, because
11 otherwise people are going to be all jammed up on
12 roads that don't go anywhere.

13 So that's all I can add to it, is that
14 -- now I think you may be right, that in some
15 areas, just because we can do it, we strive to do
16 it. There's an implication that there's some
17 specific performance goal that we're trying to
18 show we can meet. But I'd just ignore that.

19 MEMBER STETKAR: You know, the
20 guidance says, for example, the local traffic
21 authorities might want to reconsider the timing of
22 lights at specific intersection. Okay.

23 MEMBER RAY: I hear you.

24 CHAIRMAN SIEBER: What they'll end up
25 having is two policeman that block one way and

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1 have the road going out of town opened all the
2 way.

3 MEMBER RAY: Well, I've had ones in
4 which people have to go toward the plant in order
5 to ultimately get away from the plant, right, and
6 the question is would they do that, as a for
7 instance.

8 CHAIRMAN SIEBER: That occurs are more
9 than one site.

10 MEMBER RYAN: Well, Slide 21.

11 CHAIRMAN SIEBER: I suspect that, at
12 least for my own feeling, that we've exhausted
13 the subject. Okay. Why don't we move on?

14 MR. LAUGHLIN: Yes sir. With that, I
15 would like to introduce Steve LaVie, and he's
16 going to talk about Reg Guide 1.219.

17 CHAIRMAN SIEBER: Okay.

18 MR. LaVIE: Regulatory Guide 1.219,
19 "Guidance for Making Changes to Emergency Plans
20 for Nuclear Power Reactors," is a new regulatory
21 guide that was developed in conjunction with the
22 amended 50.54(Q) rule language, which Bob Kahler
23 described this morning.

24 As I pointed out, it was developed in
25 conjunction with the rule language, and there was

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1 a lot of reiteration back and forth. In
2 developing the rule, we did not work in a vacuum.

3 We considered other change processes, 50.59 rule,
4 the 50.54(Q) -- excuse me, the 50.54(P) rule for
5 security. We looked at all these change
6 processes.

7 We also had the availability of some
8 proposed changes that had been suggested to us by
9 the industry, but could not be worked on the time
10 the suggestions were made because we weren't
11 pursuing a rulemaking at the time they were
12 changed or made. We'd worked to synthesize all
13 these information, you know, what are the good
14 things in 50.59?

15 In addition to 50.59, there was a --
16 the industry developed a very extensive document
17 that explained the 50.59 rule. We also considered
18 that document in preparing this regulatory guide.

19 Some of our decisions were framed on that basis,
20 and of course we had make a fit for emergency
21 planning, where 50.59 can be made largely
22 numerical. We're not dealing with a numerical
23 science in emergency planning.

24 The guide provides a method acceptable
25 to the staff for nuclear power reactor licensees

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1 to demonstrate compliance with the rule. Although
2 the examples and explanations in the guide are
3 specific to power reactors, the document may also
4 be used for non-power reactors, licensees who are
5 subject to the rule.

6 50.54(Q) was a condition of a license
7 on any Part 50 license, and by extension 52 once
8 they have their letter. The guide provides
9 general guidance on the 50.54 change process, and
10 provides explanation of definitions in the
11 expanded rule, and significant terms in the guide
12 itself.

13 One of the things we looked at when we
14 were developing the rule was the fact that
15 although the rule very nicely talked about
16 decreases, in effectiveness, nowhere in the rule
17 did they ever define what that term meant, and in
18 this particular rulemaking, we sought to define
19 that.

20 Now the unfortunate thing with
21 emergency planning in a way is that emergency
22 planning is local in nature. You know, you may be
23 able to establish in reactor safety a 1,200 degree
24 parameter or a 17 percent hydrogen embrittlement,
25 but emergency planning is local.

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1 Each emergency plan is written to
2 address the conditions that it cites, the type of
3 reactor, for instance. The EALs have to match
4 that reactor. But even beyond that, there is also
5 considerations off-site.

6 Is this a plant of a sea breeze
7 location? They need to have obviously different
8 ways of doing the assessment. Is it a plant
9 that's located hundreds of miles away from the
10 nearest volunteer fire department? Obviously,
11 they're going to need to do things differently for
12 their plant.

13 The regulations and the planning
14 standards are very broadly written, in order to
15 address that diversity. So the rule, the
16 emergency plan then defines how the licensees set
17 out to meet the regulations, and meet all these
18 potential conditions on their site, and the site-
19 specific considerations.

20 Now if your emergency response
21 organization lives two hours away from your plant
22 if you're in a rural area, maybe you need to have
23 more people on shift, okay. These are the type of
24 way decisions will be made.

25 Now the plans are all approved, and

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1 now we have licensees who are seeking to make
2 changes to those plans. That's where this process
3 comes into play. But you know, one size does not
4 fit all. So it becomes very difficult when we sit
5 down to try to define what is a reduction in
6 effectiveness?

7 What's a reduction in effectiveness at
8 one plant may not be at another plant. What is
9 not a reduction in Plant A could be a reduction of
10 Plant B. Well, the guide tries to get that point
11 across.

12 Now the way we handle this is that
13 the guide identifies, one of the major sections,
14 for each of the planning standards of 50.47 Bravo,
15 one or more emergency planning functions that are
16 used in assessing whether the plan change would
17 cause reduction in effectiveness, and would
18 require NRC approval.

19 Now this emergency planning function
20 is not, once again, a unique thing. This concept
21 of emergency planning functions was first
22 developed by industry and NRC task forces during
23 the time the reactor oversight process was being
24 worked on, and ended up being reflected in the
25 emergency planning significance determination

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1 process.

2 Well, with all that excellent effort
3 that went into developing those, it seemed like
4 they could be provided as a basis for working
5 forward here. Now I need to point out that the
6 emergency planning functions are only used in
7 assessing whether a reduction in effectiveness is
8 involved.

9 The licensee still needs to show that
10 the plan continues to meet the requirements of
11 Appendix C, and for power reactors, the planning
12 standards of 50.47 Bravo. So you've got a two
13 level test that the Reg Guide and the rule is
14 setting out to match.

15 First, once you change your plan, it
16 has to meet the regulations. Now the regulation
17 says you need to have an organization, okay. I
18 could take the extreme view and say I have an
19 organization. I have a guy on shift. You might
20 have an NRC inspector out there who seems to think
21 maybe you need to have 30 people, okay, but the
22 regulation could be met.

23 Now the problem comes up as to whether
24 or not it's adequate. That's where reduction
25 comes in. If you've currently got an on-site fire

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1 department, and you have that on-site fire
2 department because there were no volunteer fire
3 departments or paid departments in a near
4 proximity to you, and you decide that gee, you
5 know, we don't really want to maintain this fire
6 department anymore.

7 Well, if it was just a conservative
8 thing when you developed your plan, it may not be
9 a reduction in effectiveness. But if you still
10 have the constraint that the nearest fire
11 department is 100 miles away, then you're probably
12 going to be looking at a reduction in
13 effectiveness.

14 So the licensing basis of the plan has
15 a big impact on this decision, and the regulatory
16 guide emphasizes that.

17 MEMBER STETKAR: Steve?

18 MR. LaVIE: Yes, sure.

19 MEMBER STETKAR: Can I ask a question?

20 I was going to ask this earlier, but you sort of
21 brought up an example that prompted it. You noted
22 that some current licensees may have made
23 conservative decisions when they originally
24 developed their emergency plans, so that indeed
25 they might go well beyond the minimal requirements

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1 of the rule, as it's currently drafted, and that
2 indeed under those circumstances, if they want to
3 make some sort of reduction in certain areas, they
4 might very well be justified. They have to look
5 at current -- you know, the example you used was a
6 good example.

7 MR. LaVIE: Right.

8 MEMBER STETKAR: They might well be
9 justified, or perhaps current situation might
10 still require that they actually have whatever
11 augmented capability they decided to have.

12 One thing that struck me in the rule
13 is that it seems that there is now a very strong
14 disincentive for new licensees to do anything that
15 is beyond the bare minimum requirements of the
16 rule, because if they do anything more and they
17 then decide that they want to reduce from that,
18 they then have to justify that it's not a
19 reduction in capability. They have to basically
20 either do an internal evaluation or indeed submit
21 the evaluation to the staff and try to justify it,
22 that it's not an actual reduction in
23 effectiveness.

24 So it strikes me that if I were a new
25 plant licensee, I would do precisely what is

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1 required by the rule and nothing more. That is my
2 path of least resistance. How do you address
3 that? That's kind of a disincentive, as I see it?

4 MR. LaVIE: Okay. Like I pointed out,
5 and this addresses changes to the plan you've
6 already got approved.

7 MEMBER STETKAR: Well okay --

8 MR. LaVIE: But a new licensee has to
9 go through a process, where he has to be able to
10 demonstrate an emergency plan that will be
11 effective for his site, and he may be required to
12 commit above the rule, if necessary, to get that
13 effectiveness.

14 MEMBER STETKAR: I understand that.
15 But the example that you used was that an existing
16 licensee had made commitments that are beyond the
17 rule, simply because they felt it was prudent,
18 conservative, easy thing to do, I don't know why.
19 They did it for some reason.

20 CHAIRMAN SIEBER: Good.

21 MEMBER STETKAR: Good engineering
22 public Relations practice, for example. And under
23 those conditions, if that particular licensee
24 wants to make a change to their plan, they might
25 be well justified for those extra above and beyond

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1 type things. They might be well-justified to say
2 that the reductions are not a reduction in
3 effectiveness.

4 Because it was something that they
5 voluntarily put in their plan, as something that
6 was above and beyond the minimum requirements. So
7 if they want to go change that plan now, you're
8 saying that well, they might very well do an
9 internal evaluation that says reducing the number
10 of people on shift or some communications or
11 something that is not really a reduction in
12 effectiveness; it was just something extra that we
13 had in there.

14 Whereas if I'm a new licensee coming
15 in today, submitting my plan for approval, I
16 probably will not put anything extra in there.
17 Because if I put it in there, then I'm going to
18 have an awful lot of difficulty trying to justify
19 removing it later.

20 MR. LaVIE: I'm not sure of the
21 characterization. If it is -- some of these
22 issues are very, very gray, obviously, okay.
23 We're dealing with -- in the 50.59 space, you
24 know, either you met the limit or you didn't.
25 Well, we don't have limits.

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1 But the decision -- licensees
2 currently make changes to the emergency plan, I
3 want to use the word frequent, but they're not
4 rare, okay. A typical licensee may have 10, 15
5 changes to its plan in a year. So the process has
6 not forced them not to make changes.

7 Now the up and coming licensees, in
8 this day and age, they have much less incentive
9 to throw in extra stuff. The plans that are
10 coming in, I'm reviewing a plan for a plant that's
11 in for licensing now, and the plans are very
12 sparse, okay, and then of course, we go through
13 the RAI process to get more detail, to the point
14 where we agreed that the plant meets the
15 regulations, and then we go forward with it.

16 Now once it's in place, if the staff
17 in the process of approving your plan said that
18 you need to have some extra people on shift or you
19 need to have a different TSE or whatever, okay,
20 and you built it, you get your license and now
21 you're operating, you may even in ten years be
22 able, to be able to justify that the decision the
23 staff made at that time is no longer necessary.

24 For instance, we've had licensees
25 recently that had liaison people located in the

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1 technical support center, to talk to the emergency
2 operations facility. Well, in this day and age of
3 electronic communications, you really no longer
4 need a liaison person, so get rid of them. Fire
5 them, no problem.

6 But the thing we always have to strive
7 for is watching that, the one-size-fits-all, is
8 that plants aren't all the same, and that's what
9 we're trying to get -- that's what we ask the
10 licensee to consider. The reg guide asks them to
11 consider, and considering the licensing basis for
12 their plant.

13 Why is that requirement in your plan
14 ought to be the first question? Now once you
15 understand why the requirement in your plant is,
16 you now know whether or not it's still applicable.

17 But until you do that evaluation, you don't know
18 that. Just because four of the plants in the
19 fleet can do it, doesn't mean the fifth plant can
20 do it.

21 MEMBER STETKAR: Okay.

22 MR. LaVIE: If that answers your
23 question. In addition to providing the scheme and
24 definitions for each of the planning standards,
25 the guide also provides illustrative examples of

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1 typical changes that would likely be a reduction
2 in effectiveness and those which are not.

3 As the guide specifies, I'm going to
4 emphasize again, that these examples are not
5 intended to be all-inclusive, all-exclusive, nor
6 serve as criteria. Just because your plants meets
7 once of those examples doesn't mean that you're
8 not necessarily not incurring reduction in
9 effectiveness. You need to consider them in the
10 context of your individual license.

11 One of the things you mentioned about
12 the staffing change is that where we sometimes see
13 staffing changes is when an exercise is run, or an
14 actual event occurs, okay, and that's when things
15 typically -- like staffing deficiencies will show
16 up.

17 Licensees have often committed to
18 adding additional people to their staff, as a
19 corrective action for an exercise. Now once you
20 put that person on your staff, you need to assess
21 whether or not taking them off the staff is going
22 to reduce the effectiveness. Complying with the
23 regulations is only one part of the change
24 process.

25 Okay, the guide goes in with the

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1 administrative details about how to submit changes
2 of a reduction of effectiveness for NRC approval.

3 As Bob mentioned earlier, we're now requiring the
4 licensee amendment process for these changes, and
5 documenting the changes made and in recordkeeping
6 of all these changes. So are there any further
7 questions?

8 MEMBER STETKAR: Just one, and this
9 one should be easy, really.

10 CHAIRMAN SIEBER: Harder than the
11 others, but easy.

12 MEMBER STETKAR: The other ones were
13 impossible. This one is possible.

14 MR. LaVIE: You haven't gone too far
15 yet. I once spent an afternoon in here a few
16 years ago being challenged by Dr. Powers on a
17 technical matter for two hours straight.

18 MEMBER STETKAR: You're lucky Dana
19 isn't here.

20 MR. LaVIE: So we're doing good here.

21 MEMBER STETKAR: In Section 5.2, under
22 the evaluation process, there's a paragraph that's
23 5.2(c)(5) if you want it for reference, and I'll
24 read it, just so that we have it in the record.
25 "The NRC expects licensees' 10 C.F.R. 50.54(Q)

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1 evaluations to be of a level of rigor and
2 thoroughness consistent with the scope of the
3 proposed changes, with particular emphasis placed
4 on the risk-significant planning standards," and
5 I won't read those, because it's a long string of
6 citations.

7 The second sentence says "The NRC
8 would consider any 10 C.F.R. 50.54(Q) evaluation
9 that is of inadequate scope and extent to
10 reasonably assess the impact of the proposed
11 change on the effectiveness of the emergency plan,
12 to be a violation of the rule."

13 Now that sounds like people are going
14 to be cited for violating the rule, based on --

15 CHAIRMAN SIEBER: Inadequate.

16 MEMBER STETKAR: --individual's
17 judgments or a group's judgments about what is an
18 adequate scope and extent to reasonably assess
19 something. That doesn't seem too well defined to
20 me, if indeed that's the way it's going to be
21 interpreted. How do I know that something is
22 adequate?

23 MR. LaVIE: It is defined in the
24 inspection programs.

25 MEMBER STETKAR: It is defined in the

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1 inspection program. Okay.

2 MR. LaVIE: If an inspector goes out
3 and when he does these evaluations, and in the
4 future the 50.54(Q) evaluations licensees submit
5 not the ones for, that are decreases, but the ones
6 that are not, they implement without our approval,
7 is the review is going to be done at headquarters,
8 rather than the regions, for consistency purposes.

9 But in the current program, the
10 inspector goes and looks at it. If the inspector
11 finds a change that you have made. Let's supposed
12 to have decided to chop 20 people off your shift,
13 and he looks at the evaluation and says "Gee, you
14 didn't consider this, you didn't consider that,
15 you didn't consider this. I don't think this an
16 adequate scope," and obviously you violated this
17 rule because you didn't -- the rule obviously is a
18 reduction in effectiveness, and you didn't request
19 our permission. That is a violation of the rule.
20 We treat it under traditional enforcement.

21 Now the inspector's language isn't the
22 last point in this. The inspector, when he finds
23 this, goes back to his management and writes up
24 the inspection report, and it processes through
25 the organization. So at some point in time, when

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1 the licensee sees this inspection report, it's now
2 NRC position, okay.

3 But that's what this is going to, is
4 if we go in and we find that you've made a change
5 that does, decreases the effectiveness, and that
6 you didn't submit it for our review, that's a
7 violation.

8 MEMBER STETKAR: Well, that's a black-
9 white type finding.

10 MR. KAHLER: Oh yes.

11 MEMBER STETKAR: The way the words are
12 though, is the evaluation is of inadequate scope
13 and extent to reasonably assess. Those are very
14 qualitative words. We've run up against this
15 part. The committee has seen this in other types
16 of activities, where the discussions regarding an
17 analysis process, because what we're talking about
18 here is an analysis that justifies whether or not
19 something was a reduction in effectiveness, and
20 discussions regarding someone's interpretation of
21 the adequacy of that analysis, to reach a
22 particular conclusion, have indeed been elevated
23 to notices of violation, simply because that's
24 left up to the reactor oversight process and the
25 inspectors, and the only vehicle that they can use

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1 is a notice of violation.

2 Which is basically what you said, and
3 the concern, I think, is that are we going to be
4 generating large numbers of notice of violation
5 due to misunderstandings about the level of detail
6 in a particular analysis.

7 Not the final determination, that
8 indeed you determine -- you did X and Y and Z and
9 therefore it is not -- and I look at X and Y and Z
10 and I think therefore it is. That you did X and Z
11 and I think you should have done Y also.

12 MR. KAHLER: Well, if I can then, it
13 is -- a lot of this is where an inspector or the
14 staff would need to evaluate the change, in order
15 to determine whether or not they agree with the
16 licensee's analysis that it has -- ultimately it
17 is a reduction in effectiveness or it is not a
18 reduction in effectiveness.

19 So what we're saying is the analysis
20 that you provide to support your determination has
21 to be such that it's reasonable that we can come
22 to that conclusion.

23 If I can quote from the rule change
24 itself, it says the licensee may make changes to
25 its emergency plan, without NRC approval, so

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1 that's the one they can do on their own, only if
2 the licensee performs and retains an analysis
3 demonstrating that the changes do not reduce the
4 effectiveness of the plan.

5 So what we're saying is the analysis
6 itself has to be able to lead me to that ultimate
7 conclusion. So what we're trying to get around,
8 and the guidance is trying to allude to, is the
9 fact that it's not sufficient to say I made this
10 change because it doesn't reduce the effectiveness
11 of the plan, and that's the reason.

12 So we're just trying to say you need
13 to have it of such a nature that it's a logical
14 progression to the end point, that it doesn't
15 reduce the effectiveness of the plan, and that's
16 what I believe Steve is trying to put into --

17 MEMBER STETKAR: That's fine. In
18 fact, I read the words in the rule. The rule
19 words are fine. It's only in the reg guide where
20 the reg --

21 MR. KAHLER: Where it talks about
22 violation?

23 MEMBER STETKAR: Well, it talks about
24 violation, but it doesn't talk about the fact that
25 I need an analysis to justify the conclusion,

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1 which is what it says in the rule.

2 In the reg guide, it's a lot more
3 gray, because an analysis that is of inadequate
4 and scope and extent, and in other words, my
5 example, that I did X and Z, and therefore I
6 justified my conclusion that it's not a reduction
7 in effectiveness.

8 And a particular review looks at that
9 and says "Well, oh. I don't think that's an
10 adequate scope. I think you should have also
11 considered Y, and because you did not consider Y,
12 this is a violation," because it's of inadequate
13 scope in my interpretation.

14 Despite the fact that indeed you had
15 an analysis to justify your conclusion, which is
16 all the rule requires.

17 CHAIRMAN SIEBER: Isn't this similar
18 to the way 10 C.F.R. 50.59 works? In the old
19 days, 50.59, you checked off the three boxes on
20 the form and that was the analysis, and nowadays,
21 a lot more is required in order to justify your
22 response to the limits of the rule. I think that
23 the same thing applies here. Maybe the wording is
24 a little different.

25 MR. LaVIE: Maybe I should point out,

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1 and we'll take this into consideration, is that
2 the last sentence does prejudge, okay.

3 Until the licensee, in receiving this
4 quote-unquote "apparent violation," has the
5 opportunity to request reg conferences and provide
6 additional information, in other words, before
7 it's cited. This sentence would never always
8 result in a violation.

9 MEMBER STETKAR: Okay. I'm sensitive
10 to this because --

11 MR. LaVIE: It's more of a shot across
12 the bough maybe.

13 MEMBER STETKAR: --because our
14 committee, in other licensing issues, fairly
15 recently has seen notices of violation being
16 issued for things that under a different venue,
17 for example, if it were a design review, would
18 typically be resolved through an RAI-type process.

19 MR. LaVIE: Right.

20 MEMBER STETKAR: Questions regarding,
21 you know, should you have done X and Y and Z, or
22 was the algorithm that you used for X --

23 MR. LaVIE: Right.

24 MEMBER STETKAR: You know, the most
25 appropriate algorithm, for example. Those have

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1 been elevated to notices of violation, simply
2 because of the process, the inspection process.

3 MR. LaVIE: Well see in that
4 particular case, I would say that I would agree
5 with you --

6 MEMBER STETKAR: And I would hate to
7 see this, because a lot of this stuff is indeed
8 not as rigorous.

9 MR. LaVIE: The difference here though
10 is that this is an after the fact thing, okay.
11 The licensee's done this, say maybe in January.
12 He's done this analysis. He's made the change to
13 his plan, and then December of the following year,
14 the inspector goes out.

15 Well this decrease in the
16 effectiveness of the plan has been in place for 11
17 months perhaps, where as an example you gave, if
18 you're in an RAI process --

19 CHAIRMAN SIEBER: It's not in effect.

20 MR. LaVIE: It's not in effect yet.

21 MEMBER STETKAR: No. But my point is
22 that in some venues, if we're looking at, for
23 example a design review, before the staff makes a
24 final determination on that design, there's a
25 large interaction between the applicant and the

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1 staff, over things like details of analysis, codes
2 that you use, a lot of things.

3 There are examples, and I don't want
4 to cite them, because it gets into some possible
5 security areas, but there are some examples where
6 people have done analyses, submitted them and then
7 under the inspection process, the inspectors have
8 gone in and said "Oh, I don't think that the
9 algorithm that you used in this analysis is
10 correct," or "I don't think you've done a complete
11 enough evaluation of a particular issue.
12 Therefore, notice of violation.

13 Whereas in a design review process,
14 all of that would be resolved in an RAI-type
15 environment, and in many cases, there are
16 differences of opinion over things that are not
17 black and white; they're rather gray. You know,
18 level of refinement of a particular analysis.
19 Disagreement over, you know, scope essentially.
20 Should you consider Y or consider X and Z
21 sufficient.

22 You know, that's exactly -- that is
23 why I kind of hung up on the words in that last
24 sentence, because it seems prone to different
25 interpretations over what is sufficient scope and

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1 extent to reasonably assess, because my criteria
2 for reasonably assessing something might be
3 different than someone else's criteria.

4 MR. LaVIE: You see, that was the
5 point I made about the inspector, though. What
6 the inspector says isn't the final rule. But
7 after it's gone through the process and is issued
8 as an informal violation for the licensee, now
9 it's the agency's position.

10 I will point out that maybe it will
11 help your decision is that, you know, in the RAI
12 process, we are not blind to the fact that these
13 things could be problematic, and in fact, we had
14 identified a list of five items, typical changes
15 we keep getting, seeing in violation space.

16 MEMBER STETKAR: You've at least
17 thrown the flag up.

18 MR. LaVIE: And what we said is that
19 yeah, you know, we would encourage you to talk
20 with us first on changes of this nature. Now we
21 get public comments on that as well. You know, we
22 are not allowed to verbally say yes or no, but we
23 can say hey, you know, you guys really ought to
24 have another look at this, or have you thought
25 about this or something of this nature.

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1 MR. KAHLER: Or you need to provide
2 analysis of sufficient depth in order to prove
3 your point.

4 MR. LAVIE: You need to provide
5 analysis.

6 MR. KAHLER: Because we're not getting
7 that from this phone call, and that sort of a
8 thing. So you need to probe into it more, and
9 those are things we do encourage.

10 MEMBER BLEY: As a Committee, we don't
11 have quite a position on this, but I know we've
12 been concerned about it. But at least to me, the
13 way Bob described it, gets a little beyond --

14 I mean there always has to be a level
15 of judgment. But it builds the case that leads to
16 the conclusion, you know, language along those
17 lines at least anchors it somewhere, a little more
18 I think than what we had here.

19 But I don't think of that as guidance
20 from us. It just resonated a bit better than the
21 other --

22 (Simultaneous discussion.)

23 MR. KAHLER: And we're trying to
24 provide that guidance. Yeah, we're trying to
25 provide that guidance in the reg guide, and that

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1 is of particular concern to the staff, where we do
2 see violations, where there are reductions in
3 effectiveness, where there are changes to the
4 emergency action levels, that had insufficient
5 analysis.

6 What we're trying to say is if you
7 would have performed more analysis, you would have
8 readily seen there was a reduction in
9 effectiveness, and what we're concerned is the
10 amount of rigor that is placed into these, what we
11 consider to be significantly, you know, essential
12 parts of your emergency plan. You need to give it
13 the proper amount of attention, because we are.

14 So we're kind of putting them on
15 record. If you're not going to do that sufficient
16 scope and analysis when you submit it to us, we're
17 going to take a hard look at these four specific
18 areas especially, and if you think you meant, you
19 know, tickle us to say this is close to the
20 borderline of reduction of effectiveness, please
21 make the phone call and discuss with us, and we'll
22 be glad to discuss with you.

23 So we're opening that up, to have a
24 more involvement, a little bit, in that.

25 CHAIRMAN SIEBER: Yes. I think it's

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1 appropriate. I don't think the staff, the NRC
2 staff, should approve every change that a utility
3 makes.

4 MR. KAHLER: We shouldn't.

5 CHAIRMAN SIEBER: On the other hand, I
6 think the licensees should be forewarned if they
7 do this frivolously, they're going to end up with
8 some extra things to do, and perhaps a C or a D on
9 their report card, or perhaps even a B, depending
10 on the scope.

11 Frankly, if you're going to allow
12 licensees to make changes without NRC approval,
13 you have to have some kind of constraint on that
14 change process, to make sure that you continue to
15 comply with the law, and you've done an analysis
16 with sufficient rigor to justify it.

17 I don't see a difference, except
18 perhaps in minor wording, between this and 50.59.

19 MR. LaVIE: I tend to agree, Jack, and
20 I tried to keep that in mind. I had no desire to
21 reinvent the wheel. They taught me when I came in
22 here, hero worship is a wonderful thing, you know.

23 Words that have already been approved, if they
24 fit, use them.

25 We did. So we definitely looked at

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1 50.59, you know, recognizing that 50.59 is an
2 awful lot of numeric criteria, which we don't
3 have.

4 CHAIRMAN SIEBER: Yes, right.

5 MR. LaVIE: It's more subjective. But
6 we don't, I'm certainly, even though I was the
7 author of the document, I'm certainly not going to
8 sit here and say that we think this will solve all
9 the problems.

10 We're not -- we hope that it will
11 improve the situation, because quite frankly, the
12 staff, every time we have a problem with a
13 decrease in effectiveness, it's extra pressure on
14 the licensee, it's pressure on the staff, and if
15 we can provide more guidance of what's expected,
16 perhaps we get to some place where these changes
17 are made more efficiently.

18 CHAIRMAN SIEBER: Right.

19 MR. LaVIE: Because you know, if you
20 look at the history of violation space for
21 emergency planning, a very large percentage of
22 them are decreases in effectiveness. Hopefully in
23 the future, we can stop citing them. If there are
24 no further questions.

25 CHAIRMAN SIEBER: Do you have one more

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1 slide?

2 MR. LaVIE: Yes.

3 MR. TAILLEART: One more to finish put
4 his agenda item.

5 MR. LaVIE: Don Tailleart will take
6 the rest of it.

7 CHAIRMAN SIEBER: Go ahead.

8 MR. TAILLEART: Thank you. I'm just
9 going to talk a few minutes and give an overview
10 of the interim staff guidance document. This
11 document was put together to provide guidance for
12 both licensees and applicants, on how to address
13 the changes in the emergency preparedness
14 regulations.

15 It also provides guidance for NRC
16 staff on assessing changes that licensees and
17 applicants make to their programs, to address
18 these rulemaking changes. Eight of the rulemaking
19 topics are addressed in this particular document.

20 Each one is addressed in a separate section.

21 In those sections, we provide some
22 basic background information and discussion of the
23 issue or issues that led to the rulemaking, as
24 well as the guidance that the NRC feels would be
25 acceptable methods for addressing these changes in

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1 the regulations.

2 It's not the only way that licensees
3 could address the new regulations, but it is a
4 method that the NRC staff has deemed to be
5 acceptable. There are three rulemaking topics
6 that aren't addressed in this guidance document,
7 two of which we'd just discussed. One is on the
8 evacuation time estimate updates, and the other is
9 on the amended emergency plan change process under
10 50.54(Q).

11 The third topic not addressed in this
12 document are the hostile action emergency action
13 levels, which Bob discussed other guidance that
14 have been put in place for those. One of the
15 challenges and we recognized in providing this
16 guidance in this particular document is that there
17 are several additional guidance documents that
18 have been developed over the years, many of which
19 have not been updated for quite some time, such as
20 NUREG 0696 and NUREG 0737, Supplement 1, which
21 addressed the emergency response capabilities.

22 These documents are essentially 30
23 years old, same vintage of NUREG 0654, to try and
24 update all those documents to support this
25 rulemaking we felt was beyond our capability to do

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1 so. So that's one of the reasons why this
2 particular guidance to address the eight
3 rulemaking topics --

4 MEMBER BLEY: Beyond your capability
5 in a time and schedule?

6 MR. TAILLEART: Yes. We wanted to
7 support the rulemaking, but in order to put out
8 guidance at the same time as the proposed rule
9 went out last May or May of 2009, and also then to
10 support the final rule, whenever that comes out,
11 we didn't think we could update all of those
12 documents.

13 So we consolidated it into this
14 interim staff guidance. At some point in the
15 future, we do intend to update the guidance in
16 certainly NUREG 0654, and we'll also take a look
17 at some of these other guidance documents as well.

18 But that's going to be two or three or several
19 years down the road before we can complete that.

20 MR. KAHLER: Rather than saying it was
21 beyond, I think you said that it was -- rather
22 than saying it was beyond the capability of the
23 staff, it was more of we chose this method as the
24 most effective method to provide guidance for the
25 rulemaking, rather than revising the individual

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1 guidance documents that the rulemaking touched.

2 MEMBER BLEY: So this ISG, you think,
3 has the guts of what would eventually end up in
4 those other documents?

5 MR. KAHLER: Yes, and that is the plan
6 for the future, is to actually create one guidance
7 document incorporating all EP guidance during the
8 project we will be doing in the future, which we
9 call revising NUREG 0654, whatever that final
10 document's going to look like.

11 MEMBER BLEY: Right.

12 MR. TAILLEART: Okay. Some of the
13 changes that are in this document affect both on-
14 site and off-site emergency preparedness programs.
15 So we did coordinate the changes with federal
16 emergency management agency staff, and had them
17 take a look at it, review it, make sure that the
18 guidance was consistent and aligned with guidance
19 that they're providing for off-site organizations.

20 We did address one additional topic
21 that's not specifically part of the rulemaking,
22 and that has to do with integrating off-site
23 response organization concepts with on-site
24 emergency preparedness programs.

25 Specifically, it has to do with the

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1 interface between the utility, emergency response
2 organization and incident commanders that off-site
3 organizations typically use, and the set-up of
4 incident command posts.

5 So we did provide some additional
6 guidance. Even though we're not making a
7 requirement for licensees to formally adopt the
8 Incident Command System, or the National Incident
9 Management System, they at least need to be able
10 to effectively support off-site organizations that
11 do use that approach.

12 So we did provide some additional
13 guidance to ensure that liaisons are provided to
14 the incident command post from the utility
15 organization to support the response, that there's
16 communication links between the incident command
17 post and emergency response facilities, that the
18 notification links are in place, things like that.

19 So that is a very high level brief
20 overview of what's in the interim staff guidance.

21 There is some information up front that goes into
22 some of these other guidance documents that I
23 mentioned, just to provide kind of a general
24 overview of what the landscape looks like as far
25 as guidance that addresses emergency preparedness

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1 in general.

2 So with that, I'll open it up to
3 questions or comments.

4 CHAIRMAN SIEBER: Well, if there are
5 no questions, we have 12 slides on comments, which
6 I think we should tackle after lunch. Why don't
7 we try to be back at 1:15? Until then, we're
8 recessed.

9 (Whereupon, at 12:26 p.m., a luncheon
10 recess was taken.)
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A F T E R N O O N S E S S I O N

1:18 p.m.

CHAIRMAN SIEBER: I think we're ready to resume. I will point out that there was 135 public comments directed to the staff. There were 13 directed toward the FEMA portion, and I think there were 11 comments that were duplicates, which is sort of a low number, and we have 13 slides to go through.

There is, in the package that you received, did everybody get the disk that you gave me?

MR. SHUKLA: Yes.

CHAIRMAN SIEBER: Okay. There is a resolution of each of the comments and the details associated with that, and I think it's either the first or second file on that disk. So we can ask the staff to begin.

MR. TAILLEART: Okay, thank you. My numbers may be just a little bit different than the ones you just mentioned, Dr. Sieber.

CHAIRMAN SIEBER: Okay.

MR. TAILLEART: They did a public comment period last year. The NRC received 95 submittals and from those, we identified

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1 approximately 700 individual comments. So close.

2 CHAIRMAN SIEBER: Okay. I'm working
3 with the table that was in your report, where you
4 numbered them. There may be duplicates in there.

5 MEMBER STETKAR: Yes, within a factor
6 of ten. It's uncertain.

7 (Laughter.)

8 CHAIRMAN SIEBER: But close enough.

9 MR. TAILLEART: FEMA did receive over
10 120 submittals, and identified over 2,300
11 individual comments and Barry Sherwood from FEMA
12 will go into more detail about those comments in
13 just a little while.

14 Once we identified the individual
15 comments, we then bend those according to the
16 rulemaking topic, for both comments specific to
17 the rule language itself, as well as guidance
18 documents that address a particular topic. And as
19 mentioned, the comments and the results of the
20 staff's disposition of those comments were
21 documented in the comment summary document.

22 The group responsible for developing
23 the comments was the emergency preparedness
24 rulemaking working group. We had members from
25 several different offices, Nuclear Reactor

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1 Regulation, New Reactors, the Office of the
2 General Counsel, Administration, as well as
3 Nuclear Security and Incident Response. Basically
4 the same people that were involved with developing
5 the rule and the guidance documents, were also
6 responsible for resolving comments.

7 In addition to that, there were a
8 number of comments that impacted both on-site and
9 off-site emergency preparedness, and to resolve
10 those comments, we formed a joint comment
11 adjudication team with FEMA, with representatives
12 from FEMA and NRC headquarters staff, to work
13 towards a common resolution of the number of
14 comments that impacted both on-site and off-site
15 EP, and to ensure that we maintained alignment on
16 the response to those comments.

17 What I'm going to do in the next few
18 slides is just highlight a few of the comments for
19 each rulemaking topic. I'll not go into a lot of
20 detail, but if you have any questions about other
21 comments that I don't address, I would glad to
22 respond to that as well.

23 So I'm just going to run through,
24 again, the rulemaking topics, pretty much in the
25 same order as we covered this morning. Regarding

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1 on shift multiple responsibilities, we did receive
2 comments requesting additional guidance on what
3 types of events needed to be analyzed, in order to
4 support the staffing analysis that would be
5 required by the rulemaking.

6 So we did provide additional
7 clarification in the interim staff guidance
8 document, to specify that the detailed staffing
9 analysis must be performed for the design basis
10 threat, as well as each design basis accident in
11 the licensee's updated final safety analysis, that
12 would result in an emergency classification.

13 We also clarified that the detailed
14 analysis should include all on-shift actions that
15 must be performed in the period before the arrival
16 of the augmented emergency response organization
17 staff, as specified in that site's emergency plan.

18 So that may extend it to a period
19 beyond 30 minutes. It depends on what the site
20 has specified as far as when their initial
21 augmented staff is expected to arrive.

22 With respect to emergency action
23 levels for hostile action, we did provide some
24 clarification in the rule language, that emergency
25 action level schemes currently under NRC review,

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1 such as Nuclear Energy Institute 0701, or any
2 future emergency action levels schemes that are
3 approved or endorsed by the NRC, would be allowed
4 for conversion by a licensee from a current scheme
5 to whatever that currently approved scheme was.

6 In the proposed rule language, it made
7 reference to some existing EAL schemes. A couple
8 of those are essentially being phased out and
9 replaced by newer schemes. So it was just a
10 clarification of the rule language.

11 MEMBER STETKAR: If somebody makes a
12 decision to transition from their current scheme
13 to, you know, a new approved scheme, do they need
14 to submit a change to their plan, or is that fall
15 beneath the radar in terms of changes in
16 effectiveness of their plan?

17 MR. TAILLEART: They would need to
18 submit that for NRC review and approval.

19 MEMBER STETKAR: Thanks.

20 MR. TAILLEART: Okay. Regarding
21 emergency response organization augmentation and
22 alternative facilities, actually some of these
23 comments we have already discussed. I'll go
24 through a couple of others.

25 One was to clarify the wording in the

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1 proposed rule that referenced making sure that the
2 alternative facilities were accessible during a
3 threat or under actual attack, and we replaced
4 that terminology with reference to hostile action,
5 to be consistent with the rule language, since we
6 didn't really define which threat situations or
7 what we meant by attack in this particular part of
8 the rule language.

9 We talked earlier today about the use
10 of multiple facilities, alternative facilities
11 versus one alternative facility, and what
12 characteristics those alternative facilities must
13 collectively have. Good comment about the
14 accessibility piece of that. But the attempt was
15 to clarify the rule language that collectively,
16 the facilities needed to provide for those
17 capabilities, and we'll take a look at --

18 MEMBER STETKAR: But the original
19 intent was that they should all be accessible. I
20 think as long as the rule clarifies that, then
21 it's okay.

22 MR. TAILLEART: All right. There are
23 also some comments regarding the interim staff
24 guidance. In the draft interim staff guidance, we
25 had language in there that licensees strongly

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1 consider providing event classification capability
2 at the alternative facility, since this provision
3 was not contained in the rule. We received
4 comments that we should take another look at that
5 wording, and basically we just, we took out the
6 word "strongly consider" and just said that
7 "licensee should consider that capability."

8 This would allow the alternative
9 facility to serve as a backup to the control room,
10 if for some reason the emergency operations
11 facility was not available, if that's where
12 classification capability was being performed, in
13 addition to the control room.

14 It's not a requirement, because do
15 expect the control room to at least be able to
16 make the initial classification, that we think it
17 would be something that a licensee should consider
18 as an additional capability, for at least one of
19 the alternative facilities, if they're using more
20 than one.

21 Licensee coordination with off-site
22 response organizations. We did receive a large
23 number of comments, not only from nuclear industry
24 but from state and local organizations as well,
25 that had some concerns about the proposed rule

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1 language, which made reference to licensees
2 ensuring the availability of off-site resources to
3 respond to the site.

4 That caught a lot of people's
5 attention, and the concern was that the NRC and
6 the licensees were now being directed to assess
7 off-site capabilities in conflict with the role of
8 FEMA and doing that kind of assessment.

9 So as Bob went through earlier today,
10 the rule language was changed to remove that part
11 of the language that was in the proposed rule
12 regarding ensuring availability, and focus on the
13 identification of what off-site resources the
14 licensee would rely upon or need to respond to an
15 emergency at the site, including hostile action,
16 and also to describe what type of assistance is
17 expected from each of those organizations.

18 That change also applied to the
19 interim staff guidance. We made similar changes
20 in the interim staff guidance, that made reference
21 to again ensuring availability, looking at
22 training and other capabilities of off-site
23 response organizations, to focus on making sure
24 that the licensee had in place the appropriate
25 agreements, either through letters of agreement or

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1 a memorandum of understanding, that identified
2 clearly what resources they were relying upon, and
3 the assistance those resources would provide.

4 We think that by making those changes,
5 we've clarified the intent of the regulation,
6 which was not to get the licensees and/or the NRC
7 involved in assessing adequacy of these off-site
8 resources, in conflict with FEMA's role.

9 MEMBER RAY: Well, is it in conflict
10 with FEMA's role to assess the responsiveness,
11 say, of a fire brigade from a nearby community?

12 MR. TAILLEART: If it's responding to
13 the site, no. But I think where the issue was was
14 with a fire brigade, let's say, that was
15 responding to the site. If they also had a role
16 under the off-site response plans to perform other
17 actions, the way we had worded the proposed rule,
18 one could make the connection that then we would
19 also expect the licensee to ensure that that
20 organization, that fire brigade that was now
21 responding to the site, had made arrangements for
22 some other organization, through mutual aid
23 agreements, to cover whatever roles they would
24 perform under the off-site emergency response, and
25 that really wasn't the intent.

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1 MEMBER RAY: Why not?

2 MR. TAILLEART: Because that is under
3 the purview of FEMA and the off-site response
4 organizations, to make sure that they have
5 adequate resources to perform whatever actions are
6 necessary under the off-site plans.

7 I think there is some coordination
8 that should take place between the licensee and
9 the off-site organizations if they're competing
10 for some of the same resources.

11 MEMBER RAY: Will inevitably they will
12 be, Don. I mean --

13 MR. TAILLEART: But to make sure that
14 those resources are addressed through other means,
15 such as other organizations that would then
16 backfill for that fire brigade. That really gets
17 into FEMA's role.

18 MEMBER RAY: Well, I'm not sure I
19 agree. But in any event, the real question isn't
20 how the other responsibilities of the fire brigade
21 will be backfilled, as you say, but the question
22 is what is the availability going to be to the
23 plant, to the licensee of this agency, when
24 required?

25 I mean I agree that it shouldn't be

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1 our job to examine the mutual aid agreements, as
2 you say. But on the other hand, it would seem
3 appropriate for us to have some assurance that the
4 resources will be available whenever needed, and
5 not --

6 MEMBER BLEY: At the plant.

7 MEMBER RAY: At the plant, and not be
8 in conflict with -- in other words, we shouldn't
9 look to FEMA to make sure that the plant receives
10 the fire protection services when they're needed.

11 I'll give you a different example.
12 Let's take the grid operator, and restoration of
13 on-site power in a blackout, okay. It's not
14 FERC's job to make sure that the plant is number
15 one on the list to get off-site power restored.
16 It's the licensee's job, and this is the same
17 issue.

18 In other words, FERC doesn't go around
19 and say "Mr. ISO operator, you've got to have a
20 special agreement to restore off-site power to the
21 nuclear power plant when there's a blackout," but
22 that sure as heck is a requirement of the licensee
23 to get that established. It's the same thing
24 here, it seems like, to me.

25 MR. KAHLER: If I can sir, what the

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1 rule language had said, that needed to be changed,
2 was a licensee shall ensure that there is off-site
3 resources, rather than just identifying that the
4 off-site resources are being committed to by the
5 off-site agency, to them. That would be
6 sufficient.

7 I think what Don was talking to was
8 the ability to evaluate that that condition
9 existed, and people were thinking since we were
10 making the licensees ensure that capability, just
11 that we would then go out to look at the off-site
12 resources available, rather than FEMA providing
13 that to us.

14 So what we did instead was to go back
15 to, yeah again, to requiring the licensees to
16 identify that they have a commitment from the off-
17 site agencies, to respond with resources necessary
18 for the hostile action response, and to still
19 implement their emergency plan.

20 MEMBER RAY: Okay. Well, I'm not
21 focusing on hostile action here right now. I used
22 fire protection as an example instead, okay?

23 MR. KAHLER: Right, and it's the same
24 -- because that was the issue, was that we were
25 trying to separate out the hostile action, that

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1 they were ensuring capabilities for a hostile
2 action, whereas they were only identifying a
3 commitment for fire brigade, because that's what
4 the current language says. They need to identify
5 fire response capabilities on site, that would be
6 provided by off-site agencies. That's the way the
7 current rule language reads.

8 MEMBER RAY: That's not going to be
9 required any longer, if I understand.

10 MR. KAHLER: No, it will be. It will
11 be. All we did was we just added that not only do
12 you need to identify the resources that are going
13 to respond to a fire, or to a medical emergency,
14 or to a security event; you have to add in that
15 commitment resources necessary to respond to a
16 hostile action.

17 MEMBER RAY: Well --

18 MR. KAHLER: And that was the
19 addition.

20 MEMBER RAY: Yeah, but that's not what
21 was said. What was said was that we were not
22 going to interfere in FEMA's assurance that the
23 resources would be available to us, because that
24 was FEMA's job. That's what was said.

25 MR. KAHLER: It was more of evaluate

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1 that the off-site agencies have the resources, and
2 it's not an NRC. We didn't want to overstep the
3 authority of FEMA to evaluate the off-site
4 capabilities, which was being misunderstood by
5 those who read the proposed language, to say that
6 we're going to be doing it, rather than FEMA.

7 MEMBER RAY: Well, I would say it's
8 probably being misunderstood here too. But it
9 seems like sophistry to me. Either you have to go
10 out and have an agreement that puts you first in
11 line for a fire brigade, or you don't.

12 MR. KAHLER: That is correct.

13 MEMBER RAY: Okay. Now which is it?

14 MR. KAHLER: You are -- you will
15 receive a fire brigade response to the site. That
16 is something the licensee --

17 MEMBER RAY: Regardless of any other
18 demands that may be placed on the fire brigade, we
19 want it to go to the site first, right? That's
20 the way it's always been.

21 MR. KAHLER: That's the way it's been,
22 yes.

23 MEMBER RAY: That's right.

24 MR. KAHLER: But what we haven't done
25 though was to ensure that when the fire department

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1 responded to the site, that somehow off-site was
2 still capable of fighting fires still within their
3 community.

4 MEMBER RAY: I agree that's not our
5 business.

6 MR. KAHLER: And that is what we're
7 saying here, is that if we are saying we need to
8 identify that off-site resources are available to
9 respond to hostile action, it's not our business
10 to determine whether or not off-site still has
11 sufficient responders to implement the emergency
12 plan, such as route alerting, such as traffic
13 control points. That is under the purview of
14 FEMA.

15 MEMBER RAY: That's fine, but again,
16 I've got to tell you that's not what was said.
17 The point is you've got to make sure that you're
18 first in line for these services, or know that
19 you're not, not leave it up to some other agency
20 to figure that out.

21 MR. KAHLER: Leave it up to some other
22 agency.

23 MEMBER RAY: I'll say it again.
24 You've got to know that you're first in line for
25 these services.

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1 MR. KAHLER: Yes.

2 MEMBER RAY: Okay, and not leave it up
3 to some other agency to decide you should be first
4 in line for the services.

5 MR. KAHLER: Okay.

6 MEMBER RAY: All right. Is that the
7 way it is?

8 MR. KAHLER: Yes.

9 MEMBER RAY: Okay. That takes care of
10 it.

11 MR. KAHLER: If I'm understanding you
12 correctly.

13 MEMBER RAY: Well, I tried to say it
14 really simple.

15 MR. KAHLER: I understand. Excuse me.

16 If I can, this was, during our 12 public meetings
17 last summer, if I can say there was one issue that
18 we had had a large discussion on during these
19 public meetings, was trying to come to an
20 understanding with the stakeholders that were at
21 these public meetings, over what the intent of
22 this rule amendment was, in adding hostile action,
23 and ensuring that everybody was on the same plank
24 going forward, and that to have the words and the
25 rule accurately reflect what the intent of the NRC

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1 was in the rule change.

2 That's what I think Don is saying.
3 The commenters provided us with that input. It
4 was said again during our December 8th, 2009
5 Commission briefing that we provided. We
6 discussed the comments, and we believe, through
7 our change that we've made in the draft final rule
8 from the proposed rule of last year, we're giving
9 a clearer picture to the licensees as to what our
10 intention is.

11 MEMBER RAY: Well, all that is very
12 well and good.

13 MEMBER STETKAR: Can I ask something
14 that's kind of simple-minded? Listen to me Randy.

15 MEMBER RAY: Yeah. I was going to say
16 -- so when I asked you if you agreed that what I
17 said was true.

18 MEMBER STETKAR: Listening to this, I
19 have confidence that there's an agreement in place
20 that my nuclear plant, should I need off-site fire
21 assistance, is number one on the list. The
22 question is when the off-site fire department
23 sends somebody to my plant, yes, you're on the
24 list.

25 Do they send one guy on a bicycle,

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1 because they only have ten people in their
2 department, and the other nine people are out
3 busy, you know, fighting fires in other places, or
4 indeed do they have enough resources to make sure
5 that they send an adequate response to my plant,
6 and still have remaining resources to do whatever
7 else they need to do. Is that --

8 MEMBER RAY: But John, wait. Before
9 he answers, I would stop what you said with the
10 part of your statement that says "adequate
11 resources to my plant." I don't care whether they
12 have adequate resources for anything else or not.

13 The only issue is are they going to
14 send adequate resources as a first priority to the
15 plant.

16 MEMBER STETKAR: Well, what I'm trying
17 to understand is it FEMA's responsibility to look
18 at what are the amount of adequate resources for
19 my plant, in combination with what other demands
20 might be put on that off-site response
21 organization.

22 MR. KAHLER: As a result of the
23 emergency, which is a hostile action event, which
24 would render the need for the emergency plan to be
25 implemented. So there is a reason why we are

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1 interested in what's left out there as far as
2 emergency responders, and what we're saying is
3 it's not our purview to ensure the emergency
4 planning can still be implemented.

5 That is FEMA's, and that's where the
6 line, where we were. People thought we were
7 crossing the line.

8 MEMBER STETKAR: Okay. But my
9 question was back to does FEMA make the decision
10 that it's sufficient to send one responder on a
11 bicycle to me, and therefore there is enough
12 available for the other things that they need to
13 do, or --

14 MR. KAHLER: No. That is essentially
15 ours to ensure that the licensee has sufficient
16 support from the off-site response organization,
17 and we ensure the licensee is getting that
18 sufficient response, by them identifying and
19 providing a description of it.

20 MEMBER STETKAR: And then it's up to
21 FEMA to determine whether or not whatever is left
22 is sufficient to support whatever other off-site
23 response activities, whether it's firefighting or,
24 in the case of police organizations, traffic
25 control or things like that?

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1 MR. KAHLER: That is correct, right.
2 That is correct. But there are also -- just to
3 give you this little bit more of the complexity
4 of all of this, FEMA will also be evaluating that
5 off-site response to the plant, on how well they
6 coordinate that off-site response with the on-site
7 responders.

8 Because that's also something they're
9 interested in, is incident command. We're relying
10 upon them to tell us whether that incident command
11 coordination, from an off-site perspective, is
12 adequate in their eyes.

13 We'll be watching the on-site portion,
14 to see if the licensee can adequately coordinate
15 the on-site response with the off-site
16 organizations. But they're looking at the other
17 side of that incident command post. So we're
18 trying to draw a fairly straight line in a gray
19 area.

20 MR. SULLIVAN: Folks, gentlemen, I
21 just want to say the only difference between this
22 rule and the way it was is hostile action.

23 MR. KAHLER: Hostile action.

24 MR. SULLIVAN: So we're talking about
25 fire. FEMA doesn't look at fire under REP, if I'm

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1 not mistaken. FEMA's here; they can speak for
2 themselves. But you know, they're not looking at
3 the adequacy of the local fire department to fight
4 local fires, right, and that hasn't changed.

5 What's changed is the dynamic of
6 hostile action that may draw down resources and
7 send them elsewhere, when we think we made
8 agreements for them to come on site and now
9 they're not available. So we asked that that be
10 trued up.

11 MEMBER RYAN: So you're really
12 agreeing that Harold's question is the right
13 question. Have you guaranteed that these --

14 MR. SULLIVAN: Fire has nothing to do
15 with it.

16 MEMBER RYAN: --resources are going to
17 be sent to the plant first.

18 MEMBER RAY: Wait a minute. Fire does
19 have something to do with it. What is the "it"
20 you're talking about?

21 MR. SULLIVAN: The fire response
22 commitment has not changed due to hostile action.

23 MEMBER RAY: All I did was take what
24 Don had said and asked a question.

25 MR. SULLIVAN: Fire's the way it's

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1 always been.

2 MEMBER RAY: Okay, fine. Then why not
3 just say that? It is the way it's always been,
4 full stop.

5 MR. SULLIVAN: That is correct, that
6 is correct.

7 MEMBER RAY: Okay, which means --

8 MR. LaVIE: Let me try to help out in
9 this. Where this issue arises is licensees for
10 years, as everybody's pointing out, have been
11 required to have arrangements for fire support.
12 But those arrangements for fire support were never
13 written exclusively.

14 CHAIRMAN SIEBER: That's right.

15 MR. LaVIE: You had no guarantee the
16 fire department was going to come to your site
17 under the original agreements.

18 CHAIRMAN SIEBER: That's right.

19 MR. LaVIE: Okay, just like the
20 agreements the fire department makes with any
21 large facility. Our licenses didn't necessarily
22 have a commitment that says "we will be coming to
23 your site first."

24 During the comprehensive reviews that
25 were done a few years ago by DHS, when they went

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1 in and talked to the off-site agencies, and they
2 talked to the fire chiefs, the fire chief says
3 "We're going to the site." The local emergency
4 management agency individual says "no, you're not.
5 You're going to be doing route alerting." Hence
6 the problem.

7 Now we're not all that concerned about
8 the off-site route alerting, as rightly that's a
9 FEMA function. We are very concerned whether or
10 not our licensee gets fire protection. So when it
11 comes to the adequacy of the fire department
12 coming to the site, yes, that is an NRC issue.

13 Whatever else the fire department was
14 supposed to be doing, route alerting, traffic
15 control points, that's not our issue. FEMA
16 evaluates that. But as Randy points out, FEMA is
17 not in the business of evaluating whether they can
18 fight a fire. Hope that helps clarify it.

19 MEMBER RAY: Not really, but never
20 mind. I give up.

21 MEMBER STETKAR: No, not for me,
22 because I agree with Harold. I don't care whether
23 it's a hostile action or a fire in the nuclear
24 power plant or some other type of an event that
25 causes the operator of that plant to declare a

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1 certain emergency level, and thereby activate the
2 emergency plan.

3 So let's keep with the fire example,
4 you know. I have a bad fire inside my nuclear
5 power plant. I don't care how it started; it just
6 started. I declare an emergency, the appropriate
7 emergency action level, and I feel that this fire
8 is imminent of causing an off-site release, so I
9 declare, you know, a very severe accident level,
10 and I now require off-site assistance from the
11 off-site fire department.

12 So I'm implementing the emergency plan
13 for a fire. How do I have assurance that indeed
14 the off-site fire department is going to respond
15 with sufficient resources to help me fight my
16 fire, because they are not being dispatched to,
17 for example, go out and alert elderly people
18 because the siren system is not working?

19 MR. KAHLER: Now you brought in -- you
20 brought in a --

21 MEMBER STETKAR: Because that's all
22 part of --

23 MR. KAHLER: You brought in the issue,
24 and that is indeed what we're saying, is that
25 we're not in the business of determining whether

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1 it is only necessary to send one firefighter on a
2 bicycle, or whether it's necessary to send in six
3 fire trucks.

4 That is up to that off-site agency to
5 determine what is necessary to respond. All we
6 want is the licensee to identify that the off-site
7 agency is committed to what they believe is
8 necessary, to adequately respond to the site for
9 the situation at hand.

10 Now in addition to that, okay, the
11 off-site agencies, as in the past, before this
12 rule came out, because they knew they were
13 responding to a fire, they also knew that that
14 fire may have resulted in an emergency
15 declaration.

16 So they, in having that fire
17 department respond to a plant site, also took into
18 account that they would need to do some off-site
19 emergency plan implementation, such as route
20 alerting, okay. So they knew how many resources
21 they needed, what that response level would look
22 like for a fire.

23 They knew what it would look like if
24 there was a medical emergency on site during an
25 emergency. What they didn't know and what became

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1 readily apparent during the hostile action pilots,
2 was they didn't know what the impact was of
3 sending the sheriff's department, which they never
4 would have sent during a security event before.
5 They would have only sent the local law
6 enforcement.

7 But if they sent the sheriff's
8 department to that plant to respond to a hostile
9 action, how did that impact their off-site
10 response to implement the emergency plan? Because
11 they were counting on those individuals to do the
12 traffic control, because they were sending the
13 local law enforcement to the site, to take care of
14 the people who were chaining themselves to the
15 fence.

16 But now, it's a whole different
17 animal. It's a different type of attack, it's a
18 different type of hostile action. So what we're
19 saying is the licensee needs to identify and
20 describe what's going to be provided to them for
21 on-site support, in order to ensure that the off-
22 sites are looking at the fact that they still need
23 to be able to implement their emergency plan and
24 get the commitment.

25 So they're saying "Oh, my emergency

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1 plan comes first. I can't send the sheriff's
2 department in. So you're going to have to figure
3 out how you're going to fight that hostile action
4 activity without my sheriff's department, when
5 indeed the site might have been relying on it.

6 So what we're saying is this
7 additional set of conditions, this additional type
8 of event initiation is something that not only
9 licensee needs to ensure they do get a response
10 from off-site to their site, a lot of sites, but
11 they also, okay, ensure that they can still
12 implement their emergency plan off-site.

13 That's why we added the hostile action
14 to the type of events needed to be supported on
15 site. It's a different type of response than just
16 a security event, a fire, a medical emergency, so
17 on and so forth. Different type of analysis that
18 we're asking the off-sites to do and commit to to
19 the on-site.

20 But we're leveraging that need onto
21 the licensee, to have that letter of agreement
22 with the off-site agency. Does that help any? I
23 know. I think we were in violent agreement before
24 over, you know, the fact that yes, off-site will
25 support on-site. That's what we intend.

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1 They are going to respond. The piece
2 that was missing was can they still do their off-
3 site emergency plan implementation, and now that's
4 going to have -- that's part of that look that was
5 in that rule before.

6 MEMBER BLEY: Everybody's still
7 looking vague. Let me ask you the question in a
8 slightly different way.

9 MR. KAHLER: Okay.

10 MEMBER BLEY: To meet the intent of
11 the rule as you expect it to be, at some point in
12 time there will be an inspection of documents
13 submitted by the licensee, that state that they
14 have adequate capability from off-site for all
15 these emergencies, and where it's coming from and
16 that in fact they have guarantees, and you'll be
17 looking at that to ensure that they claim they
18 have those guarantees?

19 MR. KAHLER: That is correct.

20 MEMBER BLEY: Okay. I think I
21 understand.

22 MR. KAHLER: that's correct, and we're
23 expecting it by the guidance document that Don was
24 talking about in the ISG, the interim staff
25 guidance. It talks to what we're looking for,

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1 letters of agreement, memorandums of
2 understanding.

3 We don't look at right now to assess
4 whether or not five fire departments responding to
5 a site is sufficient. That's not our purview.
6 That's an off-site requirement. How much is
7 enough to respond to a nuclear power plant for the
8 type of fires they're telling me I would have to
9 respond to? Then they make that commitment to the
10 site.

11 MEMBER RYAN: But then again, it's
12 sort of a blind eye sort of approach. I mean how
13 do you make the judgment on inspection or however
14 you want to review it, to say this letter of
15 agreement is founded well?

16 I mean you've got -- I mean how do you
17 get there without some evidence to say the off-
18 site folks have adequate resources to support the
19 on-site resources, yet continue with some, at
20 least part of their function?

21 MEMBER BLEY: That kind of surprises
22 me, in that I know we have fire protection
23 engineers on staff at headquarters. I think we
24 have them out in the regions, and I would have
25 anticipated that they would be part of such an

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1 inspection, so that in fact you would have some
2 confidence that the level of support.

3 I'm sure the NSIR people are involved
4 in this too, for the hostile action side, that the
5 level of support they're saying they're getting is
6 reasonably adequate to cover the situations. It
7 sounds like you're saying no.

8 MEMBER RYAN: I don't think it's 100
9 percent for this and 100 percent for that. But
10 you know, if it's 20 percent for one and 20
11 percent for another, it may not be adequate for
12 any thing.

13 I'm just trying to understand the
14 judgment scheme that you used to judge that this
15 plan represents reasonable and adequate thinking
16 on how this will work.

17 MR. KAHLER: I'm trying to formulate a
18 response here, and trying to relate it to current
19 arrangements that are out there now.

20 MEMBER RYAN: Yeah, that would be
21 helpful.

22 MR. KAHLER: And whether they're --
23 and I'm trying. I mean that's the thing, is that
24 a lot of this is done by the reasonableness of
25 what's being provided, and us saying that when a

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1 local agency says this is what I'm providing
2 because I consider it to be sufficient, unless
3 there's reason to doubt, then we do accept.

4 I mean it's a matter of saying if I
5 have a police force in a town that has three full-
6 time and ten part-time, is that adequate for me.
7 That determination is not to the NRC to identify
8 whether that level of oversight is appropriate.
9 That's by the community.

10 And also, when you're talking about
11 fire response, there are certain national
12 guidelines that are associated with that.

13 MEMBER RYAN: So let me just ask a
14 follow-up question right there. So absolutely,
15 the NRC, let's say for the sake of your point,
16 you're not qualified to determine that that police
17 force or, you know, six officers and five, ten
18 part-time folks, are capable for us. Who is?

19 How are you going -- the NRC assure
20 that somebody, a competent authority, has made
21 that determination that what they're representing
22 is right? Or are you going to make a
23 determination at all that somebody verify that
24 that structure of that police force was adequate
25 for X?

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1 MR. KAHLER: Go ahead Randy, because I
2 know there are programs out there.

3 MR. SULLIVAN: Yes. Maybe I can help;
4 I'm not sure. But there's a fire protection plan
5 for a site, and I'm hoping maybe you know it better
6 than I do. But I would think in that plan that
7 we've approved is a determination of fire support.

8 MEMBER RYAN: So the answer to my
9 question is the NRC approves it through the fire
10 plan?

11 MR. SULLIVAN: Well, for fire
12 protection.

13 MEMBER RYAN: For fire protection
14 plan. You've looked at the adequacy of the plan.

15 MR. SULLIVAN: That's my
16 understanding.

17 MR. KAHLER: But we don't. Emergency
18 preparedness does not. That's something that
19 we're, I want to call it, the same way we would
20 take credit for a health physics program, or the
21 same way for mechanical maintenance and
22 calibration of equipment program.

23 That's not part of the emergency
24 preparedness purview. It is something that's seen
25 by others. So we're taking that and saying

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1 because it's an oversight of somebody else, we
2 accept -- the same way as with OSHA on a plant
3 site. We don't tell people well, you need to have
4 fall protection for ten feet.

5 You're saying "No. OSHA determined
6 that you need to have it at six feet," and that's
7 what we're relying on with these other groups.

8 MEMBER STETKAR: Well, let's come back
9 though, Mike, to the question you asked about the
10 local police department.

11 MEMBER RYAN: Right.

12 MEMBER STETKAR: Is the determination
13 that the staffing of that police department is
14 adequate to handle the range of emergency
15 conditions, simply left up to the local town?

16 MR. KAHLER: No. That's more of a
17 state function actually, and that is something
18 that is looked at by their homeland security
19 groups, as to what is necessary to respond to
20 different types of -- and if they don't have it,
21 if they don't have that, what agreements do they
22 have to obtain it?

23 I got asked that specific question
24 even just two weeks ago from the state of New
25 York, that said do you mean you're going to

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1 question what I already have in place by what
2 I've been legislated to by the state of New York?

3 I mean it's that type of a response
4 that you're getting, and you're saying no, we're
5 not going to question the authority of the great
6 state of New York, if that's what the state of New
7 York says that you need to have in order to combat
8 this type of an event in these type of areas, then
9 we'll accept that as being appropriate, because yo
10 are following those kind of --

11 MEMBER STETKAR: Why isn't it
12 appropriate for us to at least ask to have some
13 assurance, though, that indeed that plan that's in
14 place, with all of those agreements, satisfies the
15 requirements? We can ask.

16 MR. SULLIVAN: Now we're simply
17 focused on the ability to implement the emergency
18 plan, right, not to perform police and fire duties
19 in the community, right?

20 MEMBER STETKAR: Well yeah. But part
21 of those duties --

22 MR. SULLIVAN: But our authority is to
23 implement the nuclear plant emergency plan. FEMA
24 looks at their ability to do that. FEMA, in RERP,
25 does not look at their ability to do community

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1 policing or to fight fires, although they're
2 probably qualified.

3 MEMBER STETKAR: But part of
4 implementing the emergency plan under -- you know,
5 you keep bouncing around from fire departments and
6 police departments and hostile actions and fires
7 and you know, whatever.

8 Let's take a hostile action. Part of
9 the local police department may be to respond to
10 the plant, to help out with security issues under
11 the emergency plan. I don't know what the
12 emergency plans look like.

13 MR. SULLIVAN: Under the security
14 plan.

15 MEMBER STETKAR: Okay, security plan,
16 fine.

17 MR. SULLIVAN: Thank you.

18 MEMBER STETKAR: Under the security
19 plan. However, part of the emergency plan might
20 also rely on members of that police Department, to
21 enforce traffic control.

22 We had this talk about the fact that
23 the light is green in this direction for only 15
24 seconds, and I know that, so it's good to stick an
25 officer out there and say keep the traffic moving

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1 out, you know.

2 So that's a burden of that local
3 police department under my emergency plan. How do
4 we ensure -- ensure is the wrong word. How do we
5 have confidence that indeed the police department
6 has adequate resources to handle those functions?

7 Do we do that?

8 MR. SULLIVAN: Now you've got it.
9 That's the issue this rule change was meant to
10 address. We want them to say that you have who we
11 expect coming to the site. We want to know that.

12 FEMA will ensure --

13 MEMBER STETKAR: So we rely on FEMA to
14 make sure that there enough extra bodies to do the
15 traffic control?

16 MR. SULLIVAN: That they can implement
17 their plan off site, yes.

18 CHAIRMAN SIEBER: You can correct me
19 if my memory is not good, but my understanding is
20 that there is a design basis threat, security
21 threat, and it's the licensee's responsibility to
22 supply for his or her, its organization, the
23 capability to resist and defeat the design basis
24 threat, without the use of off-site forces.

25 As a contingency for some malfunction

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1 of the licensee's security force for a threat that
2 exceeds the design basis threat, then you have
3 mutual aid agreements. As I recall, the mutual
4 aid agreements did not give preferential treatment
5 to the licensee.

6 The mutual aid agreements not only
7 covered relationships between licensee and a fire
8 department or a police department, among the fire
9 departments that surrounded the plant. In other
10 words, if you had a forest fire that had nothing
11 to do with the nuclear plant, and it was in some
12 township someplace, then the mutual aid agreement
13 would call upon surrounding fire departments to
14 assist, to control that place.

15 That's my understanding of how that
16 worked, and you looked a wide range of resources
17 that were to assist the licensee if he went beyond
18 the design basis. As an aside, in the cases where
19 we had drills where we tested these sites, the
20 problem was finding enough parking spaces for all
21 the fire trucks that showed up.

22 That may be different at different
23 sites, but we happened to be in an industrial
24 area, where there was a lot of fire departments,
25 which the vehicles and they were responsive.

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1 Different plants may have different circumstances,
2 but the licensee is required to satisfy, within
3 his own resources, the design basis for the plant,
4 and that's what the rule says.

5 Do I misinterpret that, or is that
6 correct? You can tell me.

7 MR. SULLIVAN: That's correct. That's
8 correct to the best of my knowledge. I mean I
9 don't want to quote the Commission's direction,
10 but the licensee is to be able to defeat the
11 design basis threat, and at least delay, should
12 that defeat fail or the threat be greater than
13 design basis, and local help will be there.

14 One data point I want to feed you is
15 that the stealth turkey event at Seabrook, there
16 was over 100 cruisers at that site in what, maybe
17 30 minutes, one hour. I saw -- yeah, well we have
18 those who believe there was no turkey.

19 But nevertheless, when there was that
20 intruder event at Seabrook, there was literally
21 dozens of cruisers there very rapidly.

22 MEMBER STETKAR: Okay. But I mean
23 some of those examples, not enough parking spots
24 for all the fire trucks, hundreds of cruisers from
25 Lord knows where, coming to the Seabrook site,

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1 might actually be contrary to the emergency plan,
2 because maybe six cruisers at the site was
3 adequate response, and you really wanted all of
4 those other people available to do other things
5 under the emergency plan. The question is who's
6 coordinating that --

7 MR. SULLIVAN: That actually predates
8 the incident command system being nationalized the
9 way it is.

10 MEMBER STETKAR: But the rule doesn't
11 require compliance with that.

12 MR. SULLIVAN: Yeah, but all locals
13 are into NIMS and the ICS. So it's the licensee
14 that's not required to bring that in-plant by
15 regulation. They will be bringing it in, however,
16 I can assure you.

17 CHAIRMAN SIEBER: It's pretty clear
18 that police and fire departments are under the
19 control of local governments, and it's the local
20 government in the emergency plan who decides
21 what's best for the citizens that live in that
22 municipality, township or what have you, and they
23 are the ones that do the allocation. Is it
24 adequate?

25 MR. SULLIVAN: I think, I mean I think

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1 I understand the basic philosophy of the process.

2 There's essentially an abrogation of
3 responsibility from, you know, this agency to
4 FEMA, in terms of assurance that the off-site
5 responders have adequate capabilities to respond
6 to functions that are part of the emergency plan,
7 but not directly associated with something inside
8 the fence. That's just the way it is.

9 CHAIRMAN SIEBER: And the way these
10 agreements, as I understood them, work, not only
11 does the power plant have a mutual aid membership
12 in an agreement with all these fire departments
13 and police departments; they themselves, for
14 example, local police departments, can call for
15 assistance from the state police. I have seen
16 involvement with the FEI in certain cases, and
17 county police, and the resources come in from
18 outlying areas to -- until they're adequate for
19 whatever situation is there.

20 Now is that a guarantee that it's
21 going to be prompt and timely and all that? If
22 the incident is beyond the design basis, maybe it
23 isn't. On the other hand, the mechanism is there
24 to perform all of this, and that's what the mutual
25 aid agreements are and that's what drills are all

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1 about, and that's why people have the lines of
2 authority that are set forth.

3 MR. KAHLER: And you know, Dr. Sieber,
4 that's what we're kind of relying upon, and that's
5 why the question from the state of New York came
6 up when I was there two weeks ago, was the fact of
7 I will provide you what I need to provide you to
8 fight to the level I need to fight to, because
9 that's what I'm committed to to the public.

10 So they're not even saying what it is
11 that's necessary to combat a design basis threat,
12 but they will assure the licensee that they will
13 continue through whatever they need to get to, to
14 provide adequate resources to combat the hostile
15 action. They'll provide that commitment to the
16 licensee, and that's --

17 What they're saying is are you going
18 to have me do something different than what I
19 already have in place, that I've already -- what
20 I've already committed to to the licensee. What
21 we're saying is all we want is for the licensee to
22 get that commitment off of you, to make it part of
23 their emergency plan, that it's there.

24 That's what we're saying, to identify
25 it and a description of what you can be assured of

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1 from that off-site response. So --

2 MEMBER ARMIJO: And I think you left
3 out the part that Harold Ray mentioned, which is
4 we're first priority.

5 MR. KAHLER: First priority? I would
6 think, as Randy said, 100 squad cars. You know,
7 it brings back days of years gone by, where you
8 can't keep them away from the plant.

9 MEMBER STETKAR: But nothing else
10 going on. I mean, you know, bright, sunny day in
11 New Hampshire, nothing else to do. If there is a
12 hostile attack, if it was 9/11/2001, you might not
13 have had 100 police cruisers at the nuclear plant
14 site.

15 MEMBER ARMIJO: I think you would
16 have.

17 MR. KAHLER: I think so. I think
18 that's when you really would have gotten them.

19 (Simultaneous discussion.)

20 MEMBER RAY: Don, could you repeat
21 what you said 30 minutes ago?

22 MR. TAILLEART: Probably not.

23 (Laughter.)

24 MEMBER RAY: Because most of all these
25 discussions had nothing to do with it, in my mind.

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1 But so why don't you just try and start again?

2 MR. TAILLEART: I'm reluctant to do
3 so, but I'll give it a try. I don't know if this
4 would help or not, to take a look at what the
5 proposed rule language showed or how it was
6 stated, and what the concern was. So bear with me
7 just a second. Let's see what a quick way to do
8 this would be.

9 (Pause.)

10 MR. TAILLEART: I don't have to go
11 back to the beginning anyway.

12 (Pause.)

13 MR. KAHLER: It's Slide 45, Don.

14 MR. TAILLEART: Okay. The text that's
15 in red and with the strikethrough was what was in
16 the proposed rule, and that's what we're
17 recommending be changed by deleting that
18 particular text and adding in the words that you
19 see in red, without the strikethrough.

20 The concern was that having licensees
21 ensure outside organization resources are
22 available to respond, not so much that they would
23 respond to the site, but if there were competing
24 demands for those resources, for example, we
25 mention performing route alerting or doing traffic

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1 control or something else that they had been
2 assigned to under an off-site plan, would that
3 compete with their ability to respond to the site?

4 A concern was that yes, we definitely
5 want their resources to commit to responding to
6 the site, to document that in a letter of
7 agreement or a memorandum of understanding, as you
8 say, to basically commit to responding to the site
9 first.

10 Then how they address those other
11 responsibilities under the off-site plan that they
12 had been assigned, that was the part that falls
13 under the purview of FEMA, and that was the
14 concern, I think, of a lot of the commenters was
15 that this not only would require licensees to
16 ensure that those resources were available to
17 respond to the site itself, but now also to
18 fulfill any off-site responsibilities that they
19 had, and by making this change, we were trying to
20 address that particular concern.

21 So we still want the licensee to
22 identify those resources, describe them. This
23 goes into the emergency plan. That commitment for
24 those resources is documented through some kind of
25 written agreement with that resource. But yes, we

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1 will respond to the site under these conditions,
2 whatever those are that are appropriate, and
3 that's basically where the licensee responsibility
4 would stop.

5 MEMBER RAY: Well, the stricken
6 language is "Nuclear power plant licensees shall
7 ensure that off-site response organization
8 resources are available to respond to an
9 emergency." Now that's gone.

10 MR. TAILLEART: Correct.

11 MEMBER RAY: All right. The stuff
12 about including, blah blah blah blah, that isn't
13 germane to the question I was trying to ask. But
14 that statement that's taken out, if I were still a
15 licensee, I would say "Ahh. I no longer have to
16 ensure that off-site response organization
17 resources are available to respond to an emergency
18 at my site. All I need to do is to identify and
19 describe the assistance expected."

20 Now that's what I heard you say before
21 we got into all these side discussions, and I
22 guess that's what I still see there. It seems
23 substantive to me, and you also added at the time
24 that well, you know, this is a FEMA thing. We
25 don't meddle in other people's business.

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1 Well, that seemed to me like a change.
2 Now I heard everybody say, time after time, no,
3 no, no change. We're talking about hostile
4 actions. We're not even interested in fires.
5 Well, fire is up there, and you know, I don't want
6 to talk about hostile actions. I want to talk
7 about fire.

8 And so I guess I'm still where I was
9 before, and I don't think we should take
10 everybody's time to debate it any further. The
11 language that is being deleted to me, and I may be
12 alone in this, puts an obligation on me as the
13 licensee, that by deleting that language I no
14 longer have.

15 Of course, as a licensee, I endorse
16 that. I think that's terrific. Yeah, I mean I'd
17 say "whoopee." That's a great step forward.
18 Thank you.

19 MR. KAHLER: If I can clarify one
20 thing, excuse me, is that the black words you see
21 up there is the current rule in 10 C.F.R. as it
22 exists today.

23 MEMBER RAY: Okay. So the stricken
24 out words are not in there either, right?

25 MR. KAHLER: That is correct. That is

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1 what was in the proposed rule for comment.

2 MEMBER RAY: Okay, fine. Well then
3 I'm glad, again, as the licensee, it got stricken
4 before it got in.

5 (Laughter.)

6 MEMBER RAY: But be that as it may,
7 again, I was just responding to what Don had said,
8 all right, and now I look up there and I say well,
9 that's what I heard him say and I guess that's
10 what I didn't hear him amiss. But if the current
11 language is the black language, without an -- in
12 other words, it says "identification of and
13 assistance expected from" --

14 MR. KAHLER: Right.

15 MEMBER RAY: "Appropriate state, local
16 and federal agencies with responsibilities for
17 coping with emergencies," that's not as explicit
18 as the language that's been stricken, because it
19 doesn't name me as a licensee.

20 But my belief is that when you put it
21 into context, it does in fact name me as a
22 licensee, and I am responsible for doing what the
23 black words for doing what the black words say
24 today.

25 MEMBER STETKAR: Today.

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1 MEMBER RAY: Today, that's right. So
2 you could say well all right, you're still as
3 responsible in the future as you were, as you are
4 today, and so, as has been suggested, nothing has
5 changed.

6 MR. KAHLER: The only thing we've
7 changed is --

8 MEMBER RYAN: Well, the first sentence
9 here with the black and the red together, that's
10 not even a sentence at this point.

11 MEMBER RAY: "Identification of and
12 assistance expected from appropriate state and
13 local." If it's in a laundry list of things to do
14 --

15 CHAIRMAN SIEBER: It's in a list.

16 MEMBER RYAN: Oh, it's in a list?

17 MEMBER RAY: Yes, yes. It's in a
18 context.

19 (Simultaneous discussion.)

20 MEMBER RAY: That's right, right,
21 right. MR. TAILLEART: The

22 licensee's emergency plan shall --

23 MEMBER RYAN: Shall include, okay.

24 (Simultaneous discussion.)

25 MEMBER RAY: So you know, I guess

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1 that's fine. I mean you could -- he put that up
2 right away when I asked the question, and say that
3 here is -- obligated after the additional red
4 words are added, that survived the strikeouts, as
5 you were before for doing what you've always had
6 to do, and you know, that was said.

7 But again, my question just went to I
8 couldn't understand what was being said about
9 something that's not our responsibility. Well of
10 course, it's not our responsibility, but Jack
11 mentioned forest fires. Well, you know, I'm from
12 a place that has a lot of significant fires
13 sometimes, and it takes all the damn firefighters
14 that there are and more.

15 MEMBER STETKAR: For a couple of
16 states.

17 MEMBER RAY: To fight them, and there
18 aren't any left. I happen to have dealt with the
19 San Clemente fire department, and they said if you
20 want us to respond, you pay us to keep a fire
21 engine here all the time. I said no, I'll just
22 keep it at the plant, and that's why you wound up
23 with a fire engine at the plant, okay.

24 So that's what I'm talking about.
25 It's not making it up out of some thin air.

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1 MR. KAHLER: And quite honestly, if
2 there are emergencies that happen that are close
3 to a plant site, that challenges the capability
4 for off-site responsibilities, for off-site
5 resources to respond to the site, if there were an
6 emergency, then the adequacy of off-site
7 capabilities comes into question.

8 And FEMA then, such as in a disaster-
9 initiated review, as we've had during hurricanes,
10 during floods and those kind of items, where the
11 off-site agencies are strained with their
12 capabilities, then we do indeed require a
13 reevaluation of the off-site response
14 capabilities, that the plant cannot restart until
15 those capabilities are restored.

16 MEMBER RAY: Okay. But again --

17 MR. KAHLER: Fully committed to.

18 MEMBER RAY: I've got to interrupt you
19 to say I was trying to figure out if we had
20 transferred that responsibility to FEMA, so that
21 the plant was just one of the many things that may
22 have to be dealt with, whereas in my opinion in
23 the past, that had been an NRC role, to ensure
24 that you had what I call "first call."

25 I gave you a perfect example of where

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1 I wound up with a fire engine at the plant,
2 because I could either pay for it in San Clemente
3 or I could pay for it at the plant. But I wasn't
4 going to -- because sometimes the San Clemente
5 thing is in El Toro or someplace like that,
6 fighting a brush fire, okay.

7 MR. KAHLER: Agreed, agreed.

8 MEMBER RAY: And you guys know what
9 I'm talking about.

10 CHAIRMAN SIEBER: Well, we bought the
11 fire truck and let the city have it.

12 (Laughter.)

13 MEMBER RAY: Well, that's another way
14 to do it, but there were complicated reasons why
15 we did it the other way.

16 CHAIRMAN SIEBER: Stingy.

17 MEMBER RAY: I know.

18 MR. TAILLEART: Okay. Ready to move
19 on. The next area of comment was protection for
20 on-site personnel, and one of the comments was
21 that the proposed rule in the new section 4(I) of
22 Appendix E, although it required that protective
23 actions be developed for on-site personnel during
24 hostile action, it didn't specify what those
25 protective actions should be.

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1 Although we agree with the comment,
2 that was intentional. We did not intend to
3 specify in the rule language what the range of
4 protective actions might be, because it's going to
5 vary by site, and we'll leave it up to each of the
6 licensee to determine for their own particular
7 site what those appropriate protective actions
8 are.

9 We do provide guidance in the interim
10 staff guidance on types of protective actions that
11 licensees should consider. But the ultimate
12 determination of what those actions should be are
13 left up to the licensee. So we're not proposing
14 to change the rule language on that one.

15 The other comment that we addressed
16 here was that in the guidance that references the
17 use of an operating procedure to contain these
18 protective actions, it was pointed out that
19 depending on the site again, the response to a
20 hostile action or a security-related event may be
21 described in a procedure or several procedures.

22 So we should make the language a
23 little more generic, to recognize that there may
24 not be just one procedure that describes what
25 these actions are.

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1 Under challenging drills and
2 exercises, some of these we have mentioned
3 already. In the proposed rule, we had put in the
4 specification for the exercise planning cycle, the
5 length of time in which the required scenario
6 elements need to be demonstrated as six years,
7 which has been the practice for quite some time,
8 both in the industry and by off-site
9 organizations.

10 The comments came back that with the
11 new scenario elements that had to be demonstrated
12 within each cycle, six years would not be enough
13 time. They recommended increasing the length of
14 the exercise cycle. Many of the commenters felt
15 that eight years would be sufficient time in which
16 to do that.

17 That would allow for biennial
18 exercises, plus a number of drills in addition to
19 those exercises. So in the final rule, we've
20 changed that to eight years.

21 One of the main issues was the use of
22 minimal or no radiological release scenarios.
23 Particularly amongst a lot of the off-site
24 agencies, they were concerned that by using the se
25 types of scenarios, which did not require that a

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1 large radiological release occur and off-site
2 protective actions to be recommended by the
3 utility or implemented by the off-site
4 organizations, that it would not allow them to
5 demonstrate a lot of their actions that they would
6 go through to implement protective actions, and it
7 would not allow FEMA then to evaluate how well
8 they did that.

9 So we did not change the rule
10 language, but in the guidance, we provided -- and
11 the rule language still requires licensees to
12 perform a no release or minimal release scenario
13 at least once a cycle.

14 We did provide guidance for off-site
15 response organizations, developed in conjunction
16 with FEMA, that they now have several options from
17 an off-site perspective. If they wish, they can
18 participate in the licensee exercise, but no
19 release or minimal release, and then FEMA will
20 evaluate their ability to implement protective
21 actions through some other means, maybe mini-
22 drills or plan reviews or some other type of
23 evaluation activity.

24 Off-site organizations also have the
25 option of continuing on during the biennial

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1 exercise, with additional actions to demonstrate
2 implementation of protective actions. So this
3 would be through some controller injects or again,
4 many scenarios that allow outside organizations to
5 demonstrate these capabilities and FEMA to
6 evaluate while they're there for the biennial
7 exercise.

8 The third option would be for outside
9 organizations to decide that they did not want to
10 participate in the licensee biennial exercise.
11 They still have a requirement to participate in an
12 exercise, so that would have to be scheduled at a
13 time separate from the licensee exercise.

14 So it gives them several options. The
15 bottom line is it would still allow the outside
16 organizations, through some means, to demonstrate
17 protective action implementation, and for FEMA to
18 do their evaluation.

19 One other comment that we got was that
20 hostile action in the rapidly escalating scenario
21 should be conducted more often than once per
22 cycle, to allow an additional opportunity for
23 organizations to participate in these exercises.

24 We did not agree with that particular
25 comment. We felt that that would, at least in a

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1 biennial exercise, over-emphasize those particular
2 aspects. But there are opportunities through
3 drills outside of the exercises, if they wish to
4 practice those elements more often, to do so. So
5 again, we did not make a change to the rule
6 language for that.

7 The next area, a backup means for the
8 alert notification system. Commenters suggested
9 that the NRC should publish a design specification
10 for the backup methods. We agree that a
11 specification is useful, and would be open to
12 receiving such a proposal.

13 But really the design specifications
14 for the backup system falls, again, under FEMA,
15 who sets up the evaluation and acceptability of
16 alert notification systems, and would do the same
17 for the backup methods.

18 One other comment with regards to this
19 area was that backup battery power for a primary
20 alert notification system should be considered
21 sufficient backup capability or in general, that
22 we should require backup power as one of the
23 backup methods.

24 Again, we did not agree with that
25 particular comment. Backup power is typically

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1 used for sirens, in cases of loss of A/C power.
2 So for that particular portion of the alert
3 system, or the alert portion of the system, that
4 is an acceptable backup means. But there are
5 other components within the alert system. The
6 computer that activates the system; there's
7 transmitters that send the signal out to the
8 sirens.

9 The backup power for sirens did not
10 address failure of one of those components. So
11 although it may be an important piece of a backup
12 system, they would need to look at the entire
13 system itself, to ensure that the rest of it was
14 backed up.

15 So for that reason, we didn't -- we're
16 not requiring the use of batteries as backup power
17 sources for sirens. We understand that a lot of
18 licensees have already installed those for their
19 siren systems. We think that's a good initiative,
20 but it's not going to be a requirement in the
21 final rule.

22 MEMBER STETKAR: Don, is local, oral
23 notification by local police departments or fire
24 departments or whoever does this sort of thing,
25 considered an acceptable backup to the sirens, in

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1 terms of alerting, you know, the local police
2 department driving down the street, as they do in
3 California, to alert you during fire emergencies.

4 Is that --

5 MR. TAILLEART: Yes. That's commonly
6 what we call route alerting.

7 MEMBER STETKAR: Right.

8 MR. TAILLEART: Route alerting is
9 already in place as a backup means for a lot of
10 sites, and FEMA has evaluated that over the years.

11 MEMBER STETKAR: For FEMA, for
12 example, that would be an acceptable backup --

13 MR. TAILLEART: Right, and they found
14 that to be acceptable.

15 MEMBER STETKAR: Understood, okay.

16 CHAIRMAN SIEBER: But generally that's
17 not accepted as a primary means. Generally,
18 that's not accepted as a primary means of
19 alerting. For example, there are these personal
20 home alerting devices which are often used for
21 siren. You know, you don't want an individual
22 siren for each house.

23 If the homes are separated by some
24 distance, they put those in and then route
25 alerting is the backup.

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1 MEMBER STETKAR: I just wanted to make
2 sure I understood that the route alerting was --
3 you're not just talking, you know, additional
4 hardware here. This is human being type alerting.

5 CHAIRMAN SIEBER: Police cars and
6 megaphones and --

7 MEMBER STETKAR: Yes.

8 MR. SHERWOOD: And that's for your
9 very -- that's evaluated every biennial exercise.
10 We figure in a simulated failure of one of the
11 sirens or two of the sirens, and we actually --

12 MEMBER STETKAR: Well, I'm thinking
13 more of, you know, I'll go back to my severe
14 weather events, where you have no sirens.

15 MR. SHERWOOD: And that's considered
16 also fine.

17 MR. KAHLER: If I could just add a
18 little point. We consider this mostly codifying
19 what's already in place, and it's really to deal
20 with future applicants in the applications we have
21 now. There's nothing that compels them to have a
22 backup means. This compels them to.

23 MEMBER STETKAR: Okay.

24 MR. TAILLEART: Again, I think we've
25 already discussed a couple of these comments

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1 earlier. One was when the -- for emergency
2 declaration timeliness, when the clock starts and
3 there is, in the rule language and the guidance,
4 some clarification on when the clock starts and
5 when it stops, to make sure that the intent is
6 clear.

7 There was also some comments about the
8 use of the term "plant operator" in reference to
9 making emergency declarations, and whether or not
10 that was the appropriate terminology to use. We
11 left that terminology in. That's a carryover from
12 some of the previous rule language. We look at
13 plant operator in pretty broad terms here.

14 It could be really anyone who's
15 involved in the decision-making process, to
16 determine what the appropriate declaration is,
17 whether it's in the control room itself or at one
18 of the other facilities, if the responsibility for
19 declaration is transferred to that other facility.

20 So again, we did not make any change
21 in the rule language on that one, or in response
22 to that comment.

23 For emergency operations facilities
24 performance-based approach, two major comments.
25 We really didn't get a large number of comments on

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1 this particular topic. One is some of those
2 commenters objected to allowing exemptions for
3 existing currently approved emergency operations
4 facilities, that are located more than 25 miles
5 away, and these decisions and approvals have been
6 made over the last, really the last 30 years.

7 The intent was not to require any
8 currently approved EOFs to be relocated as a
9 result of this rule change. So we are
10 recommending that we leave in this exemption. We
11 think that the basis for approving the exceptions
12 in the past were well-founded, and those
13 facilities have proved to be very effective over
14 the years. There's no reason not to include them
15 in the exemption.

16 There were some comments that the NRC
17 really shouldn't be allowing licensees to
18 consolidate emergency operations facilities, which
19 we talked about a little bit earlier. But again,
20 there have been a number of licensees that have
21 made requests to consolidate these facilities.
22 With I think just the one exception, the NRC has
23 approved those requests.

24 Some of those facilities are located
25 at quite some distance from plant sites, maybe

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1 even in a different state from some of the plant
2 sites. We think that those facilities have proven
3 to be very effective during drills, exercises and
4 actual events over the years.

5 So we see no reason to exclude or not
6 permit licensees to consolidate facilities, as
7 long as they meet the performance-based criteria
8 that would be included in the new rule. And even
9 though it's not part of the rule language, we do
10 address, in the statement of considerations, that
11 licensees do need to work with the outside
12 officials, state and local agencies, to ensure
13 their buy-in on the location of these facilities
14 and the consolidation approach as part of the
15 process.

16 CHAIRMAN SIEBER: I don't object to
17 the rule allowing that, but I would believe that
18 licensees should exercise caution when they choose
19 to do that.

20 MR. TAILLEART: Absolutely, and they
21 do need to get the buy-in of all the impacted off-
22 site officials.

23 CHAIRMAN SIEBER: Yes.

24 MEMBER STETKAR: Don, you said it's
25 not part of the rule language, that requires a

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1 buy-in for the state and local officials. But it
2 is part of the rule that the licensee provide
3 some, for lack of a better term I'll use the term
4 "near sight," some near sight facility to provide
5 that kind of assembly function; is that right?

6 MR. TAILLEART: For any emergency
7 operations facility, whether it's a single site or
8 consolidated facility, if it's more than 25 miles
9 from the site, then that would be a requirement.

10 MEMBER STETKAR: And that is a
11 requirement under the rule?

12 MR. TAILLEART: And that is the rule
13 language, correct.

14 MEMBER STETKAR: It's just a matter of
15 who's running the show after that.

16 CHAIRMAN SIEBER: Yes. I noticed if
17 you have an incident, CNN shows up at the plant,
18 not at your EOF.

19 MEMBER RAY: Well, for an off-site
20 release, they may not.

21 MEMBER STETKAR: They'll show up at
22 both places.

23 MR. TAILLEART: Let's see. Just a
24 couple more to go here and then we'll wrap up the
25 comments. On the evacuation time estimate

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1 updating, I think we have talked about the change
2 in the threshold criteria for updating, for doing
3 interim updates to the evacuation time estimates,
4 that would trigger the need to do an update more
5 often than the decennial census.

6 the other comment that we received had
7 to do with the time period in which to perform an
8 update. We had originally proposed an 180 day
9 time period, once the population data was
10 available, and commenters pointed out that there's
11 a very limited number of vendors who perform these
12 types of updates, and there's a lot of
13 coordination that also has to take place with off-
14 site officials.

15 So we are recommendation that the time
16 period be expanded out to 365 days from 180 days.

17 Then finally on --

18 MEMBER STETKAR: Don, once you have
19 the evaluation in place, I understand resource
20 requirements in terms of an external support to do
21 the initial evaluation. Is an update to that
22 evaluation as resource-intensive? I mean you
23 should have your models set up; you should have,
24 you know, whatever software.

25 I don't know how these things are run,

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1 but they're simulation programs. You should have
2 all of that set up. If you're talking about an
3 update to the evacuation time estimates, why
4 should that be extremely resource-intensive in
5 terms of the use of external support, especially
6 given the fact that these are going to occur
7 randomly over time.

8 Well, I think it depends on the
9 justification of why do I need a year, simply
10 because there are only a limited number of
11 organizations outside that I can rely on?

12 MR. TAILLEART: I would agree. Some
13 updates probably would be less intensive, if there
14 haven't been any large changes in population or
15 infrastructure, roadway networks or other changes
16 within the emergency planning zone. But I think
17 there will be a number of sites where there have
18 been population increases or changes in the
19 roadways and things like that, where it will
20 require --

21 MEMBER STETKAR: I think the guidance
22 in the NUREG though, as far as updates to the
23 population. First of all, the NUREG actually
24 recommends when you do your initial estimates, you
25 do sensitivity studies to say well, you know,

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1 where are my thresholds?

2 So it should be kind of a no-brainer
3 whether you're above or below that threshold. If
4 you're above that threshold, the guidance in the
5 NUREG also says for a first cut it's reasonable to
6 assume that existing infrastructure, you know,
7 remains applicable. So you don't have to go back
8 and do a re-survey of the highways, you know, and
9 timing of those traffic signals and things like
10 that.

11 MR. SULLIVAN: Well, once you've got
12 the model in, manipulating it is fairly
13 straightforward. It's sort of an issue of
14 freshness, you know. If it's six years later and
15 you have to do an update, you know, then there's
16 some work to get back up to speed. We've been
17 told by vendors, you know, who do this for a
18 living, that the few licensees that have tried to
19 bring this capability in-house, it gets stale real
20 quick.

21 You know, guys leave or get promoted,
22 and three years later, when you need to take a
23 look at things, they're not available or they're
24 rusty. So --

25 MEMBER STETKAR: My day job as a

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1 consultant, believe me, the vendors will be just
2 as rusty as -- honestly. I mean if that's your --
3 I'm not trying to be facetious here, is that if
4 you're looking at an analysis that, you know,
5 I'll own it. If I'm looking at an analysis that I
6 did six years ago, I have the same start-up time
7 as anybody else. I don't remember that.

8 MR. SULLIVAN: Yeah, but you've
9 probably been doing this for a living in the
10 meantime, and so you're still an expert. Whereas
11 if I'm an in-house guy and I went back to being,
12 you know, maintenance coordinator or something.

13 MEMBER STETKAR: No, it's true. It's
14 just a year is an awfully long calendar time,
15 especially if you have an in-place model,
16 something that you're not building from scratch.
17 You're essentially reexercising, and even tweaking
18 in a few places, but reexercising the same model.

19 MR. SULLIVAN: We have some big plans
20 for these models going forward, but --

21 MR. TAILLEART: Okay. Regarding the
22 emergency plan change process, a couple of slides
23 on this one. It has to do with final rule changes
24 or changes to the final rule language. There were
25 some comments about revising or clarifying the

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1 definition of change. So in the final rule
2 language, we clarified that the change applies to
3 the emergency plan rather than a change to an
4 activity which may affect the plan.

5 The intent was that the change process
6 applies to intentional changes to the emergency
7 plans, rather than changes to or failures of
8 equipment or capabilities outside of the plan,
9 that might adversely affect the plan.

10 We also clarified the definition of
11 emergency plan itself, to replace the reference to
12 maintaining emergency planning functions, which
13 Steve had talked about earlier with "maintaining
14 emergency preparedness and responding to
15 emergencies, to avoid any possible inference that
16 compliance with these emergency planning
17 functions" was required.

18 Then finally, we clarified the timing
19 on submitting reports of changes to the NRC, and
20 also modified the requirement of what needed to be
21 submitted from the complete 54(Q) analysis to a
22 summary of that analysis, at least for the initial
23 reviews, so the reviewer could determine if
24 additional documentation was needed.

25 The clarification on timing had to do

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1 with a reference in the draft rule or the proposed
2 rule that the change be submitted within 30 days
3 of when the change was made, but there's no clear
4 definition of what that means. Is that when the
5 procedure's updated or plan is updated, or is that
6 when it actually goes into effect, or when there's
7 training completed on it or what? You know, what
8 exactly did that mean.

9 So the language was changed to
10 reference when the actual, when the change was
11 actually put into effect, rather than when the
12 change was made. We did retain the requirement in
13 the proposed rule to require licensees to use a
14 license amendment process for submitting proposed
15 changes for prior approval, so that did not
16 change.

17 Then the regulatory guide, based on
18 some of the changes that we made to the rule
19 language, we made corresponding changes in the reg
20 guide to maintain alignment with the final rule.
21 Again, consistent application and usage of the
22 term "change."

23 MEMBER RYAN: Don, you may not want to
24 whack that microphone, because it rings in his
25 ears.

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1 MR. TAILLEART: Okay. I didn't even
2 realize I was doing that. Thank you. The
3 proposed guide had listed some emergency plan
4 changes which were often mischaracterized by
5 licensees as not being any reductions in
6 effectiveness. I think Steve mentioned this as
7 well.

8 So the reg guide was revised to
9 replace the requirement that these be submitted
10 for staff review, with a recommendation that the
11 licensee interface with NRC staff on these changes
12 prior to implementation. We also added in a new
13 section which addressed an issue that was raised
14 through the comments, about the existence or
15 apparent existence of margin between the
16 licensee's emergency plan and the regulatory
17 requirements. Again, I think we've already
18 discussed that.

19 So we've provided some clarification
20 on whether or not those would be -- well, the
21 fact that a change to address this particular
22 situation may result in still being in compliance
23 with the regulations, which is one part of the
24 54(Q) requirements, but it doesn't address the
25 issue of whether or not the licensee reduced the

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1 overall effectiveness of the plan, which they
2 still have to evaluate.

3 Then finally there was a new
4 implementation or an upgrade to the implementation
5 section added to the reg guide, and this stated
6 that the reg guide would not be applied
7 retroactively in our evaluations of plan changes
8 that would be made or have been made prior to the
9 effective date of the final rule.

10 Those were some of the, I guess, the
11 highlight of some of the more significant comments
12 or issues that were identified during the comment
13 period.

14 CHAIRMAN SIEBER: I would point out to
15 the members that we did get an extensive summary
16 list of comments from the staff, which was the
17 first item in the emailed set of files that were
18 sent to us about ten days ago. So if you need to
19 get additional information, there's plenty of
20 additional information to look at.

21 Thank you very much, Don. I
22 appreciate it. Anybody have any questions?

23 (No response.)

24 CHAIRMAN SIEBER: If not, I'd like to
25 introduce Harry Sherwood from FEMA, and his set of

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1 slides is the ones with the beautiful American
2 flag on it, and you may begin, sir.

3 MR. SHERWOOD: Good afternoon. I
4 appreciate the opportunity to speak to you about
5 some of our parallel activities. I'm Harry
6 Sherwood. I'm the Technological Hazards Branch
7 Chief, FEMA Region IX, so I made the cross-country
8 jog to come out and visit with you today.

9 What I'd like to talk to you a little
10 bit about is you've heard a lot about what we have
11 done in parallel, and I would like to highlight a
12 few of the things that we have done in parallel in
13 the rulemaking, the things that we had to bring to
14 bear on the FEMA side.

15 Well first of all was the public
16 comment process. As you may have heard, we
17 released our program manual in Supplement 4 on May
18 18th, 2009. Now the revised program manual was a
19 work in progress since 2002, so it's taken a long
20 time to get going and to get off the ground.

21 We received over 120 submissions, and
22 they contained over 2,300 individual comments. So
23 to eat that elephant one bite at a time, we put
24 together two teams. You've heard about the joint
25 FEMA-NRC, the Joint Comment Adjudication Team or

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1 the JCAT.

2 Internally, we put together what we
3 called the PCAT, or the Public Comment
4 Adjudication Team. That included ten FEMA
5 regional representatives and five FEMA
6 headquarters staff. They got together several
7 times during the past year, including just in time
8 for the great blizzard out here on the east coast,
9 so I didn't get my senior site specialist back for
10 almost a week.

11 So they went through the comments
12 relating to these key policy changes. Now in
13 addition to retiring a lot of legacy documents,
14 finally publishing a Section 2 of the program
15 manual, which many people had heard about over the
16 years but nobody had ever seen it, we also wanted
17 to bring into play the preparing for and
18 responding to hostile action-based events,
19 aligning the REP program manual with national
20 preparedness initiatives, such as National
21 Incident Management System, ICS, the Homeland
22 Security Exercise and Evaluation Program.

23 We had a 30 year-old program, and the
24 rest of the emergency management community had
25 evolved over the years and they were doing

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1 business differently. Also, to ensure more
2 challenging drills and exercise, enhance the
3 exercise activities, and also provide for the
4 backup means for the alert notification system.

5 The comments we got back came from a
6 variety of audiences. The states were very
7 interested, as you can see by the graphic. That
8 was the vast preponderance of comments we received
9 back, and from local governments.

10 We also got quite a few from private
11 citizens, utilities scattered among other groups,
12 and then quite a few anonymous comments as well.
13 These comments, along with the rest they were
14 adjudicated, and we duly considered them.

15 Besides the different issues that we
16 covered, the whole program manual was being put
17 out there. So in many respects, a great deal of
18 the entire FEMA REP program was being looked at
19 and commented by the public. Far and away the
20 largest segments of comments related to hostile
21 action-based scenarios and what exactly was this
22 Homeland Security Exercise and Evaluation Program,
23 or HSEE.

24 A great deal of comments about alert
25 notification systems, about the requirements that

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1 we have for them and the possibilities of other
2 types of alert notification systems. NIMS and
3 ICE, dosimetry. So you can see the broad range of
4 subjects that people commented on.

5 So once all 2,3000 comments were
6 adjudicated, we put together a time line, and this
7 was put together by an integrated transition and
8 implementation team. As you can see, rather fine
9 print up there and can be a little bit difficult
10 to read, we have endeavored to keep all of our
11 efforts in implementing the revised program manual
12 in alignment with the NRC rulemaking.

13 The two have to go together of
14 necessity, because if we're out of step with what
15 NRC is bringing to bear, then our off-sites and
16 our partners get confused as well. So we're in
17 the middle of the chart now, and while the
18 rulemaking is going on and beginning the ACRS
19 review, you can see that we are going through some
20 public outreach with our portion of it, and I'll
21 get into that outreach a little bit further on.

22 If we look on into next year, our
23 activities hope to culminate on or about the
24 projected day of the final rulemaking or the FR,
25 the *Federal Register* notice for that.

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1 Now to bring that to pass, we brought
2 a team together, a joint NRC-FEMA integrated
3 transition and implementation plan working group.

4 The chart that you saw on that schedule was one
5 product of that team.

6 What it is to determine the scope and
7 the milestones that we want to achieve, with
8 bringing about our publication of the revised
9 program manual and Supplement 4, in alignment with
10 the NRC rulemaking, and to develop a Schedule for
11 the integration of the FEMA-NRC transition and
12 implementation plan.

13 In order to do that, one product was a
14 series of impact papers, explaining what exactly
15 are we doing. So the team put together summary
16 documents that were intended to highlight the key
17 areas that were important to this implementation
18 process, what we felt is important for our state
19 partners, our off-site partners, and everyone
20 involved in the REP program, to understand what
21 exactly we're doing, and topics that have the most
22 significant changes and impact to our
23 stakeholders.

24 So we have come out with seven impact
25 paper topics. These include the variations in the

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1 scenarios. What exactly do we mean by an eight-
2 year exercise cycle, plans and procedural updates.

3 How do you bring about and incorporate hostile
4 action-based drills and exercises.

5 In addition to the no release and the
6 rapid escalation, how do you bring those into your
7 plans and procedures, how soon do you have to do
8 it, and how do you incorporate that into your
9 exercise program? Backup alert notification
10 systems, what's acceptable, what kind of time
11 lines are we talking about?

12 What exactly do we need to do with
13 regards to the National Incident Management System
14 and incident command? The Homeland Security
15 Exercise and Evaluation program, and then
16 something that we have been hearing a great deal
17 about. Yes sir.

18 CHAIRMAN SIEBER: Could you tell us a
19 little bit more about the National Incident
20 Management System?

21 MR. SHERWOOD: I will do that, and as
22 a matter of fact, that's coming up.

23 CHAIRMAN SIEBER: Okay.

24 MR. SHERWOOD: Interpretation of the
25 terms "should" and "shall." What exactly do we

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1 mean by that? So to look at the impact papers,
2 and we have one on NIMS and ICE, and I'll get into
3 a great deal of detail with that.

4 The initiating event of a REP program
5 exercise will now be varied, as we have heard, to
6 bring about more of an all hazards perspective to
7 the overall exercise cycle.

8 That's one of the things that we look
9 at. We've heard a lot about different initiating
10 events. In addition to what takes place at the
11 plant, we also includes things now like hostile
12 actions, rapidly escalating events, initial
13 classification of site area emergency, starting it
14 later on.

15 Or no minimal release, resulting in at
16 least a site area emergency. Decision-making
17 still has to take place. What kind of decision-
18 making? Sometimes even doing nothing is a
19 decision. Now historically, the exercise
20 scenarios have paced along with the plume
21 exercises. We're also revising the ingestion
22 pathway guidelines, and these are also going to be
23 enhanced.

24 So we're going to see some development
25 in how we bring about the exercises and variations

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1 in the cycle. The cycle has been changed to an
2 eight-year cycle, as you have heard, to be able to
3 exercise all of the scenario options, and we
4 anticipate that full transition into incorporating
5 all of the possibilities, including hostile
6 action-based events, will take place by 2014.

7 Now some elements, you've heard of the
8 eight year cycle. We also need to bear in mind
9 that some items, some criteria we need to look at
10 on a biennial basis; some we need to look at every
11 six years. We will -- we still need to consider
12 those items on a more frequent basis. So we don't
13 want to put things off for a total of eight years
14 and then come back and wonder if everyone still
15 knows how to do things.

16 So we still will have our biennial
17 exercises. We still will have our periodic
18 ingestion pathway exercises. Then, we want plans
19 and procedures to be updated in a timely fashion
20 too, rather than go into a biennial exercise cold,
21 that's going to include a hostile action-based
22 event, we would like to have a good assurance that
23 the plans are in place to deal with the hostile
24 action-based event.

25 Our experience is most of our off-

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1 sites already have good, effective plans in place.

2 But this is going to provide a good opportunity
3 for them to bring those to bear on the exercise
4 program. In some cases, you might have two
5 different sets of plans.

6 You have the radiological plan and
7 then you have maybe a law enforcement integrated
8 plan. We want sufficient time to bring those
9 together and have at least six months to be able
10 to work with our off-sites, and look at the plans
11 and see if we're going to have a good exercise
12 ahead of us. Backup alert notification.

13 MEMBER RYAN: So Harry, I'm guessing
14 at that step, this is where you'd identify
15 synergies and conflicts and all that sort of
16 stuff, so that planning for an exercise is really
17 the way where you coordinate different views of
18 that exercise from different organizations into
19 one coherent --

20 MR. SHERWOOD: Exactly, and the way we
21 want to do that is we're going to be talking a
22 little bit about some new tools that we want to
23 bring to the exercise planning process, and also
24 to the overall planning process as well. So part
25 of this is we'll be looking at the plan reviews.

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1 We're going to be looking at planning
2 the exercise, be more objectives-based with our
3 exercises, and give us sufficient time that if we
4 identify some issues, rather than wait until they
5 come to a full-blown issue or deficiency or
6 something like that, be able to work some ways to
7 make the plans better, solidify them. In other
8 words, give us some more versatility in how we can
9 deal with these eventualities.

10 Backup alert notification. Clarify
11 the time requirement for backup. You know, we've
12 heard such things as backup route alerting and
13 what do we consider timely and efficient. We
14 recommend a goal of 45 minutes from identifying
15 when something has failed, or say a siren has
16 failed or a primary means has failed.

17 We want to look towards again, a goal.
18 Is it a hard and fast thing? We want to still
19 keep it timely. We recognize that there are
20 variations in capability, the different weather
21 conditions. There's also going to be new systems
22 and new technologies brought to bear.

23 So we will entertain proposals for new
24 systems. We want to see their capabilities, be
25 able to give them a technical review and

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1 compliance with design design objectives. So if
2 there are new technologies out there, if there are
3 new ideas, we want to start looking at those in
4 terms of is this a good backup means for alert
5 notification.

6 Our primary purpose is to make sure
7 that everyone in the emergency planning zone is
8 notified in the event of an emergency. So how do
9 we go about that? There are many new ways out
10 there that we can look at, and implementation
11 periods of up to three years, to transition to new
12 backup means.

13 MEMBER STETKAR: Harry, before you
14 leave this thought, I have a couple of questions.

15 MR. SHERWOOD: Yes.

16 MEMBER STETKAR: This 45 minute goal
17 that you note, is that a goal for alerting of
18 everyone in the EPZ of the conditions? For
19 example, of a regional backout, loss of all A/C
20 power, so that you have, you can assure -- and if
21 it's done under route alerting. So you have to
22 then mobilize a fairly large number of resources
23 to accomplish that level of alerting within 45
24 minutes.

25 So do you -- is that part of this

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1 planning?

2 MR. SHERWOOD: That's part of the
3 planning process that we look at now. Now there
4 have been variations in how that has been
5 interpreted over the years, and it went from a
6 hard and fast rule, at one time, that we set a
7 time limit, to other times that we wanted a timely
8 alert notification, or a timely execution of
9 backup route alerting.

10 So between all the pushing and shoving
11 back and forth, we have set a target of 45
12 minutes. You'll see some more, so much more
13 detail in the impact papers, which now have been
14 published. They are official, and we really mean
15 it this time, and we made them public documents,
16 and they're up on Regulations.gov.

17 But yes, 45 minutes is the target. We
18 do recognize that there are variations. When we
19 see a demonstration of it, now do we expect the -
20 - our off-sites to simulate a full-blown complete
21 outage of the entire siren system and then
22 mobilize everybody and go out and do that? Is
23 that reasonable? No.

24 MEMBER STETKAR: Why isn't it
25 reasonable?

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1 MR. SULLIVAN: Wait. I'm having deja
2 vu all over again of a conversation we had about
3 SOARCA --

4 MEMBER STETKAR: No, no, no. This has
5 nothing to do with SOARCA. I mean it does, but
6 I'm over that.

7 MR. SULLIVAN: Right. We're talking
8 about a key hole. The current power system is for
9 a key hole, and come the revolution it will go to
10 staged, which is two mile and then expand. So you
11 don't need to do ten mile 360 immediately. You
12 eventually need to, but not in the first whack at
13 it.

14 MEMBER STETKAR: When the sirens are
15 activated, where are the sirens activated?

16 MR. SULLIVAN: They activate 10 mile
17 360.

18 MEMBER STETKAR: Okay, thank you. Now
19 if I have the great Northeast blackout, and I have
20 only A/C powered sirens, and my power supply for
21 all of those sirens is dead. So therefore I'm met
22 with darkness and deathly silence 360 ten miles.

23 The goal is to have alerting of all
24 the public within that area within 45 minutes, if
25 I heard you.

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1 MR. SHERWOOD: Not from when the
2 lights go out, but in the event of an emergency.
3 So --

4 MEMBER STETKAR: Okay, yeah. But loss
5 of offsite power and station blackout are
6 important contributors to risk at many nuclear
7 power plants.

8 So there's some chance that my plant
9 could declare some emergency situation under those
10 conditions. You said that it's not reasonable to
11 exercise the capabilities of off-site responders
12 under those conditions.

13 Well, we've had several blackouts.
14 Fortunately, you know, we've never had a serious
15 nuclear power plant accident under those
16 blackouts. But large, protracted blackouts are a
17 countable event. We're not talking about now the
18 biggest earthquake that you've never seen or that
19 sort of thing. These are countable events.

20 I was curious why you don't feel that
21 that's something that you should exercise --

22 MR. SHERWOOD: To send them all out on
23 the routes, what we do typically in an exercise is
24 we'll have them demonstrate a couple of the
25 routes.

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1 Now that doesn't mean we don't make
2 sure that that capability is there, because during
3 the exercises, we have people at the various
4 stations where they have the resources for backup
5 route alerting. We make sure that there's
6 sufficient people there, there's sufficient
7 vehicles in the event that okay, your station
8 covers sirens XXXXX. If they all go out, if
9 they all fail, can you cover those routes, and
10 they'll say "Yes. So and so and so and so and so
11 and so, and they'll do this route."

12 MEMBER STETKAR: Good.

13 MR. SHERWOOD: So we want them to go
14 out all over the countryside. We have them
15 demonstrate from time to time, and they will run
16 some individual routes.

17 MR. SULLIVAN: Let me ask you
18 something related, but somewhat different. In the
19 statement of considerations for the rule, there's
20 a discussion regarding whether or not the rule
21 should have required either D/C powered or some
22 other emergency backup power for siren systems,
23 and we had a discussion about that a few minutes
24 ago.

25 In the statement of considerations, it

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1 says "Rejecting this approach does not mean that
2 the issue of backup power for warning systems will
3 be left unaddressed. As discussed previously, the
4 House Committee on Appropriations directed FEMA to
5 require all outdoor warning systems to be operable
6 in the absence of A/C power." Is that true?

7 MR. SHERWOOD: Well, we are currently
8 under the revising, FEMA Rev. 10, which does set
9 the requirements and the technical specifications
10 for alert and notification systems. That's a work
11 in progress right now.

12 MR. SULLIVAN: Okay. My question was
13 going to be will FEMA require all outdoor systems
14 to be operable in the absence of A/C power, and if
15 so, when is that requirement going to be
16 implemented, and if the requirement is
17 implemented, what is the penalty for failure to
18 comply with that requirement?

19 MR. SHERWOOD: That I don't know, but
20 I can get you an answer.

21 MR. SULLIVAN: Okay. I appreciate
22 that.

23 MEMBER RAY: Different subject, but as
24 long as you've been interrupted, you're talking
25 about things which cause me to wonder about

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1 circumstances in which you may have heard me say
2 earlier, somebody says "well, if you want the
3 support you're going to have to pay me for the
4 support," and you wind up having to work that out
5 with the -- between the licensee and the agency.

6 Is that something -- how do you manage
7 that or is that something you've never
8 experienced? What's the implications of that kind
9 of a circumstance for the work that you're talking
10 about doing here?

11 MR. SHERWOOD: You mean as far as
12 implementation?

13 MEMBER RAY: The fire department,
14 whoever, would say you want me to be responsive.
15 That means I'm going to have to have somebody
16 committed to be responsive, and that's going to
17 require some increase in my budget, so pay me.

18 MR. SHERWOOD: Well, there's a number
19 of things that -- now does FEMA regulate local
20 responders?

21 MEMBER RAY: You get involved in
22 solving those problems. That's what I'm trying to
23 say. Do you just say it's not my business, I
24 don't care?

25 MR. SHERWOOD: We can bring some

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1 things to the table, but like every other agency,
2 there's a certain amount of things that we can do.

3 For instance, we have various grant programs that
4 we can assist local governments and states and
5 assistance to firefighters.

6 MEMBER RAY: I would think you'd just
7 tell the licensee "pay up and let's get on with
8 things."

9 MR. SHERWOOD: Well, we don't regulate
10 the licensee.

11 MEMBER RAY: That's what I'm -- I'm
12 also aware of that too.

13 (Laughter.)

14 MEMBER RAY: That's what these guys
15 would say.

16 CHAIRMAN SIEBER: Well Harold, I think
17 that it's much more subtle than that.

18 MEMBER RAY: Well, I know Jack, but
19 I've been there.

20 CHAIRMAN SIEBER: If you can't meet
21 the rule, you figure out what it is you have to do
22 to meet the rule, and then after you do that, you
23 meet the rule.

24 MR. SHERWOOD: Well, I approach it
25 from the standpoint of an emergency manager. I've

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1 been in the REP program X number of years; I've
2 been an emergency manager for 32 years. The off-
3 sites that I work with are professionals, and they
4 are excellent organizations.

5 So what I look at it as, it's a
6 partnership, that there are some times that they
7 might have a need. If they're unable to meet
8 that, I can go back to my agency and I can have
9 people start looking around for okay, what can we
10 do in the way of resources here?

11 MEMBER RAY: Well, that's very
12 generous of you. I just think that there's a
13 reason why I ask the question, which is where lies
14 the incentives? If something is needed in order
15 to provide an adequate response, clearly the
16 licensee can pay if they choose to.

17 Do you find that that's something that
18 has to be done, or do you go back and look for the
19 taxpayer to pay for it somehow, which is what it
20 sounds like to me?

21 MR. SHERWOOD: Well, that's internally
22 within the state, for what the state wants their
23 taxpayers to do.

24 MEMBER RAY: All right. So you just
25 don't get involved in that. I can clearly see

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1 that's --

2 MR. SHERWOOD: To some extent.
3 There's only so much we can do. The two states
4 that I deal with primarily, one is a home rule
5 state. So the state doesn't even enter into the
6 picture. It's strictly the local governments to
7 determine what they want and what capabilities
8 that they have and what they deem adequate and
9 what they want to participate in.

10 MEMBER RAY: They're even more likely
11 to do that. But anyway --

12 MR. SHERWOOD: So a lot of it is --

13 MEMBER RYAN: Harold, you pay property
14 taxes that funds these agencies.

15 MEMBER RAY: Well, I didn't mean to
16 get into a philosophical debate --

17 (Simultaneous discussion.)

18 MEMBER RYAN: Did they tell you to get
19 lost when you asked for support?

20 MEMBER RAY: No. They simply say what
21 I said, which is if you want something dedicated
22 to respond to you, you have to pay. I just
23 wondered if FEMA had a -- it doesn't sound like
24 you guys get involved in that at all.

25 MR. SHERWOOD: We do to an extent, but

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1 as far as within the limitations of law. Like we,
2 FEMA has been over the years a coordinating
3 agency. We do the REP program in support of NRC,
4 and in the meantime, you know, our primary role is
5 emergency management.

6 So all of the off-sites that I deal
7 with now under the REP program, I've worked with
8 for years on the emergency management side of the
9 house. So --

10 MEMBER RAY: Okay. I guess I would
11 have felt better if you'da said well, that's the
12 licensee's problem, rather than it's your problem.

13 MR. SHERWOOD: Okay.

14 CHAIRMAN SIEBER: That may make it the
15 licensee's problem.

16 MEMBER RAY: It may, but it doesn't
17 sound like it does. Yeah, okay.

18 MR. SHERWOOD: I promised a discussion
19 about NIMS and ICS. National Incident Management
20 System and the Incident Command System. More
21 often than not, I'm -- I frequently have to talk
22 to groups and say what it isn't, and one of the
23 first things that people say "Well, NIMS is ICS."
24 Well, it is and it isn't.

25 National Incident Management System

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1 basically is a whole set of tools that we have
2 guidelines that are out that assist local
3 planners, state planners, supposedly federal
4 agencies too. We as FEMA, we are required to be
5 NIMS-compliant, and if we provide grant assistance
6 to a state and local government, we require them
7 to be NIM-compliant.

8 Well, what is NIMS? It's a whole set
9 of things. It includes common ways of doing
10 business, and the goal for NIMS is so people and
11 resources from multiple organizations can come
12 together and be able to speak the same language or
13 understand each other, know what they're doing, be
14 able to support each other in a way that's
15 scalable and efficient.

16 Well, what does that mean to a local
17 government? Well, a local government is fighting
18 a fire and there was a rather vigorous discussion
19 of a brush fire off someplace, and say somebody
20 else has a need for a fire resource. So a local
21 government is committed one place or another and
22 somebody calls up and says "Well, I've got a big
23 fire over here." Well, what do you need?

24 Under NIMS, you have what's called
25 resource typing. So a fire lead in a certain

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1 agency or a facility can say well, I need a Type 2
2 truck. Immediately, if they understand NIMS,
3 they'll know exactly what kind of crew would come
4 with that, what capability it has. It makes it
5 simpler.

6 Then and whoever is the responding
7 agency will understand, okay, do I have one
8 available? If not, who has one, and who can
9 dispatch it right away? So the people providing
10 it knows what's needed; the people requesting it
11 knows exactly what to expect when it gets there
12 and what capabilities they have.

13 The same applies true to things like
14 air tankers, medical response equipment, law
15 enforcement, incident command teams, hazardous
16 material response. So it's a number of things.

17 Second, when they get there, they will
18 know who to report to, who is in charge, who is
19 doing business and in what manner, and where
20 exactly in the organization they will fit. So
21 it's something brought together by years of
22 experience, and it's still an evolving process.

23 But the whole idea is to make local
24 agencies, multiple groups that have diverse
25 backgrounds, be able to work together and do it

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1 efficiently. That is why we encourage people to
2 be NIMS-compliant. Our local governments, we do
3 have the grant requirement, that we expect them to
4 be NIMS-compliant.

5 All of the off-sites that I deal with
6 are NIMS-compliant, and they have adopted the
7 Incident Command System, and it's something that
8 we encourage our utility partners to become NIMS-
9 compliant, to the extent that they understand how
10 it works and how it ties into the process.

11 In the discussion about providing say,
12 for instance, fire support or law enforcement
13 support to a utility, wouldn't it be much simpler
14 for a utility to be able to call up and say "I
15 need a Type 2 strike team right away."
16 Immediately, they know what's involved there. Or
17 in terms of being able to provide mutual aid
18 agreements.

19 Nowadays, many mutual aid agreements
20 are structured along that, that not only would
21 they make a commitment that we will keep so many
22 types of resources of this sort available at any
23 given time, and here's how you go about requesting
24 it.

25 So that in a nutshell is really what

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1 we consider the benefits of NIMS and ICS. ICS is
2 simply a structured, scalable way of managing
3 incidents. In a place that's adopted incident
4 command, the first responder arriving on the
5 scene, you have an incident commander.

6 So if the foreman has a radio, then
7 okay, we have the incident commander and we have
8 the operations officer. If he has a credit card
9 in his wallet, there you have your administration
10 and support element. So as it grows, as the
11 individual elements arrive on scene, control of
12 the situation and command is handed off in an
13 orderly fashion, and it's scaled up and scaled
14 down as needed.

15 So I have seen many ICS operations
16 work very, very efficiently and I've seen them
17 coordinate very well with utilities. The next --

18 MEMBER STETKAR: Harry, before you
19 leave that.

20 MR. SHERWOOD: Yes.

21 MEMBER STETKAR: Just for my own sort
22 of personal interest in this, how long has this
23 system been -- you mentioned it's an evolving
24 process. But when did the evolution begin and --

25 MR. SHERWOOD: Well, now that it's

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1 being adopted, everybody claims to have invented
2 it now. But I could probably say my first
3 exposure to it was easily about 20 years ago, and
4 it emerged from the firefighting community.

5 MEMBER STETKAR: Let me now bring my
6 personal interest. I happen to live in Orange
7 County, California. Two years ago, during the
8 terrible fire storms in all of Southern
9 California, Orange County responded to mutual aid
10 requirements in Los Angeles County and sent all of
11 our firefighting helicopters north.

12 When the fires broke out in Orange
13 County, we had precisely zero firefighting
14 helicopters for three days, until they -- for some
15 reason. I don't know why it took three days to
16 fly the helicopters down south, but it did. Why
17 is this little story pertinent? It's pertinent in
18 terms of how does FEMA get involved in terms of
19 nuclear, radiological emergency planning, some of
20 the questions we were talking about before, to
21 assure that the resources are available to respond
22 to these types of incidents?

23 In other words, I at my nuclear plant,
24 I'll call it San Onofre, since it happens to be in
25 Southern California, require some support from

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1 off-site firefighters. How does FEMA and under my
2 emergency plan, I expect to have that support.

3 We heard earlier that it's FEMA's
4 responsibility to provide assurance that indeed
5 all of the resource capabilities are available out
6 in the local firefighting organizations, whether
7 it's police or whatever, to support that emergency
8 plan.

9 It seems to me that under t he fires
10 in Orange County, this was not a radiological
11 disaster, but under the fires, there was no
12 assurance that indeed adequate resources were held
13 back to deal with these types of situations. And
14 indeed, it took them, you know, it took them three
15 days to fly the helicopters down south, not -- it
16 wasn't a couple of hours.

17 MR. SHERWOOD: And that was one of the
18 key questions that we addressed. As you'll
19 recall, a couple of -- at that time, there was a
20 plant shutdown at that time, and for a restart, we
21 had to do a disaster-initiated review. And while
22 the fires were in progress, we did happen to be on
23 site, and that was one of the questions that I did
24 have for the off-site responders.

25 Okay, you've got people scattered all

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1 over Southern California moving people around.
2 Are your key personnel for executing your
3 emergency plan still in place? That was one of
4 the things that we did get assurance on, and
5 during the DIR, we found out that yes, they do
6 that.

7 If they do have to stage people and
8 provide mutual aid, the people that -- the
9 resources that are dedicated to their particular
10 emergency plan are held in place. If they have to
11 move them, they first bring in backfill and they
12 ensure that those positions are covered.

13 Otherwise, they would notify the state
14 that something, you know, that they do have an
15 issue with, in terms of being able to maintain
16 that capability.

17 MEMBER STETKAR: Good. But what you
18 said helps an awful lot. Thank you.

19 CHAIRMAN SIEBER: Okay.

20 MEMBER RAY: Yes. We still had to pay
21 for -- anyway.

22 (Simultaneous discussion.)

23 MEMBER STETKAR: What I heard is
24 indeed they confirmed that at least those
25 resources to comply with San Onofre's emergency

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1 plan were in place. So that's good.

2 MR. SHERWOOD: And as part of our plan
3 review process, these are among the things that we
4 do cover with our off-sites. Another thing is the
5 Homeland Security Exercise and Evaluation Program,
6 HSEEP. It's a five-letter word, not a four-letter
7 word.

8 But that, there has been a great deal
9 of interest in what exactly is HSEEP. HSEEP is
10 essentially a system of a set of tools, again, for
11 planning, executing, evaluating and doing the
12 improvement planning following exercises.

13 HSEEP actually was a product many
14 years ago, when they started developing a national
15 exercise program, they looked at what were the
16 best-developed exercise programs in the country,
17 and they looked at two of them: CCEP and REP, the
18 Radiological Emergency Preparedness Program.

19 And a lot of the elements of HSEEP
20 were drawn out of the REP program and incorporated
21 into this system. So what it does is it provides
22 for objective-based exercise planning. So we look
23 at a slightly different way and gradually it will
24 give us a lot more tools to be able to plan our
25 exercises and look at different ways of evaluating

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1 things.

2 But we look at objectives. HSEEP
3 nationwide, it has what's called a target
4 capabilities list. So they conduct their
5 exercises and the exercise planning based on
6 target capabilities. We have specific criteria
7 that we look at.

8 So as we incorporate the REP program
9 into the national exercise program, we start
10 looking at okay, what are the commonalities in the
11 program, what can the REP program bring to HSEEP
12 to make it better, and what HSEEP bring to the REP
13 program?

14 You heard a number of things with
15 variations in the exercise cycle, and what in the
16 event do we have if we have a biennial exercise
17 where there's no release? Well, how do we
18 demonstrate those capabilities then? HSEEP gives
19 us an additional set of tools that we can use.
20 There are other ways that we can look at and
21 evaluate capabilities.

22 So instead of full-scale exercises, we
23 can do functional exercises, we can do drills.
24 There are numerous opportunities where we can take
25 advantage of regular training opportunities, and

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1 being able to evaluate those capabilities, and do
2 it in a way that first of all, we reduce the
3 exercise fatigue.

4 Not only are our off-site
5 organizations conducting exercises in response to
6 our program; they're running all over doing
7 exercises for everyone else too.

8 We want to reduce that exercise
9 fatigue, but at the same time, if they're
10 participating in other exercises, or if they need
11 to meet an exercise requirement for another
12 program, let's take advantage of these
13 opportunities we have in the multiple exercises
14 we're doing.

15 We also have a process that we can
16 document the outcome of an exercise, and bring it
17 into a planning and improvement planning process.

18 So rather than simply saying ahh, pass or fail,
19 we have a system now to capture the exercise
20 issue. What happened in the exercise; what can we
21 improve, what can we make better, and have a
22 sensible way and a documented way to follow
23 through on making things, making the program
24 better and at the same time if there are issues
25 that do need to be corrected, we have a way of

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1 tracking those issues and making sure that
2 everything that we need to look at gets addressed.

3 So there's follow-through. It's a
4 systematic approach to conducting exercises that
5 we hope will give us a lot more tools to be able
6 to bring to the REP program, and if anything, make
7 the program more sensible, and at the same time
8 more robust, what we like to call "cost
9 effective," more bang for the buck.

10 CHAIRMAN SIEBER: I'm thinking HSEEP
11 applies to more programs than just the REP
12 program?

13 MR. SHERWOOD: That is correct. HSEEP
14 is basically the cornerstone of the national
15 exercise program. You will look at everything
16 from local exercises being conducted by state and
17 local governments to national level exercises.
18 They are all being conducted under HSEEP.

19 CHAIRMAN SIEBER: For example, there
20 are exercises for aircraft disasters and so forth,
21 the same program. So that way, it's through all
22 of these initiatives, through HSEEP, through NIMS,
23 through ICS, what we're doing is we're bringing
24 this program into, and the way our off-sites
25 conduct business.

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1 So rather than having a separate way
2 of doing business for a radiological emergencies,
3 let's do an all hazards approach. So let's plan,
4 let's exercise, let's communicate and let's
5 respond, the same way we do for our plants as we
6 do for every other type of emergency.

7 CHAIRMAN SIEBER: Now the off-sites
8 have training requirements also.

9 MR. SHERWOOD: Yes.

10 CHAIRMAN SIEBER: In the old days,
11 they used to look at exercises that are exercised
12 every portion of their plan as fulfilling their
13 training requirement. HSEEP doesn't do that,
14 doesn't require exercise each and every portion of
15 your plan.

16 So do you have objections from state
17 and local officials that say your exercise
18 evaluation program has not permitted me to train
19 and evaluate each aspect of my emergency response?

20 MR. SHERWOOD: Well, that's where the
21 planning process comes into play, because for
22 HSEEP to be able to do that, it requires that, you
23 know, I for one, as the RAC chair, be able to work
24 with my states and with my off-sites, and meet
25 their training and exercise objectives.

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1 So it's a partnership. They have to
2 tell me what they need to, what their capabilities
3 are that they want to exercise, what objectives
4 they need to demonstrate in order to meet their
5 requirements, and I bring to the table what I need
6 to see during that exercise cycle. So it has to
7 all come together.

8 CHAIRMAN SIEBER: That shapes what the
9 exercise, what components the exercise will have.

10 MR. SHERWOOD: Uh-huh.

11 CHAIRMAN SIEBER: Now in the ordinary
12 planning process, licensees only -- a few of them
13 really knew what the exercise was going to be
14 about before the licensee participated in it. Do
15 you maintain that same carve-out of
16 confidentiality with state and local officials, so
17 that the exercise actually does evaluate --

18 MR. SHERWOOD: Well, there are certain
19 requirements of confidentiality we still meet. So
20 for instance, we don't, we still maintain that the
21 scenario remains confidential.

22 CHAIRMAN SIEBER: Right.

23 MR. SHERWOOD: They know there's going
24 to be an exercise, but that's about all they know.

25 CHAIRMAN SIEBER: They may not know

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1 exactly when.

2 MR. SHERWOOD: Well, most of the time
3 they have a pretty good idea of when now.

4 CHAIRMAN SIEBER: Most of the time
5 they know it's coming this week or --

6 MR. SHERWOOD: Yeah. Well nowadays
7 they pretty much know the exercise day as well.
8 Now as far as opinions, whether I'm old school, I
9 should think they should be unannounced. That's
10 opinion. That's my opinion, but that's -- but
11 then again, we want to meet our objectives, and
12 that's the main focus.

13 And there's other, there are other
14 things that we can do as well, where traditionally
15 we looked at everything in an exercise. There's
16 pieces we can bring out of the exercises and look
17 at them separately as well.

18 MEMBER RYAN: Is there any sharing
19 with the REP program in NSSA for the radiological
20 part of all this, because they have a very similar
21 set up?

22 MR. SHERWOOD: Well, we do have their
23 support in many of our exercises. So sometimes
24 they come out and they assist us in evaluating our
25 adjusting pathway, or sometimes just in our

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1 regular --

2 MEMBER RYAN: Are they an expert
3 resource for FEMA and for these exercises?

4 MR. SHERWOOD: Yes.

5 MEMBER RYAN: That's interesting.

6 MR. SHERWOOD: Yes. We use other
7 federal agencies as part of our evaluation team.

8 MEMBER RYAN: Yeah. So they focus
9 mainly on some of those skill sets, like internal
10 dosimetry, plume modeling, those kind of things?

11 MR. SHERWOOD: Yes.

12 MEMBER BLEY: Harry, you began this
13 discussion with something that made me a little
14 nervous, but maybe it changed a lot.

15 When you said this was based on the
16 very successful CCEP program, the CCEP I was aware
17 of was associated with the chemical weapons
18 program, and at least when I saw it, it was sort
19 of a way to move vast quantities of money from one
20 government area to another. But I think FEMA took
21 it over at some point.

22 MR. SHERWOOD: That is correct.

23 MEMBER RYAN: They tell me that it
24 changed a lot after --

25 MR. SHERWOOD: That's the other side

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1 of the floor. If you go to the headquarter where
2 we operate here in D.C., one half is REP and the
3 other half of CCEP, and that program, about how
4 far along -- is it towards closing down now.

5 MEMBER RYAN: Moving along, yeah.

6 MR. DeFELICE: The CCEP program is
7 closing out. We have six Army depots still in
8 existence, and four will be closing out by next
9 year. There will be two. Colorado and Kentucky
10 will be closing in 2017, and I think 2023 are the
11 other. But they'll be around for a while. But
12 yes, CCEP is winding down.

13 CHAIRMAN SIEBER: Sir, just make sure
14 you identify yourself for the record.

15 MR. DeFELICE: Anthony DeFelice, FEMA,
16 Office of Chief Counsel.

17 MR. SHUKLA: And this can be public
18 knowledge?

19 MR. DeFELICE: Yes.

20 CHAIRMAN SIEBER: Oh yeah.

21 MR. DeFELICE: Yes. The CCEP program,
22 Chemical Stockpile and Preparedness Program, yes.

23 CHAIRMAN SIEBER: Okay, Harry.

24 MR. SHERWOOD: Okay. Do we have --
25 are there any other questions about HSEEP or NIMS,

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1 ICS or -- so we've come to the final slide. What
2 do we do next? Okay. We've adjudicated the
3 comments. Basically, we're in that FEMA and NRC
4 regional and headquarters management review and we
5 will continue with that.

6 As part of our way of life, once we
7 complete our management reviews, it goes on to DHS
8 review and we have to go through review by the
9 Office of Management and Budget. Our target date
10 for publication issuance, we still want to
11 maintain alignment with Nuclear Regulatory
12 Commission rulemaking process. So that's
13 basically my presentation.

14 CHAIRMAN SIEBER: Thank you very much.

15 We have ample time between now and 11:59 p.m. I
16 suggest we take a 15 minute break and come back at
17 3:45.

18 (Whereupon, a short recess was taken.)

19 CHAIRMAN SIEBER: Okay, I think we can
20 begin again.

21 MS. PERKINS-GREW: Okay. Good
22 afternoon, Dr. Sieber. Thank you for this
23 opportunity to present in front of you and the
24 rest of the Subcommittee our prepared remarks.

25 I'm Sue Perkins-Grew. I'm the

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1 Directors of Emergency Preparedness at the Nuclear
2 Energy Institute. I heard some hinting around the
3 Seabrook Station site. I spent 27 years at
4 Seabrook Station before I took a loan position at
5 NEI, coordinating the hostile action-based drill
6 initiative for NEI and now I am permanently with
7 NEI as an employee.

8 I'm joined here by my colleagues Mr.
9 Mike Slobodien from Entergy, Marty Hug from NEI,
10 Keith Kemper on my right from Excelon and Paul
11 Serra from Dominion. We provided the NEI comments
12 submittal package to you, I think it was last
13 Thursday, so hopefully you have that as a
14 reference, because a lot of the comments that
15 we're going to make this afternoon are based from
16 our comment submittal.

17 MR. SHUKLA: No, they do not have your
18 comments.

19 MS. PERKINS-GREW: They do not?

20 MR. SHUKLA: No.

21 MS. PERKINS-GREW: Okay. Well, they
22 will be made available at some point.

23 MR. SHUKLA: No, no. We don't
24 entertain comment directly.

25 MS. PERKINS-GREW: Oh, you don't.

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1 Okay. Well nevertheless, they are the basis of
2 our comments here today, and I think it's worth
3 noting that not only do my colleagues have
4 extensive experience in emergency preparedness,
5 health physics and nuclear security and just
6 nuclear power plant operations, but a lot of the
7 individuals that have provided those comments --

8 MR. SHUKLA: But just to correct
9 myself, these comments were provided to the staff
10 before.

11 MS. PERKINS-GREW: That's correct.

12 MR. SHUKLA: And you just sent me the
13 copies?

14 MS. PERKINS-GREW: That's correct.

15 MR. SHUKLA: Yeah. We don't take
16 those comments.

17 MS. PERKINS-GREW: Okay. That's a
18 process I didn't understand.

19 CHAIRMAN SIEBER: But they're a public
20 comments.

21 MEMBER STETKAR: We have access to
22 them, of course.

23 MR. SHUKLA: Yes, we have access.

24 MS. PERKINS-GREW: Yeah, they're on
25 the public docket.

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1 MR. SHUKLA: Thank you.

2 MS. PERKINS-GREW: Absolutely, they're
3 on the public docket.

4 MR. SHUKLA: She asked me for you guys
5 to deliberate in the meeting, and we don't do
6 that.

7 MS. PERKINS-GREW: Just so you have
8 for a reference.

9 MEMBER BLEY: But we have them.

10 MS. PERKINS-GREW: You do, okay. I
11 think it's appropriate to open up our remarks with
12 the following statement, that NEI agrees with the
13 NRC's conclusion that the existing basis for
14 emergency preparedness at nuclear power plants
15 does remain valid, including the scope and the
16 timing issues.

17 And I think the fact that the NRC has
18 affirmed that our emergency plans remain valid,
19 and that the proposed changes are actually
20 enhancements, is the foundation for our remarks.
21 Next slide, Marty.

22 Our remarks fall into the three
23 topical areas of the process of proposed
24 rulemaking implementation, the cumulative impact
25 on licensees and their off-site response

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1 organization partners, and consideration of state-
2 of-the-art reactor consequence analysis or the
3 SOARCA.

4 Our first concern with the process
5 regards a proposed or excuse me, implementation
6 schedule. According to the schedule, all 12
7 rulemaking issue areas must be implemented within
8 a time frame that ranges from 30 days to 395 days.

9 There is little stretch time for the hostile
10 action evaluated exercise, dependent on the
11 schedule of exercises after that published date.

12 But for all intents and purposes,
13 we're talking a fairly short window of 395 days
14 for all 12 rulemaking areas. This overly-
15 aggressive is not, doesn't appear to be
16 commensurate with the affirmation that these
17 changes are indeed enhancements to the existing
18 plans, and conveys a sense of urgency.

19 Yet we need to proceed with a very
20 deliberate and disciplined manner for
21 implementation. It took over ten years of a
22 process to determine what these changes should be,
23 yet the licensees and the off-site response
24 organization is expected to implement all of these
25 areas within a relatively short period of time.

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1 These changes require considerable
2 coordination with off-site response organizations,
3 interaction with other recent rulemaking including
4 cybersecurity, regular security, physical security
5 improvements and the fatigue rule, and the program
6 requirements establish and yet-to-be published by
7 FEMA.

8 We just heard about the eight impact
9 summaries from the FEMA issues, and I think we
10 need to really understand and accept the fact that
11 the off-site response organizations, through the
12 rewrite of the FEMA programming, are going to
13 change extensively, and those plans have to be
14 closely dovetailed with the licensee's plan.

15 The industry does support enhancing
16 its emergency preparedness programs to heighten
17 preparedness in a new threat environment. I think
18 we demonstrated this by the hostile action-based
19 drill initiative. Over three years, every nuclear
20 power plant and their respective off-site response
21 organizations demonstrated a hostile action-based
22 drill at each site.

23 Not only that, but NEI developed the
24 guidance that licensees could use in order to
25 conduct a hostile action-based drill, and we've

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1 also submitted Rev. 2 of that guidance document to
2 the NRC for endorsement. So I think we've
3 demonstrated that we are certainly behind the
4 notion of enhancing our emergency preparedness
5 programs.

6 However, in the aggregate, the
7 requirement to implement all of these rule areas
8 within the short period of time causes
9 considerable burden to licensees and their off-
10 site partners.

11 A specific example to illustrate this,
12 if you take the hostile action-based exercise
13 requirement to demonstrate within two years of
14 the publication of the rule, that means that, for
15 example, for Excelon in the state of Illinois,
16 they must conduct six hostile action-based drills
17 within a two year time frame.

18 When you look at the off-site
19 consideration of this, the state of Illinois and
20 respective counties have to conduct six drills
21 using the same response organizations in a very
22 short, within two years.

23 Similarly, the state of Pennsylvania,
24 they will have to conduct five hostile action-
25 based exercises within two years.

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1 CHAIRMAN SIEBER: And that's from the
2 date of final publishment of the rule.

3 MS. PERKINS-GREW: Correct.

4 CHAIRMAN SIEBER: Which is going to be
5 seven months from now.

6 MS. PERKINS-GREW: Correct. So they
7 have --

8 CHAIRMAN SIEBER: Two years and seven
9 months.

10 MS. PERKINS-GREW: But still a
11 compressed period of time when you have to do
12 consecutive redundant drill exercises.

13 MEMBER ARMIJO: Are they really
14 redundant, those drills?

15 MS. PERKINS-GREW: They're using,
16 they're concentrating the same resources, which is
17 largely law enforcement. Yes, the scenarios will
18 be different. They'll be varied, from a land-
19 based attack, air attack. I mean that's up to the
20 licensee and the off-site. But you're focused on
21 the same limited resources.

22 MEMBER ARMIJO: Yes, okay. I
23 understand.

24 MS. PERKINS-GREW: The second concern
25 regarding the implementation process pertains to a

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1 change in basis or expansion of scope, that will
2 require more time to implement.

3 What we mean by that is from the time
4 the draft rule was made available, and we started
5 monitoring this, commenting on it, it seems to be,
6 have some expansion from the original, either pre-
7 draft or preliminary rule language or when the
8 statements are made that this codifies the
9 security rule or codifies the Bulletin 2005-02.

10 The language that we're dealing with
11 now in the pre-decisional seems to have expanded
12 the scope a bit. An example, licensees will have
13 to perform an on-shift staffing analysis within
14 365 days. We talked about that a lot earlier
15 today from the proposed rule.

16 Yet the guidance is unclear as to the
17 timing of the implementation. So if a corrective
18 action has to be taken as a result of that in-
19 depth staffing analysis, such as adding additional
20 personnel on shift, it's unclear to us what the
21 timing is of that actual implementation.

22 This is also why that part of our
23 preparation for implementation of this rule, the
24 industry and NEI have drafted NEI 1005, that is
25 proposed template for conducting this on-shift

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1 staffing analysis, because where we don't want to
2 be in the future is having licensees taking
3 different approaches to conducting the staffing
4 analysis. Therefore, it leads to inconsistency
5 and therefore leads to inconsistency in
6 inspection.

7 So we have drafted Rev 0 of this
8 analysis template, and we will be asking for
9 another public meeting with the NRC, and
10 ultimately, we would like this to be endorsed by
11 the NRC as the standard for the analysis going
12 forward.

13 We also see the current requirements
14 for the alternate facilities as an expansion in
15 scope from the Bulletin 2005-02. The current
16 characteristics and capabilities seem to be more
17 than codifying the bulletin as it was originally
18 presented.

19 So again, we're looking for, and I
20 think some of the discussion led down this path
21 this morning, where we need additional clarity to
22 know exactly what it is we are to implement, and
23 how we are going to be evaluated on it. What are
24 the criteria that we will be evaluated going
25 forward, once we reach implementation, and there

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1 seems to be a need for additional clarity.

2 Therefore, a need for perhaps if there
3 are additional requirements for these alternate
4 facilities, that may mean additional time to
5 implement. Lastly, we've seen that both FEMA and
6 NRC agree with the need to require backup to the
7 alert notification system.

8 The NRC is prescribing capabilities
9 for a backup alert notification system through the
10 interim staff guidance. Yet the criteria for
11 evaluation and acceptance of the ANS, the alert
12 notification system, resides in FEMA's REP 10.

13 FEMA's REP 10 report hasn't been
14 updated since 1985. So here, we have the ISG
15 prescribing the backup system, absent a FEMA
16 criteria for which it's going to be evaluated, and
17 the revised FEMA REP 10 manual will most likely be
18 published for public comment, it seems like it
19 could be published for public comment after the
20 Commission even approves the final rule and
21 therefore the guidance documents.

22 Regarding the cumulative impact on
23 licensees in the off-site response organizations,
24 the cumulative impact stems from the total burden
25 imposed on licensees by the NRC from simultaneous

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1 or consecutive regulatory actions. It may have a
2 consequence of adversely affecting the licensee's
3 capability to implement those requirements, while
4 continuing to operate in construct its facility in
5 a safe and secure manner.

6 The NRC had been directed by the
7 staff, following a December 8th, 2009 briefing on
8 emergency preparedness, to consider for all future
9 rulemakings, if the schedule for implementation of
10 those new regulations should be influenced by the
11 aggregate impact of the new regulations, and
12 others that may be scheduled for implementation.

13 The Commission had queried the staff
14 in several briefings last year on the impact of
15 rulemaking implementation dates, noting the
16 overlay of several rulemakings, and again, you
17 know, referring to the cybersecurity rule, the
18 physical security rule and the worker fatigue,
19 placing you know, enormous demands on the
20 licensees.

21 And again, I go back to the EP rule is
22 focusing on enhancements. So we're just looking
23 at the aggregate impact that that has from the
24 holistic viewpoint of all the other rulemakings
25 that are occurring within the same time frame.

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1 As we heard earlier today, as far as
2 the EP rule, this is just first wave. Once this
3 is complete, we're going to be looking at the
4 initiative that Randy Sullivan talked about, which
5 is the risk-informed emergency preparedness
6 project that will be, I guess will be starting in
7 2011 as a project.

8 Also, when we talk about the
9 collective impact on licensees, we also have to
10 recognize the same for the off-site response
11 organizations. The licensees cannot be successful
12 without the off-site response organizations that
13 supports the emergency preparedness process. And
14 again, we looked at a lot of changes that are
15 going to be taking place, that impact state and
16 local response plans and programs.

17 That has to be done in a very
18 choreographed manner, with the licensee making its
19 changes to comply with the NRC side of the
20 proposed rules. So again, cumulatively, this is,
21 you know, it's very important to us, to make sure
22 that ample time is provided to both our off-site
23 partners and the licensees, to make sure it's
24 deliberate and disciplined.

25 Lastly, in consideration of the state

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1 of the art reactor consequence analysis, the pre-
2 decisional interim staff guidance states that the
3 NRC will review the final results of SOARCA, and
4 determine if changes to emergency planning bases
5 are warranted.

6 From the preliminary reviews,
7 conclusions in SOARCA could impact some aspects of
8 the current rulemaking pertaining to 10 C.F.R. 50
9 Appendix Echo 4.4, 4.5, relating to evacuation
10 time studies and the supporting guidance in the
11 new NUREG 7002.

12 Further, if the preliminary
13 conclusions of the SOARCA study hold that accident
14 progressions are slower and source terms are
15 smaller than current models, they could be a
16 significant impact on the analyses required in the
17 proposed Appendix Echo, and interpreted in the new
18 NUREG 7002. Next slide, Marty.

19 So with all that, we just come and
20 offer a few recommendations, most importantly to
21 consider the holistic impacts to licensees
22 concerning the implementation schedule. And
23 although the staff has adopted some of our
24 schedule implementation suggestions from the
25 comment submittal that we provided last October,

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1 we request the same, that the Subcommittee review
2 additional schedule recommendations for the
3 following reasons:

4 The aggregate impacts from the rule
5 areas and the comments the industry has submitted
6 with proposed guidance we feel would have sewn up
7 some of these clarity issues that we have.
8 However, some of the comments are not in -- were
9 not accepted by the NRC.

10 We will be providing the NRC another
11 letter detailing the issues of clarity that we
12 still have, and we also will be in attendance for
13 the next public meeting. But again, when you
14 don't have clarity to begin your implementation
15 process, it may impact the implementation time.
16 That's all we're saying.

17 And the guidance has expanded the
18 scope from what was originally required in the
19 post-9/11 orders and bulletins, so that in some
20 cases the work that we did to comply with those
21 orders and bulletins will have to go back and
22 require re-analysis or rework to some degree.

23 Then lastly, considering SOARCA
24 findings, we understand that it has yet to be
25 reviewed and finalized. We understand that. But

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1 we request that, you know, that be taken in as a
2 consideration, as the final rules are reviewed.

3 Taking SOARCA into consideration, you
4 know, there might be consideration of how this
5 impacts the new rule changes as they impact the
6 ETEs, the evacuation time estimates, and we have
7 expectation that the entire concept of the
8 emergency planning zone and the need for
9 protective actions would likely change, once
10 SOARCA is approved.

11 CHAIRMAN SIEBER: But that's not going
12 to be immediate. That's going to take time.

13 MS. PERKINS-GREW: We understand that.
14 But we just thought since the ISG referenced the
15 SOARCA, that perhaps, you know, we just wanted to
16 put it on record that we would like it -- if it
17 could be reviewed --

18 CHAIRMAN SIEBER: But right now,
19 SOARCA is not part of the consideration.

20 MS. PERKINS-GREW: So that concludes
21 our prepared remarks, but on behalf of my
22 colleagues, you know, we're here to answer any
23 clarifying questions that you may have.

24 CHAIRMAN SIEBER: So it seems that the
25 bulk of your problems revolve around the schedule

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1 for doing all of the tasks that are necessary to
2 fully implement and test the rule?

3 MS. PERKINS-GREW: That's correct.

4 CHAIRMAN SIEBER: Have you come up
5 with any industry estimate of what would be a
6 better schedule, other than never?

7 MS. PERKINS-GREW: Like I said, we do
8 support -- I'll turn to my colleagues. We did
9 submit our requested implementation time frames
10 for some of these. I would turn to Paul, Keith or
11 Mike to elaborate on what some of those time
12 frames were.

13 MR. KEMPER: Yes, I can start off.
14 You know, the hostile action-based drills. I mean
15 certainly we agree we need to begin to use those
16 in evaluated settings.

17 You know, my concern is looking to get
18 all of them done in a two-year period. I think
19 that's going to create a significant burden for
20 the off-site organizations, we mentioned, for them
21 to continue to do that.

22 I would suggest that that gets
23 expanded over the cycle, you know, with approval
24 of the specific dates from the NRC, so that we
25 could accomplish two things. One, what you're

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1 going to end up doing is creating a situation
2 where every cycle starts out with a preponderance
3 of all hostile action-based drills.

4 If you can spread them over the whole
5 cycle, that's going to leverage learning across
6 the industry, as we learned from other folks doing
7 them, instead of them being in such a compressed
8 time. It will allow the schedule to be
9 normalized, so that the drills across the industry
10 are spread out over time.

11 So for example, for that one, I would
12 suggest that we look at a pre-approved date for
13 those, but not to get them all done in such a
14 compressed amount of time.

15 CHAIRMAN SIEBER: Yes. Well, it's a
16 difficult question, and unfortunately it has taken
17 a lot of time to get the, first of all the orders
18 out on hostile actions and then the bulletin,
19 which was four years ago, four and a half years
20 ago.

21 MR. SHUKLA: About five.

22 CHAIRMAN SIEBER: And the rulemaking
23 has been, had a lot of extensive work. We're
24 coming up pretty soon on the anniversary of 9/11,
25 10th anniversary, and it's not clear to me that

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1 anyone could say that our collective actions have
2 been timely, you know. It's just taken a lot of
3 time, and unfortunately various agencies have used
4 up some of that time.

5 But I certainly appreciate your
6 comments, and some of us having worked in plants
7 recognize that these things don't happen
8 overnight. On the other hand, with a fine
9 organization like NEI, I'm sure that you'll
10 provide assistance and guidance to your members,
11 that will make them -- make it easier for them to
12 accomplish what they need to accomplish.

13 I think that we can look at the
14 schedule to see if it's practical or not, and the
15 staff will, I'm sure, do the same.

16 MEMBER ARMIJO: Well, what's wrong
17 with having, as far as I understand it, the
18 licensees will have the capability to address
19 these hostile actions without necessarily
20 demonstrating them in a drill. So I just don't
21 understand the need for compressing, a compressed
22 schedule for something that's viewed as an
23 enhancement.

24 I think an enhancement, you know,
25 what's the benefit of trying to squeeze everything

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1 into a very short time frame, if we're in pretty
2 good shape right now?

3 CHAIRMAN SIEBER: Actually --

4 MEMBER ARMIJO: I don't understand, I
5 don't see that. I'd like to hear a little more
6 about the additional scope that was not
7 contemplated when this started. You mentioned
8 that, and I guess I just missed it.

9 MR. SLOBODIEN: Let me pick up on the
10 point that you just made. When we, the industry,
11 look at -- and I'm talking about both regulator
12 and licensees, look at the hostile action threats
13 and exercises, we tend to look at it through a
14 narrow window, our window.

15 We may not take into consideration
16 that the off-site response organizations deal with
17 threats of the kind that we're concerned about in
18 other venues, not necessarily nuclear power
19 plants. They don't deal clearly with the specific
20 attributes of the nuclear power plant, but they do
21 deal with communication, they do deal with
22 takeback, they do deal with a variety of topics
23 that are certainly relevant and included within
24 hostile threats.

25 So that's one reason, from an off-site

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1 response organization perspective, that
2 compressing exercises into a very narrow and
3 short-term schedule may not be so necessary.

4 MEMBER ARMIJO: Well, the benefit.

5 MS. PERKINS-GREW: And to underscore
6 your point, the off-sites, I think Harry
7 mentioned, they have a lot of other exercises they
8 have to do. They can't focus all their time and
9 resources on the nuclear power plant.

10 So you know, that's again another
11 tension spot that's created when you require them
12 to participate in our compressed schedule. Do you
13 want to address the additional scope, Keith?

14 MR. KEMPER: Yes. The additional
15 scope, for example, in the off-site assembly
16 areas, there was some wording in the new ISG that
17 came out, that indicated that communication, full
18 communication capability with off-site
19 organizations would be required. Previous
20 versions indicated that if you had capability in
21 your EOF, for example, that you wouldn't need to
22 have that capability at the alternate facility.
23 That has now been added into the alternate
24 facility.

25 There was also a mention of their had

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1 been comments about classification capability at
2 the alternate facility. Although that's not a
3 requirement, that is recommended in the rule. You
4 know, that would require additional hardware and
5 the facility to be able to monitor plant
6 parameters for that to be a fully functional
7 facility capable of classification.

8 So not that we don't agree that those
9 things shouldn't be included in those facilities;
10 it's just that we had not planned on that and that
11 would take some modifications, cost changes,
12 things along those lines.

13 CHAIRMAN SIEBER: Doctor John, do you
14 have a question?

15 MEMBER STETKAR: I guess I missed
16 something subtly, because I asked a question this
17 morning about the interpretation of collective
18 achievement of those capabilities among all of the
19 facilities that were designated as alternate
20 facilities. You seem to be taking the approach
21 that all of the requirements, all of the
22 capabilities must be provided at each -- I thought
23 the rule and the discussion this morning said that
24 you don't have to have all of the capabilities at
25 each facility.

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1 MR. KEMPER: Well, I think there's a
2 slight difference between what I was saying. The
3 EOF, the emergency operations facility, always had
4 that capability. It's not considered an alternate
5 facility.

6 MEMBER STETKAR: Okay, okay.

7 MR. KEMPER: But what it originally
8 occurred in the wording was that the TSC alternate
9 assembly, the alternate facility for the technical
10 support center didn't need notification capability
11 if the EOF could perform that function. Because
12 typically what happens is EOF takes over state and
13 local and NRC communication. Now it appears that
14 we would have to that --

15 MEMBER STETKAR: Thanks. That
16 clarifies it.

17 MR. SERRA: And there's subtle
18 differences throughout the bulletin and throughout
19 some of these.

20 MR. HUG: And we do have a public
21 meeting coming up with the NRC on the 15th of this
22 month, and we'll send a clarifying letter to the
23 NRC on the issues, such as Paul and Keith have
24 brought up. So we're looking to hopefully where
25 maybe our read of the current ISG language may be

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1 different than what the NRC intends us to
2 implement. So we're seeking clarification there.

3 MEMBER RYAN: Since I don't know who
4 the right person is to address it, but maybe you
5 can expand on this last bullet, on SOARCA findings
6 and ACRS review. What's your view there?

7 MS. PERKINS-GREW: Mike?

8 MR. SLOBODIEN: We know that the
9 SOARCA study has not been completed. It has not
10 been completed and reviewed by ACRS. But there is
11 a fair amount of information that's been published
12 by NRC itself, that talks about early conclusions.
13 It's reasonable that these conclusions will hold,
14 albeit perhaps adjusted.

15 But the conclusions are so significant
16 that we feel it's of great concern that they be
17 considered or we be aware of them, as you
18 deliberate, because they have potential for
19 impacting the whole concept of emergency planning.

20 The concern then is we take actions now to meet
21 the existing rules, and we'll potentially turn
22 around, within a relatively short period of time,
23 and be revisiting this again, with quite a
24 significant effort.

25 MEMBER RYAN: So I guess the message

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1 I'm taking away is maybe the Subcommittee should
2 understand where SOARCA calculations and the staff
3 are at this point.

4 MR. SLOBODIEN: And to the extent that
5 the Subcommittee believes that they're of
6 significance to the existing rulemaking effort,
7 make that known to the Commission.

8 MEMBER RYAN: Okay.

9 MR. HUG: We believe that the staff
10 has used SOARCA, for instance, in the challenging
11 drills and exercises, if you read the staff's
12 discussion on that and their adjudication of the
13 comments. They state that a non-release type
14 scenario is warranted, because that may be more of
15 the indication of the type of event that you would
16 see.

17 So it appears to us in some cases that
18 staff has selectively used SOARCA when it suited
19 their basis and not in other areas. We would ask
20 you to take a look at the whole rule and see if
21 SOARCA should be utilized.

22 MEMBER RYAN: Or not.

23 MR. SLOBODIEN: Or not. That's an
24 important point. If there's -- from where we sit
25 today, with what view we have, it appears to be

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1 important. Perhaps you have information that
2 would be saying to us and the industry "you're
3 barking up the wrong tree." We don't know that.
4 From where we sit today, it looks like it's
5 important.

6 MR. HUG: And I believe you had a
7 conversation on classification timeliness this
8 morning. Is 15 minutes still appropriate, you
9 know? If you were to look at SOARCA, you may
10 derive the conclusion that it's not.

11 MR. SLOBODIEN: It also goes to
12 staffing. If progressions are slower in
13 particular, the importance of staffing in the time
14 frames that -- or under the guidance that we're
15 going to see for the job task analysis
16 appropriate? Perhaps not.

17 MEMBER BLEY: Well as far as I know,
18 SOARCA has not looked at hostile activities. Have
19 you done anything on your own to consider if that
20 would have an impact on the kind of things one
21 might learn from SOARCA?

22 MR. SLOBODIEN: One of the things the
23 Commission has said is that hostile actions are
24 not likely or will not affect the physics of an
25 event, that is the progression or the severity.

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1 We believe that's likely to be the outcome as
2 well.

3 So I think that what hostile action
4 threat really involves, more than anything, is
5 communicating and effectively integrating with
6 off-site response organizations, to accomplish
7 protection of employees, the physical plant and
8 the public.

9 So things like deployment of
10 personnel, understanding how the facility works,
11 takeback, use of weapons and so forth, those kinds
12 of things are clearly very important. But they
13 don't change the time progression or the severity
14 of an accident, because we believe that they're
15 the same, regardless of whether the initiating
16 event is a hostile threat or something of the
17 traditional scenarios that we're considering right
18 now.

19 MEMBER STETKAR: But could you explain
20 to me why then the SOARCA is at all relevant to
21 delaying implementation of hostile actions into
22 the emergency planning, and running those
23 exercises? From what you say, you should go ahead
24 with the hostile action type of plans, and --

25 MR. SLOBODIEN: And indeed we have.

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1 MEMBER ARMIJO: And we should, yes.

2 MEMBER STETKAR: Okay, absolutely.

3 MR. KEMPER: Yeah. I don't think
4 we're saying that SOARCA would affect the hostile
5 --

6 MEMBER STETKAR: You're just saying
7 the source term, it doesn't make any difference
8 whether it's a hostile action.

9 So a decision on projected doses
10 doesn't necessarily make any difference. But the
11 interface with off-site response organizations and
12 the resources necessary to both aid the plant and
13 do whatever else is necessary in the off-site
14 community could be tremendously different under
15 those scenarios, compared to what the current
16 emergency plans include.

17 I'm not quite sure that I'm personally
18 very --

19 CHAIRMAN SIEBER: Optimistic?

20 MEMBER STETKAR: Well, no. SOARCA is
21 one issue in terms of timing and source term.
22 That's what's coming out from the facility, but on
23 the other hand -- and that can affect an awful lot
24 of times.

25 CHAIRMAN SIEBER: Source terms, while

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1 the times are maybe perhaps a little longer and
2 the probability of occurrence may be lower, but
3 the event is the event, and perhaps you won't have
4 to use the emergency plan as often.

5 MEMBER ARMIJO: You may not have to
6 polish.

7 CHAIRMAN SIEBER: Or the probability
8 that you'll use it is perhaps lower in a real
9 event, that it doesn't necessarily mean that you
10 shouldn't prepare for the real event, because it
11 could happen tomorrow.

12 MEMBER STETKAR: Well, and in the
13 sense of delaying all of this simply because
14 SOARCA has yet to be published --

15 CHAIRMAN SIEBER: It's not going to
16 hurt.

17 MEMBER STETKAR: --is not very
18 compelling, you know, in the sense of hostile
19 actions.

20 CHAIRMAN SIEBER: I think the public -
21 -

22 MR. KEMPER: I don't think that's what
23 we're saying. I don't think we're saying delay
24 the whole rule for SOARCA. There are certain
25 aspects that SOARCA needs to be included for --

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1 MEMBER STETKAR: I think maybe, you
2 know, when you said you were going to prepare
3 another position paper or a set of questions, that
4 that might help to elaborate --

5 MEMBER RYAN: Are you going to -- on
6 this in your next meeting?

7 MS. PERKINS-GREW: Perhaps yes. Yes.

8 MEMBER RYAN: Okay.

9 MR. KEMPER: Absolutely.

10 MR. SLOBODIEN: You mean the meeting
11 with NRC staff on --

12 CHAIRMAN SIEBER: Yes. Well, I think
13 this is a policy matter as opposed to a technical
14 issue, and that's sort of up to the Commission to
15 decide, from a policy standpoint, unless it's
16 clearly impossible. It doesn't appear to me and
17 perhaps my colleagues would give me better advice.
18 But it doesn't appear to me that it's impossible.

19 Actually, after TMI, I remember
20 working very hard to get prepared for emergency
21 planning at that point in time also.

22 MEMBER RAY: What do you mean, Jack,
23 "it doesn't appear impossible"?

24 CHAIRMAN SIEBER: To meet these
25 schedules.

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1 MEMBER RAY: Oh. Well, I think
2 insofar as SOARCA is concerned, wasn't the
3 question whether or not you should do what you're
4 going to do without the benefit, whatever it may
5 be, of SOARCA, or whether you should somehow
6 arrange to take into consideration what the
7 results of SOARCA, so you don't wind up doing
8 things twice, particularly since most of the
9 people affected are not in this room or
10 represented here even, but they're out in all the
11 agencies around the place, and if you keep coming,
12 taking bites out of the apple, at some time they'd
13 tell you "go away. I don't want to talk to you
14 anymore."

15 MR. HUG: The rule is broken down into
16 two distinct sections, a security part and a non-
17 security part.

18 CHAIRMAN SIEBER: Right.

19 MR. HUG: I think, and Mike tell me if
20 I'm wrong, SOARCA considerations really affect
21 mostly the non-security portion of the rule.

22 CHAIRMAN SIEBER: That's right.

23 MR. HUG: So on your question, would
24 you delay the hostile action, you would not.

25 MR. SLOBODIEN: No.

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1 MR. HUG: We agreed to get the hostile
2 -- in fact, a lot of that's already been
3 implemented.

4 MEMBER RAY: Thanks.

5 CHAIRMAN SIEBER: Okay.

6 MEMBER ARMIJO: But it's these
7 exercises that you say are unrealistic, to try and
8 squeeze everything into a two year period. In
9 other actions that the staff has promoted, there
10 have been pilot studies. Do you have thoughts
11 along those lines of the hostile action of a
12 certain scenario being a pilot for this program,
13 without having to --

14 MR. KEMPER: Yes. "We've been through
15 the pilots already. Every site has run a hostile
16 action-based drill, you know, through a pilot
17 process. So we've already demonstrated that we,
18 you know, can do it. It's just a matter of having
19 it as an evaluated exercise for NRC and FEMA in
20 that tight time frame.

21 MEMBER ARMIJO: So just to, what
22 resources would it take to do one of these
23 exercises? You know, what are we talking about?
24 Is it several man years of resources?

25 MR. KEMPER: Many man years of

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1 resources.

2 MEMBER ARMIJO: Many.

3 MR. KEMPER: There's first --

4 MEMBER ARMIJO: I mean per plant.

5 MR. KEMPER: I'm talking about per
6 plant. There are first an effort to coordinate
7 with off-site response organizations, of which
8 there are a few, quite a few, to provide requisite
9 training, to ensure that procedures and plans are
10 up to date, and even though we've done this in a
11 pilot already and have done much of this work,
12 there are new people coming in all the time who
13 need training, qualification, and we are building
14 upon the lessons that we have learned from the
15 pilot study.

16 The coordination with federal
17 agencies, with NRC and FEMA alone, is fairly
18 extensive in the scenario development, to get a
19 scenario designed and reviewed and acceptable to
20 all parties, someone that may require negotiation.

21 Certainly, it's complex, because we're dealing
22 with both an on-site component and the off-site
23 component.

24 The on-site component is something
25 that we're relatively used to. We've been doing

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1 that in exercises as a routine. It's the off-site
2 component, particularly dealing with the many law
3 enforcement agencies. We deal with, for example,
4 in -- I'll cite one example from the state of New
5 York.

6 The state police, county police,
7 county and local fire departments, the FBI, and
8 then sometimes we would want to incorporate, based
9 on input we might get from NRC and FEMA, those
10 organizations both as evaluators as well as
11 participants. So it's a fairly extensive effort.

12 MR. SERRA: And if you take the state
13 of Virginia, when you've got North Anna and Surry
14 with two plants, you're talking about utilization
15 of the same resources between now and 2014, or
16 whenever it gets approved, using those same
17 resources time and time again.

18 MEMBER ARMIJO: So to pull off one of
19 these exercises, what's your estimated time from
20 start to finish, a year?

21 MS. PERKINS-GREW: A year.

22 MEMBER ARMIJO: It's a year per plan?

23 MS. PERKINS-GREW: Yep.

24 MEMBER ARMIJO: To pull it off.

25 MS. PERKINS-GREW: Uh-huh.

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1 MR. SLOBODIEN: These exercises may
2 involve as few as 100 to perhaps as many as 1,000
3 people, involving various both as participants and
4 controllers, organizers, structural members. It's
5 quite a large effort.

6 MEMBER ARMIJO: Okay. I appreciate
7 that information.

8 MR. SERRA: And many, many volunteers.

9 MEMBER BLEY: Well, one thing wasn't
10 clear to me. Do these have to be done, say for a
11 two unit site, for each unit? The state of things
12 you can't combine them and do --

13 MR. SLOBODIEN: It's a site by site.

14 (Simultaneous discussion.)

15 MEMBER BLEY: By site. So a two unit
16 site that does an eight-year window. Once this
17 gets rolling, two years right now.

18 MR. SERRA: But there are two sites in
19 Virginia.

20 (Laughter.)

21 MEMBER BLEY: Yes, okay.

22 MR. KEMPER: Yeah, the biggest concern
23 is that it's going to impact our off-site
24 organizations, and negatively -- the workload is
25 going to impact their ability and willingness to

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1 support us. That's really the big concern, at
2 least for me.

3 I'm speaking for myself, and I'm
4 concerned about the state of Illinois and the
5 state of Pennsylvania, looking at this additional
6 workload at a time when, you know, budgets are
7 tight and things along those lines. I'm not
8 disagreeing at all that we need to do this. I'm
9 just concerned about six and five per my two major
10 states.

11 MEMBER ARMIJO: So if we issued the
12 regulations that require you to do it, and the
13 states can't support you, and we certainly don't
14 regulate the state activities, then you'd have to
15 come back for an exemption or a waiver or
16 something like that to get more time, on a case-
17 by-case basis?

18 MR. SERRA: That's my understanding.

19 MR. HUG: Absolutely.

20 MR. SLOBODIEN: And to conduct such an
21 exercise absent the off-site response
22 organizations has no value.

23 MEMBER ARMIJO: No, and I agree with
24 that.

25 CHAIRMAN SIEBER: Okay. Any other

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1 questions?

2 (No response.)

3 CHAIRMAN SIEBER: Okay.

4 MS. PERKINS-GREW: Thank you.

5 CHAIRMAN SIEBER: Thank you. Do we
6 have an additional industry representative?

7 MR. SHUKLA: No. There's no one.

8 CHAIRMAN SIEBER: Okay. They're all
9 together. Okay.

10 (Simultaneous discussion.)

11 MR. SHUKLA: They decided to come
12 together.

13 CHAIRMAN SIEBER: Okay, good. I think
14 what we need now is the staff summary remarks.

15 MEMBER STETKAR: God Jack, according
16 to your time, we also have something like, I don't
17 know, seven hours and 36 minutes that they can
18 wrap up.

19 MR. SULLIVAN: That's plenty of time.

20 MEMBER STETKAR: Plenty of time.

21 MR. SULLIVAN: That's not a problem.

22 CHAIRMAN SIEBER: That was my original
23 prediction, eight hours.

24 (Off record comments.)

25 CHAIRMAN SIEBER: Okay, Bob.

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1 MR. KAHLER: Okay. I'd like to give
2 you some closing remarks from the staff, and I
3 would like to respond to some of the comments that
4 were made by the industry here this afternoon,
5 also. If I could, in order to clarify, I believe
6 what has been mentioned at public meetings in the
7 past, and also what is in our comment summaries
8 were some of the comments that we've received from
9 the industry.

10 But as part of my closing remarks, I
11 would like to present to you what current future
12 activities the staff has planned with regard to
13 the rulemaking project.

14 As you know, shortly after the EP
15 rulemaking documents were provided to you, the
16 staff made the draft final rule language and NRC
17 guidance documents publicly available in ADAMS, on
18 regulations.gov on October the 8th.

19 I'd like to say that is indicative of
20 this being one of the most open and transparent
21 rulemaking efforts the NRC has ever undertaken,
22 that has engaged off-site, or excuse me, has
23 engaged stakeholders throughout the entire
24 rulemaking process, as we indicated on the chart
25 we have provided to you and our presentation.

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1 And also included in that was
2 engagement with FEMA, with our off-site
3 stakeholders, that have been along with us the
4 entire rulemaking process, such that we have been
5 listening to what they have been telling us, and
6 we have incorporated a lot of their comments along
7 the way, as we've been preparing the rule.

8 The 150 day comment period is almost
9 an unprecedented comment period that was
10 available, along with 12 public meetings in six
11 different locations, along with web conferencing,
12 touching out to as many stakeholders as we could,
13 in order to have them fully informed, in order to
14 help, aid them in providing us their comments.

15 CHAIRMAN SIEBER: You may have
16 achieved a record number of comments also.

17 MR. KAHLER: We may have, and you
18 know, Dr. Sieber, I would just say that whenever
19 we contracted this with a vendor, and we were
20 talking with the vendor and I was telling him
21 about the number of comments he should expect to
22 receive in order to bid, I was telling him upwards
23 around 1,000 comments for us and probably even
24 more for FEMA, and they were kind of shooing me,
25 and saying no, couldn't be. If you get more than

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1 200, that's going to be phenomenal as it is.

2 CHAIRMAN SIEBER: Should have gone for
3 a firm price.

4 (Laughter.)

5 MR. KAHLER: As I said, we received
6 700 comments and FEMA over 2,300 comments. So as
7 you can see, there was a lot of input provided to
8 us, and also a lot of back and forth. I believe
9 that came as a result of this open and transparent
10 rulemaking, in which there was a lot of interest.

11 There was a lot of people providing us the
12 comments, and they were fully educated on what we
13 intended in the rule.

14 However, with FEMA, NRC staff, which
15 was myself so far, Randy this week and Don in the
16 future, and other staff members as they become
17 available, will be attending with FEMA and mostly
18 at their coordination and their request, several
19 meetings with our stakeholders, now that we have
20 the draft final rule on public record, in order to
21 present it to them and let them know how we've
22 adjudicated their comments, and also to help
23 clarify some of the points that they may not have
24 realized how our comments were intended to -- or
25 how their comments were incorporated.

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1 And that was again, to inform them of
2 the rulemaking progress and activities, and we
3 have committed to continue to keep our
4 stakeholders involved in our rulemaking process.
5 As has been stated here many times, the NRC staff
6 will be conducting a public meeting November 15th
7 at the Rockville Hilton, just down the street from
8 the Twinbrook Metro, to specifically discuss the
9 implementation dates for various rule topics.

10 That meeting was generated by the NRC
11 staff. That didn't come from comments received
12 from industry, for requests for another set of
13 implementation dates.

14 That was as a result of the Commission
15 briefing received on December the 8th, and ongoing
16 work within Nuclear Reactor Regulation, in which
17 they're looking at the cumulative effects of all
18 the rulemaking and how to approach that issue for
19 the rulemaking process.

20 We became aware after we had in our
21 FRN last year, from May to October of last year,
22 during a public comment period, the request for
23 input from industry, stakeholders, states, whoever
24 wanted to reply to us, a request for input on
25 those implementation dates. We were looking for

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1 that insight as to what that cumulative effect
2 would be, what our impact would be on the state
3 agencies, in the locals, on the licensees, on all
4 of the implementation dates for all portions of
5 the rule.

6 We received comments from the
7 licensees. Not many came in from the stakeholders
8 such as the states, and it became somewhat
9 apparent through discussions that this cumulative
10 effect may not have reached out in order to look
11 at the impact upon state agencies or even
12 cumulative effect on the licensees themselves.

13 So we have committed to having this
14 additional public meeting, in order to have an
15 other round, go-around. But quite frankly, we'll
16 be needing some pretty compelling evidence as to
17 why it would be that their original request for
18 input comments that we received as a result of
19 that request for input, would have changed from
20 what we previously adjudicated, okay, because we
21 have reasons why we either accepted them or
22 rejected the comments we received.

23 To continue on with this, let me see.

24 We also, as we go out talking and we have
25 informed our state agencies, we want to hear from

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1 them during this implementation date public
2 meeting on November the 15th.

3 MEMBER STETKAR: I was going to ask
4 you. Have you made any -- I know you can't call
5 people in.

6 MR. KAHLER: Yes, we can. As a matter
7 of fact, we emailed --

8 MEMBER STETKAR: That's what I'm
9 saying. Have you made efforts to try to elicit
10 that input --

11 MR. KAHLER: Our state liaison
12 officers at every region has been informed of
13 November 15th. They have contacted their states.

14 They have told them about this. I have, in our
15 meetings and in the meeting announcement that went
16 out. I believe the individual here who helped put
17 out the meeting announcement, maybe she's gone.

18 We did indeed contact our local groups
19 in order to get the word out to everybody on this
20 November 15th meeting.

21 MEMBER STETKAR: You have made
22 positive efforts to try to elicit input from those
23 other stakeholders.

24 MR. KAHLER: Yes, we have.

25 MEMBER STETKAR: Good.

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1 MR. KAHLER: Yes, we have. Some of
2 the things I'd like to continue on with here is
3 that we have been continuously sensitive to this
4 impact of the rule on our licensees, the off-site
5 agencies and the applicants for the new reactors,
6 as well as preparations for us, NRC and FEMA
7 staff, in order to evaluate their conformance
8 within the requirements and the guidance.

9 So we're also sensitive to the fact
10 that once we put the rule out there, we have to
11 prepare to evaluate it also, and that's another
12 portion of what FEMA and ourselves are going
13 through. With that, as you know, continuing the
14 submittal of the EP final rule package to you. It
15 is then going to be prepared, if you want to call
16 it that, for submittal to the executive director
17 of operations.

18 That current date on schedule is for
19 February the 11th, and to the Commission on
20 February the 28th of 2011. So that is our target
21 date as we have shown in some of our previous
22 slides.

23 Once we give it to the Commission, our
24 job does not stop there. We will continue our
25 outreach efforts with the public, which will

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1 include implementation workshops with the
2 licensees and with the state agencies.

3 CHAIRMAN SIEBER: Once you send it to
4 the Commission, opportunities to change the rule
5 cease?

6 MR. KAHLER: That is correct.

7 CHAIRMAN SIEBER: So it becomes frozen
8 the day you sent -- the day it goes to the EDO?

9 MR. KAHLER: That is correct. What we
10 want to do though is these workshops are not to
11 discuss -- let's put it this way. We see it as a
12 two-stage effort, in which the first round of
13 public meetings we're going to have is going to be
14 discussing what would be included in our assist
15 public workshops, after the rule is finalized and
16 published.

17 Okay. This is going to be discussing
18 implementation schedule, and not the
19 implementation dates, as much as what do the
20 licensees and the states want to see in future
21 public meetings and workshops? Are we all in
22 agreement? How much time should we spend in some
23 areas?

24 So there is a collaborative effort for
25 creating these workshops on implementation. So

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1 that's what we envision right after we give it to
2 the Commission, and also that if I can, to answer
3 a few other items that were brought up here just
4 recently.

5 Let me see. I believe the alternative
6 facility, when it was discussed about the EOF and
7 the fact that can it be used, the communication
8 links and so on, there is nothing in guidance,
9 there is nothing in rule that eliminates usage of
10 the EOF as an alternative facility.

11 The only thing, and we've heard it
12 again today, is Accessibility.

13 MEMBER STETKAR: If it's not
14 accessible --

15 MR. KAHLER: If it's not accessible,
16 you need another facility. But you can utilize
17 your EOF as your alternative facility if it's
18 accessible. We're just saying something other
19 than the on-site facility, okay, that they would
20 normally go to, which they cannot access. You
21 need to have a facility off-site they can access
22 that has these characteristics. It can well be
23 the EOF, okay.

24 Nothing has ever said, nor have -- and
25 we have in the past mentioned yes, you can, okay.

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1 MEMBER STETKAR: Thanks.

2 MR. SULLIVAN: Let me take another one
3 of those. I sense that either we haven't
4 communicated well or there's a mistaken
5 impression, but the schedule for hostile action
6 drill implementation is we want to see it in the
7 first biennial exercise that's more than a year
8 out. So in fact there is potentially a three-year
9 window or so --

10 MR. KAHLER: It could be even longer
11 than three years.

12 MR. SULLIVAN: It could be longer, and
13 there's no intention for us to have a state like
14 Illinois, with five sites right next to each
15 other, all do them one right -- all do hostile
16 action events one right after another.

17 Now we didn't know what's best for
18 them. We wanted them to ask us for a different
19 schedule, and we'll certainly consider that. But
20 there's no intention to have -- I mean some of
21 those share the same county. You know, we
22 wouldn't ask them to go one by each.

23 CHAIRMAN SIEBER: By the time they're
24 done, they ought to have it down pretty well.

25 (Laughter.)

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1 MR. KAHLER: First of all, I would
2 expect quite honestly that the biennial exercise
3 schedule is set up such that the state of Illinois
4 isn't taxed in order to do back to back exercises
5 with two counties.

6 That's something that's worked out
7 between the state and facilities, such that a
8 biennial exercise now would be taxing on them,
9 doing two concurrently utilizing the same counties
10 or whatever.

11 MR. SULLIVAN: But perhaps we weren't
12 smart enough to know how to tell Illinois how to
13 schedule that from here in Washington. We were
14 doing it in the reverse, and asking them to tell
15 us what works for them.

16 And Pennsylvania's a different kettle
17 of fish, because the plants are kind of spread
18 further apart, and once again we don't know what's
19 best for Pennsylvania, but we're happy to consider
20 those things, and I don't know where that was lost
21 in the message, because it isn't a lock-step go do
22 it all one by each.

23 But in any case, I understand there is
24 miscommunication.

25 MR. KAHLER: Well, if I can, maybe I

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1 can bring it up here.

2 MR. SULLIVAN: Well, I mean I think, I
3 think the members have heard our view and it maybe
4 wasn't communicated well to industry.

5 MEMBER ARMIJO: You're not that far
6 apart then, the way I'm kind of hearing you,
7 because --

8 MR. TAILLEART: We did put provisions
9 in the final rule *Federal Register* notice, because
10 we recognized for states with multiple sites, it
11 would be -- could create a burden, would likely
12 create a burden for them to do all these exercises
13 in a short period of time.

14 So we did ask or make provisions for
15 those states to work with the licensees and get
16 back to us with a schedule, an alternative
17 schedule, that they felt more comfortable with,
18 and we'd take a look at that.

19 CHAIRMAN SIEBER: That requires
20 coordination among the utilities in a given state,
21 because the state is not going to write an EP for
22 each facility. So there has to be another
23 organization --

24 MR. SULLIVAN: But I don't know how to
25 do that.

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1 CHAIRMAN SIEBER: It used to be in
2 Pennsylvania. Now the difficulty there was one of
3 the plants had the EPZ extend into two other
4 states, two NRC regions, two FEMA regions and that
5 made it a little more complex, because you had to
6 get two states to agree.

7 MR. KAHLER: And actually the -- we're
8 not asking for a HAB drill to be performed in
9 addition to a normal biennial evaluated exercise.

10 It is one of the biennial evaluated exercises.
11 So it's something that they should be preparing
12 for in advance anyway. So the off-site agencies
13 would be taxed with conducting an exercise with
14 that site anyway.

15 It's just a matter of a different type
16 of initiating event, which is a hostile action,
17 and we do agree that in September 11th of 2011,
18 that's going to be the 10 year anniversary, we
19 don't want to delay any further the evaluation of
20 the capability of a site and off-site agencies to
21 respond to a hostile action event.

22 It's not as if we don't want to listen
23 to if there are some sort of burden placed upon
24 licensees or states, again November 15th, but we
25 believe that we should be progressing along,

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1 rather than trying to delay.

2 MEMBER STETKAR: In the sense, just
3 for the record, I did look up the statement of
4 considerations for the rule, and indeed it does
5 say "Licensees and states with multiple sites may
6 work with the states and FEMA to submit requests
7 to the NRC for different implementation schedules
8 for the new exercise requirements, if licensees
9 would not be able to meet the new requirements
10 within the required time frame."

11 CHAIRMAN SIEBER: Right.

12 MR. KAHLER: That was in the SOC.

13 CHAIRMAN SIEBER: In the statement of
14 considerations.

15 (Simultaneous discussion.)

16 MR. KAHLER: And to let you know, it's
17 not a two year time frame that Illinois might be
18 spanned across, because as we stated, it's 395
19 days from the date of publication, 365 days from
20 the effective date, that if it becomes effective
21 on September the 1st of 2011, then only those
22 utilities that would have an exercise, the next
23 biennial exercise afterwards.

24 If they're doing one between September
25 1st and December 31st, they would have to do one

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1 in 2013. If they do one in 2012, they've got to
2 do one in 2014. So that extends it out even three
3 years beyond, three years and four months beyond
4 the effective date of the rule, where they could
5 actually perform an exercise in December of 2014,
6 possibly the state of Illinois. So it's not going
7 to be crammed into a two-year time frame.

8 So all I'm trying to say -- but again,
9 the statements of considerations provides for
10 requesting some sort of relief, as we saw that.

11 CHAIRMAN SIEBER: You know licensees
12 have had an opportunity to make comments. Have
13 the States made comments with regard to schedule?

14 MR. SULLIVAN: Yes, oh yeah. Oh, with
15 regard to schedule?

16 CHAIRMAN SIEBER: With regard to
17 schedule.

18 MR. SULLIVAN: I don't believe there
19 was many comments received on the schedule.

20 MR. TAILLEART: The only comment I
21 recall from the states did concern the initial
22 hostile action exercises, and for states with
23 multiple sites, the comment was we would like more
24 guidance on how to schedule these, and we looked
25 at that and we go we really, from my point of

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1 view, don't know what the right guidance or
2 schedule would be. So you tell us what would work
3 for you.

4 (Simultaneous discussion.)

5 MR. SULLIVAN: There was a lot of
6 comment on extending the cycle from six to eight.

7 CHAIRMAN SIEBER: From the states?

8 MR. SULLIVAN: Yes, from state and
9 local. It was -- it's just going to be predicable
10 again, but if you'll give us -- if you expand the
11 cycle, they'll be more scenario variability
12 possible.

13 CHAIRMAN SIEBER: And that's not a bad
14 idea.

15 MR. SULLIVAN: No, it's not a bad
16 idea. I'm fairly pressed to talk about SOARCA a
17 little bit. I know that I've met with some of you
18 and discussed SOARCA, and I've had the privilege
19 to contribute to that project.

20 Can I start out by saying one item to
21 try to say, because it was mentioned about how the
22 rule alludes to SOARCA being used to create the no
23 release scenario. That did not happen. That was
24 a direct result of the SRM coming out of SECY
25 0602, as a result of the Commission directing for

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1 varying exercise scenarios.

2 MEMBER STETKAR: The ISG refers to
3 SOARCA. The rule doesn't.

4 MR. SULLIVAN: That's correct.

5 MEMBER STETKAR: Plus SOARCA isn't
6 mentioned even in the statement of considerations.

7 MR. SULLIVAN: No, it's not. But the
8 birth of the thought process of varying scenarios
9 and including no release/minimal release, it was
10 stated earlier about how that was possibly a
11 result of SOARCA, because SOARCA identifies the
12 possibility or the probability of no release
13 accident type of scenarios.

14 That's not the reason for it. It's a
15 reason of varying scenarios, in order to get away
16 from that preconditioning that we talked about,
17 and that was a direction from the Commission
18 before even SOARCA identified any of those kind of
19 items.

20 CHAIRMAN SIEBER: You can -- when you
21 found out a drill was to occur, you could almost
22 predict the times, that you would go from, you
23 know, to site area --

24 MR. SULLIVAN: To dessert, to a wind
25 shift, yeah.

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1 MR. KAHLER: But now I'll turn it over
2 to Randy for SOARCA.

3 MR. SULLIVAN: But I have to tell you,
4 I'm you know, having been involved in SOARCA and
5 as a staff member I wish it was published already.

6 CHAIRMAN SIEBER: It's not.

7 MR. SULLIVAN: However, it's not, and
8 we're not going to use it for regulatory issues in
9 itself, SOARCA has interesting things. SOARCA has
10 shown us that rapidly developing general
11 emergencies are major events we should be
12 preparing for.

13 CHAIRMAN SIEBER: That's right.

14 MR. SULLIVAN: Now that's not
15 necessarily a release. The release is delayed and
16 it's shorter, but the way we define general
17 emergencies today, they can develop very rapidly.

18 Hence, the protective actions would be done
19 rapidly, let's just say. And so I don't --

20 CHAIRMAN SIEBER: Well, it makes
21 decision-making more difficult because evacuation
22 may not be appropriate in a rapidly-developing
23 emergency.

24 MR. SULLIVAN: Well, may not, may not,
25 and --

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1 CHAIRMAN SIEBER: Under meteorology.

2 MR. SULLIVAN: I think and I realize
3 without the document being published, I'm sort of
4 saying "trust me."

5 MEMBER RYAN: That's really a key
6 point. I mean without, you know, without "here it
7 is," how can we react to it? I can't.

8 MR. SULLIVAN: Okay. So I've done
9 this for a living for 35 years and I've been
10 deeply involved in SOARCA. I did, I am the
11 principal contributor to the emergency
12 preparedness part of it, and in my opinion, it is
13 not a basis to change our rulemaking or our
14 current basis.

15 CHAIRMAN SIEBER: Okay.

16 MR. SULLIVAN: But you'll make your
17 own judgment when it's published.

18 MEMBER RYAN: So that's -- I mean I
19 think, correct me if I'm wrong, but the licensees
20 are in that category too. They don't have it
21 either.

22 MR. SULLIVAN: Of course they are. Of
23 course they are.

24 MEMBER RYAN: So I mean the
25 uncertainty of it is probably part of it. So you

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1 know, at what point in the scheduling in the
2 process would they get it to react to? Late in
3 the game, it sounds like.

4 MR. SULLIVAN: The schedule's changed
5 so often I can't even tell you when it's --

6 MEMBER RYAN: So it's late in the game
7 and in the fog.

8 MR. KAHLER: So we don't want to delay
9 the rulemaking in waiting for not only SOARCA
10 being published, but for Commission direction on
11 policy change to utilize --

12 MEMBER ARMIJO: So we're back to the
13 "trust me" part. So why did we spend so much time
14 and money on SOARCA, if it doesn't contribute to
15 our regulatory policies?

16 MR. SULLIVAN: I think the way SOARCA
17 is laid out, it in itself is not the tool for
18 regulatory change. I see regulatory change
19 growing organically out of SOARCA. Like for
20 instance, we'll use it to take a look at risk
21 informing emergency preparedness. That will be
22 part of our deliberations. It will flow from
23 SOARCA, but it's not SOARCA.

24 So for instance, we need to look at
25 hostile action events and SOARCA, and maybe take

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1 another look at natural events, like the large
2 earthquake and that sort of thing. We need to
3 combine those things. So I see it growing
4 organically out of that.

5 MEMBER RYAN: I'm not sure what that
6 means.

7 CHAIRMAN SIEBER: Emergency planning
8 right now is totally deterministic.

9 MR. SULLIVAN: Yes.

10 (Simultaneous discussion.)

11 MEMBER ARMIJO: And that's a change
12 from deterministic and probabilistic genre is
13 going to take a lot of time, and you can't afford
14 that. You can't afford to wait four or five more
15 years to get a new rule in place.

16 MR. KAHLER: Yes. Dr. Sieber, the
17 performance-based risk EP project has commenced.
18 We have started it. I mean when it was said that
19 it's not to commence until later, it has
20 commenced. But what has commenced is two items.
21 One is risk-informing EALs. That has commenced.
22 That portion of the study and it's being performed
23 by our own research group here in the NRC.

24 But the first portion of it is a
25 feasibility study as to whether or not we want to

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1 have a performance-based EP. Not so much as we
2 want to have it, as much as is it the right thing
3 to do? Is there a technical basis that we can
4 provide for one, in order to develop a
5 performance-based EP?

6 CHAIRMAN SIEBER: And the question is
7 regardless of how well-founded technically and
8 probabilistically that might be, will the public
9 accept that?

10 MR. KAHLER: Or will we --

11 CHAIRMAN SIEBER: It's quite difficult
12 to understand.

13 MR. KAHLER: But the other item is
14 part of the study is to determine if the
15 performance-based EP is to either replace the
16 deterministic EP regulations we have now, or to be
17 an option to them. So that hasn't even been
18 determined.

19 CHAIRMAN SIEBER: It will be
20 interesting.

21 MR. KAHLER: It's interesting. It's
22 very interesting to see the results of the study,
23 which we don't have. It's still baking, as Randy
24 would say.

25 CHAIRMAN SIEBER: I think okay. That

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1 will be interesting.

2 MR. KAHLER: If I can then?

3 CHAIRMAN SIEBER: Okay.

4 MR. KAHLER: If I can conclude, in
5 closing I would like to take this opportunity to
6 thank you for being able to provide our input on
7 the draft final rule for you to make your
8 recommendations to the full committee, which we
9 look forward to on December the 2nd, just a short
10 month away.

11 I would also like to thank our
12 partners at FEMA for the collegial and
13 collaborative effort throughout this challenging
14 endeavor. It has been a quite monumental task,
15 not only with the fact of the stakeholders we're
16 involved with, the amount of public outreach we
17 did, but actually the undertaking of all of the
18 rulemaking topics and the guidance documents that
19 went with it, and to make it align, such that
20 they're all going out hopefully at the same time.

21 That's our current plan.

22 We consider this interagency
23 coordination to have been quite valuable, and we
24 are committed to maintaining this collaborative
25 effort with FEMA through the completion of this

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1 process, and ultimately its implementation
2 workshops and so forth.

3 So with that, I'd like to end the NRC
4 staff presentation portion of the meeting, and I
5 want to thank you again.

6 CHAIRMAN SIEBER: Thank you, and I
7 will join you in congratulating FEMA for their
8 cooperation and their work effort in this process,
9 because without that, your task would have been
10 much more difficult if not impossible.

11 At this point in time, what I'd like
12 to do is ask if there are any public comments that
13 anyone would like to make?

14 MS. PERKINS-GREW: No, but thank you.

15 CHAIRMAN SIEBER: Okay. If there are
16 no public comments, again I thank the staff, but
17 before we adjourn, I would like to go around the
18 room and ask the members, since we will write a
19 final report.

20 I tried to at least put the outline of
21 that together before our next meeting in December,
22 with the full committee. I would like to ask the
23 members their impression and what they believe are
24 issues that ought to be discussed and elaborated
25 on in that final report, and John, I'm going to

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1 ask you first if you have any comments. You may
2 submit them in writing if they're too voluminous
3 to state.

4 MEMBER STETKAR: No, no. I'll try to
5 be brief here, so that the onus is on you.

6 CHAIRMAN SIEBER: Okay.

7 (Laughter.)

8 MEMBER STETKAR: I think my only
9 comments are with regard to NUREG 7002.

10 CHAIRMAN SIEBER: Say that again?

11 MEMBER STETKAR: NUREG 7002, the
12 evacuation time estimate NUREG. I guess I'm a
13 little disappointed that that NUREG was issued
14 final in May. I wish we had had the opportunity
15 to look at it while it was still in progress.

16 MR. KAHLER: It's still draft.

17 MEMBER STETKAR: It's still draft?

18 MR. KAHLER: Still draft.

19 MEMBER STETKAR: Oh.

20 MR. KAHLER: It will not be issued
21 until the final rule.

22 MEMBER STETKAR: It has a date -- ahh.

23 MR. KAHLER: It will be issued on the
24 same date as the final rule.

25 MEMBER STETKAR: I'm less disappointed

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1 than I was 30 seconds ago.

2 (Simultaneous discussion.)

3 MEMBER STETKAR: It had a date on it,
4 and it didn't say "draft." So I was under the
5 impression that it was already final.

6 CHAIRMAN SIEBER: If we review it, we
7 have to review it in conjunction with the EP rule.

8 MEMBER STETKAR: Well, I mean --

9 CHAIRMAN SIEBER: We're not going to
10 get it separately.

11 MEMBER STETKAR: Reading it, you know,
12 without the background of the EP rule would have
13 been a bit difficult. But anyway, thank you. I
14 was just educated.

15 CHAIRMAN SIEBER: Okay.

16 MEMBER STETKAR: My only comments on
17 that, and I made the this morning, so I won't
18 belabor the details, are that I believe in terms
19 of guidance, that with some relatively, in my
20 opinion, minor changes, the completeness of that
21 guidance, in other words, the -- as a guidance
22 document on how to think about framing that
23 problem, could be enhanced substantially, so that
24 questions about perhaps arbitrary selection of
25 scenarios might be ameliorated.

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1 The other issue is its lack of any
2 treatment of uncertainty at all in that process.
3 I'm not necessarily advocating full integrated
4 quantification of uncertainty, but uncertainty is
5 basically not addressed at all.

6 As far as the other documents, the
7 rule itself or the reg guide or the ISG, I don't
8 have any more comments on this.

9 CHAIRMAN SIEBER: Okay. Mike?

10 MEMBER RYAN: I'd second John's
11 points, but this last point about SOARCA, I guess
12 I really haven't sorted it out where we stand
13 from, you know, it's not available to the
14 licensees. It's not available to us yet. It's
15 somehow the foundation for, you know, what you're
16 presenting. So that doesn't seem quite right to
17 me.

18 You know, you're using it or getting
19 insights from it or it's going to be used to get
20 insights, and I'm trying to understand what's
21 going to be done with it, by whom and when, and how
22 does that impact the schedule. So maybe that's a
23 \$60,000 question; maybe it's a \$2 question.

24 I'm not looking for you to answer it
25 today, because we're going to get back together at

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1 the full committee meeting.

2 MR. KAHLER: Okay.

3 MEMBER RYAN: But I think that's
4 potentially a comment for a lot of us, to try and
5 understand how that's going to work, and does it
6 have any negative impacts and what are the
7 positive impacts of moving forward with it versus
8 the burdens and the negative impacts, because
9 there probably is trade-off there, I'm guessing.
10 So that's what we're looking at understanding.
11 Thank you.

12 CHAIRMAN SIEBER: Thank you. Harold?

13 MEMBER RAY: Well Jack, I'm like John.
14 I guess I'm not thinking that uncertainty can be
15 beneficially addressed here. I tend to think of
16 emergency planning as having this huge audience of
17 involved parties, and I'm not sure that they're --
18 that they would be able to make use of a
19 discussion of uncertainty. So I would be
20 disinclined to go there.

21 I tend to think of emergency planning,
22 I guess, maybe in terms that are now becoming
23 somewhat out of date, but I'm not sure. That's
24 why I listened more than had anything to say,
25 except at a couple of points along the way here.

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1 But basically, I look to see if the
2 relationships and the parties involved in dealing
3 with an emergency are properly identified and
4 exercised, rather than look to see if there are
5 criteria that adequately envelop all of the
6 possibilities that may arise, because I don't
7 think that's possible.

8 I say all of that just as a preamble
9 to, I guess, concluding that there isn't anything
10 that I would offer, that I think would end up in
11 comments from the committee, other than that we
12 have reviewed what's been done here, and tried to
13 see if there's anything that we can identify.

14 Personally, I couldn't offer any
15 suggestion in terms of where something is, needs
16 to be, needs to be modified. I'm sort of
17 elaborating here on why I think that way. It's
18 because I put emergency planning, I guess, in a
19 category different than other things we often deal
20 with.

21 I do think that the responsibility of
22 the agency to insist that adequate participation
23 by all of the entities involved in emergency
24 planning should not be diluted.

25 In other words, I've always lived in a

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1 world in which the NRC put the burden on licensees
2 to make sure they got all the right support for
3 their emergency plan, and it was up to them to do
4 whatever they needed to, to see that that
5 happened.

6 The responsibility of FEMA is
7 something I'm still trying to better understand.
8 I'm used to dealing with a state office of
9 emergency services or county office of emergency
10 services, that sort of thing, and they were always
11 in the mode of okay, what do you need us to do and
12 if we can do it, we'll certainly do it, and if we
13 need some help, we'll tell you.

14 You know, that's kind of the way I've
15 looked at it. I understand there's another
16 dimension now that I haven't had experience in
17 trying to implement, which is specifically the
18 threat. It's a long-winded way of saying I can't
19 offer anything specific that I think needs to be
20 addressed that hasn't been.

21 CHAIRMAN SIEBER: Thank you. Dennis?

22 MEMBER BLEY: Yes. I'd like to thank
23 staff and industry for these presentations. I've
24 learned a lot going through them. Indeed, it's
25 been a broad and open rulemaking process. But

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1 indeed, it should have been. There's a lot of
2 organizations and interested parties to
3 coordinate. This is a real tough area to make
4 work smoothly.

5 There's a couple of things I'd
6 suggest, and maybe you could give it a little
7 thought before you come to the full committee. It
8 seems as though there's a couple of areas where
9 language is still not completely transparent to
10 all parties, and maybe you can think about how
11 that could get cleaned up and that might help, in
12 areas that were discussed today.

13 I, like John, think some discussion
14 and consideration of uncertainty would have been
15 useful. I'm not saying PRA, although I think
16 eventually I'll be real interested in your looks
17 at risk-informed EP. I think some very useful
18 things might come of that.

19 But I've never seen an occurrence
20 where people took the time to identify the sources
21 of uncertainty and characterize them, that they
22 didn't in the end say that was very useful and
23 change the way I organize things or the way I pick
24 things.

25 I've never worked with, and I've done

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1 some, with first responders and local planning
2 organizations, where I'm not talking about C&D
3 total distributions, but having that
4 characterization of uncertainty where the problems
5 are, where they didn't appreciate having a better
6 understanding of how these things could affect
7 them and affect their planning.

8 So I think there are ways in which it
9 could be addressed qualitatively, that would have
10 been very helpful. Those are the main things, but
11 overall I think it's been a heck of a job, and I'm
12 real impressed with what was brought to us.

13 MEMBER RAY: Can I comment on what you
14 said, Dennis? The concern I have with uncertainty
15 is that all of this is done in such a, like I say,
16 such a large group, such a public forum, that
17 expressions of uncertainty become easy to
18 misunderstand.

19 MEMBER BLEY: So are expressions
20 without uncertainty.

21 MEMBER RAY: Well, I'm not so sure.

22 MEMBER STETKAR: Harold, a lot of the
23 background of talking about uncertainty is in
24 fundamental criteria for declaring emergency
25 action levels. But a lot of the background

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1 analyses, for example, those emergency -- the
2 evacuation time estimates, you know, those are not
3 performed in a public forum, where somebody comes
4 in and argues that no, I sat at that stoplight and
5 it took 27-1/2 seconds and you're characterizing
6 it as 32.3 seconds.

7 There's a lot of detailed background
8 analyses that feed into that whole emergency
9 planning process, and that's the area that, you
10 know, I'm talking about. It's transparent in the
11 sense that it eventually gets translated into --

12 MEMBER RAY: Okay. Well, maybe I
13 don't --

14 MEMBER STETKAR: --input to the
15 decision process.

16 MEMBER RAY: Maybe I don't understand,
17 then, what you guys are suggesting. So I'll leave
18 it at that.

19 CHAIRMAN SIEBER: Yes, Sam.

20 MEMBER ARMIJO: Yes. Hearing the
21 discussion, I came to the conclusion that maybe
22 the staff and the industry aren't that far apart
23 on the issue of the schedule for these hostile
24 action exercises, that there is more flexibility
25 than perhaps the industry thought.

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1 But I think there's plenty of room for
2 working out something that's not only timely, but
3 reasonable. The reasonableness test should be
4 applied. So I'm hoping that maybe you can sort
5 that out in the next public meetings.

6 I do have a problem with not using the
7 insights from SOARCA in the -- to make sure that
8 this rulemaking doesn't have excessive
9 requirements.

10 My limited exposure to SOARCA is that
11 we've learned a lot, and that we do have a lot of
12 conservatism, and we're not -- and so we ought to,
13 you know, take advantage of that in all our new
14 rules, and certainly we would not want to come
15 back five years from now and say now that we've
16 finally completed SOARCA, we really think that old
17 rulemaking should be amended and we should go
18 back.

19 Because once we make a rule, we tend
20 not to ever relax it. I've never -- it just seems
21 that's the nature of this, these rules. So that's
22 a disappointment to me, and again, since this is
23 an enhancement, I just don't see the urgency
24 that's commenced, that there's a benefit that's
25 big enough to just ignore whatever is in SOARCA.

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1 Now we haven't had the chance to read
2 it. You've had a lifetime of experience. I
3 respect that. But we haven't. We've got to make
4 up our own minds. So that's where I'm at.

5 CHAIRMAN SIEBER: Okay.

6 MEMBER BLEY: Could I make one more?

7 CHAIRMAN SIEBER: Sure.

8 MEMBER BLEY: I was going to mention
9 SOARCA and I didn't. We've tried to look at
10 SOARCA. We've had a couple of briefings here and
11 there. It's been going on for years now. We've
12 had meetings scheduled for the last year and a
13 half that have been put off and put off.

14 There's a lot we haven't seen. I'm
15 not at the point that I'm comfortable with saying
16 we ought to be taking those things. There's
17 technical information on which it's been based,
18 that maybe you have taken into account.

19 But I think it's, from my point on the
20 Committee, I think it's premature, since it has
21 been delayed coming to us for many, many months.
22 I wouldn't recommend jumping to it.

23 MEMBER RYAN: To put a little sharper
24 point on all this, I mean to me, it's now at where
25 we need it, to evaluate this activity that you're

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1 here today about. We really need that information
2 to get insights into what we're reviewing today.

3 MEMBER STETKAR: Let me try something
4 here. This is kind of an open discussion. I
5 brought up the issue of the 15 minutes this
6 morning, and I raised SOARCA. I honestly can't
7 see anything, reading the rule, reading the reg
8 guide, reading the ISG, despite the ISG's use of
9 that abbreviation, that indeed takes advantage of
10 anything in SOARCA. Honestly, I can't.

11 So you know, people are saying well,
12 you know, SOARCA has been used. I can't see it.
13 I raised the question of did the rulemaking or the
14 thought process behind the rulemaking take
15 advantage of any of those insights, and we had
16 some discussion about 15 minutes in timing.

17 The answer that I came away with is
18 well, SOARCA's not published, so we basically
19 didn't take any advantage of that. Whether we
20 could have or not is a moot point, because it's an
21 unpublished set of research at the moment.

22 (Simultaneous discussion.)

23 MEMBER RYAN: I didn't take away that
24 clear of an answer.

25 MEMBER STETKAR: Well, it's not clear

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1 to me where -- perhaps during the full committee
2 meeting, if indeed the rule has benefitted or some
3 of the guidance has benefitted from SOARCA. You
4 might want to make it clear to the full committee
5 where it has, and if it hasn't, at least state for
6 the public record that it hasn't and why it
7 hasn't.

8 MR. KAHLER: I think we, if I can, we
9 have stated publicly that SOARCA has not been
10 utilized in order to formulate the basis for the
11 rulemaking, or the parts of the rulemaking.

12 MEMBER RYAN: Not directly.

13 MR. KAHLER: Pardon?

14 MEMBER RYAN: Not directly, not
15 indirectly.

16 CHAIRMAN SIEBER: Right, either way.

17 MR. KAHLER: In other words, the 15
18 minute classification has no ties to SOARCA, okay.

19 The backup ANS has no ties to SOARCA, and we're
20 talking about those five other areas. The
21 performance-based EOFs, no ties to SOARCA. I mean
22 those items, the ETEs, no ties to SOARCA, and
23 there's one left.

24 MEMBER STETKAR: Shift staffing.

25 MR. KAHLER: Well, that's part of the

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1 50.54(Q) amendment process. No ties to SOARCA.
2 So no, we didn't inform the rulemaking from
3 SOARCA. Now Randy is aware of it. I don't have
4 privy to the published document that I reviewed.
5 So I don't see any influences of SOARCA into the
6 rule.

7 If there is, I can't find anything
8 that would jump out at me and say this is
9 something that was in as a result of the SOARCA
10 analysis.

11 MEMBER ARMIJO: No. My question is
12 shouldn't it have been part of the input?

13 MR. KAHLER: It was determined through
14 policy with the Commission, that SOARCA has not
15 been published. It should not be used. We
16 created this rulemaking effort back in the 2005
17 time frame it began, and moving along from the
18 time of our public meetings and such, the
19 opportunity to utilize what you now have in front
20 of you today for SOARCA was not available to staff
21 then.

22 So we believe that the rulemaking
23 effort and those items that are non-hostile
24 action, security-based type of rulemaking items,
25 wouldn't benefit from the SOARCA study at this

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1 time, to the point of whether it would be major
2 changes in the rule.

3 And the hostile action portion of it
4 is something, and the industry as we heard today
5 agrees, that those enhancements are something that
6 they can see moving ahead without delay.

7 CHAIRMAN SIEBER: My comment. In the
8 early days of probabilistic risk assessment and
9 what's appropriate, what people will accept and
10 what they will not accept, there was a Ph.D.
11 thesis paper written about 35 years ago at MIT,
12 which those of you who are old enough to remember,
13 Saul Levine. He was a professor there and a
14 teacher, and I was his student.

15 That paper had to do with what people
16 will accept and what they will not accept. In
17 other words, what is the risk? How do people
18 categorize risk?

19 They don't feel real bad about
20 exceeding the speed limit by 10 or 15 or 20 miles
21 an hour, and they're willing to take a risk that
22 it's maybe 1 in 100 that they'll have an accident,
23 or they smoke or drink or whatever it is they do,
24 where they're willing to take risks when they are
25 the perpetrator of the harm.

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1 On the other hand, if somebody else is
2 doing it to them, they don't want it to happen at
3 all. So 10 to the minus 3 is not safe enough. 10
4 to the minus 4, we're getting there. But I'd like
5 it never to happen. When you get involved in
6 SOARCA-type arguments and PRA arguments, where the
7 clear implication is that it affects impact on
8 public like emergency planning does, I think it
9 would be a good idea to read that paper and see
10 how the public really thinks about the kinds of
11 chances they're willing to take.

12 MEMBER BLEY: Just as a follow-on to
13 that, there's been an awful lot of work in that
14 area over the last 25 years. The National Academy
15 has done a lot and so have other organizations.
16 So read more than that 35 year-old paper.

17 CHAIRMAN SIEBER: Okay.

18 MR. LaVIE: Dr. Sieber? I might add a
19 cautionary tale regarding SOARCA. I was in the
20 industry at the time all the work was going on on
21 the source term. We all heard about the wonderful
22 things. Iodine is going away. We won't have to
23 worry about this anymore.

24 When the final results of these
25 analyses were finally documented and put into a

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1 regulatory format, we all found that we were still
2 dealing with 35 percent iodine release. So until
3 the SOARCA report is finished and the Commission
4 weighs in on not only the technical aspects of it,
5 but the other aspects of the decision-making, it's
6 really premature to do anything with it.

7 CHAIRMAN SIEBER: And that may be
8 years away.

9 MR. LaVIE: It may be years away.

10 CHAIRMAN SIEBER: Right.

11 MR. LaVIE: You know, let's face it.
12 I know we all realize it, the ten mile EPZ is
13 largely not a technical issue. It's a political
14 issue.

15 CHAIRMAN SIEBER: It's deterministic,
16 yes. Okay. Is there any other comments from
17 members or the staff or guests or the public?

18 (No response.)

19 CHAIRMAN SIEBER: If not, I want to
20 thank everybody for first of all years of
21 excellent work, and for excellent presentations
22 today, and for putting up with us and all the
23 questions that we asked, and this is a prelude for
24 what comes a month from now, even though you'll
25 have to talk faster because we won't have as much

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1 time.

2 But again, thank you very much. This
3 meeting is adjourned.

4 (Whereupon, at 5:12 p.m., the meeting
5 was adjourned.)

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EP FINAL RULE AND GUIDANCE

**NRC Staff Presentation
for ACRS Subcommittee on Plant
Operations and Fire Protection**

November 1, 2010

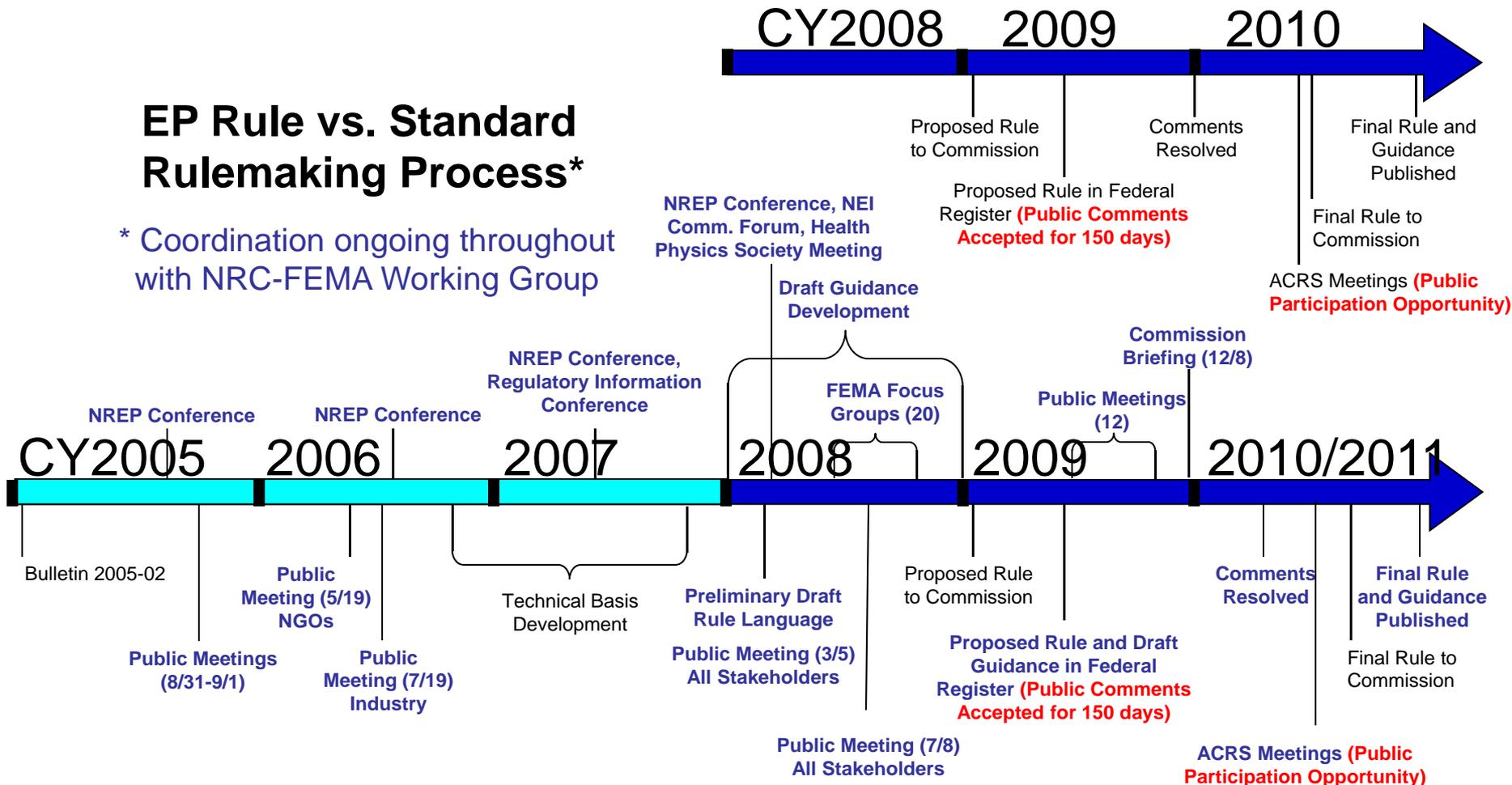
TOPICS

- Emergency Preparedness Rule Background
- Emergency Preparedness Rule Topics
- Requests for Input
- Guidance Documents
- Resolution of Comments

EP RULE BACKGROUND

EP Rule vs. Standard Rulemaking Process*

* Coordination ongoing throughout with NRC-FEMA Working Group



EP RULE SUMMARY

#	RULEMAKING TOPIC	GUIDANCE
1	On-Shift Multiple Responsibilities	NSIR/DPR-ISG-01
2	Emergency Action Levels for Hostile Action	NEI 99-01, Rev. 5
3	Emergency Response Organization Augmentation and Alternative Facilities	NSIR/DPR-ISG-01
4	Licensee Coordination with Offsite Response Organizations	NSIR/DPR-ISG-01
5	Protection for Onsite Personnel	NSIR/DPR-ISG-01
6	Challenging Drills and Exercises	NSIR/DPR-ISG-01
7	Backup Means for Alert and Notification Systems	NSIR/DPR-ISG-01
8	Emergency Declaration Timeliness	NSIR/DPR-ISG-01
9	Emergency Operations Facility – Performance-Based Approach	NSIR/DPR-ISG-01
10	Evacuation Time Estimate Updating	NUREG/CR-7002
11	Amended Emergency Plan Change Process	Reg. Guide 1.219
12	Removal of Completed One-Time Requirements	N/A

EP RULEMAKING TOPIC #1

- On-Shift Multiple Responsibilities
 - 10 CFR Part 50, Appendix E, Section IV.A.9 (new)
 - On-Shift Staffing Analysis
 - Adequate staffing
 - Multiple responsibilities
 - NSIR/DPR-ISG-01 Interim Staff Guidance

EP RULEMAKING TOPIC #2

- **Emergency Action Levels for Hostile Action**
 - 10 CFR Part 50, Appendix E, Section IV.B
 - Incorporate Hostile Action Events
 - NRC Bulletin 2005-02
 - NEI 99-01, Revision 5

EP RULEMAKING TOPIC #3

- **Emergency Response Organization Augmentation and Alternative Facilities**
 - 10 CFR Part 50, Appendix E, Section IV.E.8.d
 - ERO Augmentation During Hostile Action
 - Alternative Facility Characteristics
 - NSIR/DPR-ISG-01 Interim Staff Guidance

EP RULEMAKING TOPIC #4

- Licensee Coordination with Offsite Response Organizations
 - 10 CFR Part 50, Appendix E, Section IV.A.7
 - Resource Needs During Hostile Action
 - Identification of Offsite Resources
 - NSIR/DPR-ISG-01 Interim Staff Guidance

EP RULEMAKING TOPIC #5

- Protection for Onsite Personnel
 - 10 CFR Part 50, Appendix E, Section IV.I
 - Ability of Site Personnel to:
 - Perform reactor shutdown
 - Implement emergency plan
 - Provide Protection for Non-Responders
 - NSIR/DPR-ISG-01 Interim Staff Guidance

EP RULEMAKING TOPIC #6

- **Challenging Drills and Exercises**
 - 10 CFR Part 50, Appendix E, Section IV.F.2
 - Hostile Action-Based Exercises
 - Predictability and Preconditioning
 - No Release/Minimal Release
 - Rapidly Escalating Scenarios
 - Submittal of Scenarios
 - Remedial Exercises
 - NSIR/DPR-ISG-01 Interim Staff Guidance

EP RULEMAKING TOPIC #7

- **Backup Means for Alert and Notification Systems**
 - 10 CFR Part 50, Appendix E, Section IV.D.3
 - Alert and Notification Functions
 - Flexibility in Methods
 - NSIR/DPR-ISG-01 Interim Staff Guidance

EP RULEMAKING TOPIC #8

- **Emergency Declaration Timeliness**
 - 10 CFR Part 50, Appendix E, Section IV.C.2 (new)
 - Capability to Declare an Emergency in 15 Minutes
 - Prompt Declaration
 - NSIR/DPR-ISG-01 Interim Staff Guidance

EP RULEMAKING TOPIC #9

- **Emergency Operations Facility – Performance-Based Approach**
 - 10 CFR Part 50, Appendix E, Section IV.E.8
 - Distance from Plant Site
 - Performance Criteria
 - NSIR/DPR-ISG-01 Interim Staff Guidance

EP RULEMAKING TOPIC #10

- Evacuation Time Estimate Updating
 - 10 CFR 50.47(b)(10)
10 CFR Part 50, Appendix E, Section IV
 - Periodic Updates
 - Prior NRC Review and Confirmation
 - NUREG/CR-7002

EP RULEMAKING TOPIC #11

- Amended Emergency Plan Change Process
 - 10 CFR 50.54(q)
 - Method for Determining Reduction in Effectiveness
 - License Amendment Process
 - Regulatory Guide 1.219

EP RULEMAKING TOPIC #12

- Removal of Completed One-Time Requirements
 - 10 CFR 50.54(r)
 - 10 CFR 50.54(s)(1)
 - 10 CFR 50.54(s)(2)(i)
 - 10 CFR 50.54(u)

REQUESTS FOR STAKEHOLDER INPUT

#	INPUT TOPIC	DISPOSITION
1	Inclusion of National Incident Management System (NIMS)/Incident Command System (ICS)	Not Incorporated
2	Shift Staffing and Augmentation	Not Incorporated
3	Effective Date for COL/ESP Applicants	Deferred Compliance
4	Implementation Dates	Dates Modified
5-7	Non-Power Reactor Licensees <ul style="list-style-type: none"> • staffing analysis • emergency declaration timeliness • hostile action emergency action levels 	Not Incorporated

BREAK

BACKGROUND AND SUMMARY OF GUIDANCE DOCUMENTS

- NUREG/CR-7002, “Criteria for Development of Evacuation Time Estimate Studies”
- Regulatory Guide 1.219, “Guidance on Making Changes to Emergency Plans for Nuclear Power Reactors”
- NSIR/DPR-ISG-01, “Interim Staff Guidance Emergency Planning for Nuclear Power Plants”

GUIDANCE DOCUMENTS

- NUREG/CR-7002, “Criteria for Development of Evacuation Time Estimate Studies”
 - Development of Evacuation Time Estimate Studies
 - Evacuation Time Estimates for Staged Evacuation Protective Action
 - Evaluation Criteria for Reviewers

GUIDANCE DOCUMENTS

- Regulatory Guide 1.219, “Guidance on Making Changes to Emergency Plans for Nuclear Power Reactors”
 - Explanation of Definitions
 - Explanation of Emergency Planning Functions
 - Examples of Changes Requiring/Not Requiring Prior NRC Approval
 - Guidance on Change Submittals, Documentation, and Record Retention

GUIDANCE DOCUMENTS

- NSIR/DPR-ISG-01, “Interim Staff Guidance Emergency Planning for Nuclear Power Plants”
 - Guidance on Remaining Topics
 - Integration of Offsite Response with Onsite EP Programs
 - Future Incorporation into NUREG-0654

COMMENT RESOLUTION OVERVIEW

- Comment Resolution Process
- Emergency Preparedness Rulemaking Working Group
- NRC-FEMA Joint Comment Resolution Team

RESOLUTION OF COMMENTS

- On-Shift Multiple Responsibilities
 - Types of Events to Be Analyzed
 - Time Period Covered by Analysis

RESOLUTION OF COMMENTS

- Emergency Action Levels for Hostile Action
 - Use of Future Emergency Action Level Schemes

RESOLUTION OF COMMENTS

- Emergency Response Organization Augmentation and Alternative Facilities
 - Reference to “Hostile Action”
 - Multiple Locations for Alternative Facilities
 - Event Classification Capability

RESOLUTION OF COMMENTS

- Licensee Coordination with Offsite Response Organizations
 - Identification of Offsite Resources
 - Letters of Agreement/Memoranda of Understanding with Offsite Agencies

RESOLUTION OF COMMENTS

- Protection for Onsite Personnel
 - Specification of Required Protective Actions
 - Use of Multiple Procedures for Hostile Action

RESOLUTION OF COMMENTS

- Challenging Drills and Exercises
 - Length of Exercise Planning Cycle
 - Use of Minimal/No Radiological Release Scenarios
 - Frequency of Certain Scenario Elements

RESOLUTION OF COMMENTS

- Backup Means for Alert and Notification Systems
 - Need for Backup ANS Design Specification
 - Use of Batteries in Lieu of Backup Means

RESOLUTION OF COMMENTS

- Emergency Declaration Timeliness
 - Clarification of When Declaration Is Made
 - Start/Stop of Timeliness “Clock”
 - Reference to “Plant Operator”

RESOLUTION OF COMMENTS

- Emergency Operations Facility (EOF) – Performance-Based Approach
 - Exemptions for Existing EOFs
 - EOF Consolidation

RESOLUTION OF COMMENTS

- Evacuation Time Estimate (ETE)
Updating
 - ETE Update Threshold
 - Completion of ETE Updates

RESOLUTION OF COMMENTS

- Amended Emergency Plan Change Process
 - Changes to Final Rule Language
 - Definitions of “Change” & “Emergency Plan”
 - Timing of Required Reports of Changes
 - Summary of 50.54(q) Analyses
 - Use of License Amendment Process

RESOLUTION OF COMMENTS

- Amended Emergency Plan Change Process
 - Changes to Regulatory Guide 1.219
 - Alignment with Final Rule
 - Consistent Application of Term “Change”
 - Changes That Are Not Reductions in Effectiveness
 - Guidance Regarding “Margin”
 - Implementation Guidance

LUNCH

BACKUP SLIDES

- [The following slides show the major changes between the proposed rule and draft final rule language, implementation dates, and overview of the regulatory analysis/backfit analysis. They are provided as backup slides and are not part of the handout.]

10 CFR 50.47(b)(10)

Draft Final Rule:

A range of protective actions has been developed for the plume exposure pathway EPZ for emergency workers and the public. In developing this range of actions, consideration has been given to evacuation, sheltering, and, as a supplement to these, the prophylactic use of potassium iodide (KI), as appropriate. Evacuation time estimates have been developed by applicants and licensees. Licensees shall update the evacuation time estimates on a periodic basis. Evacuation time estimates and updates must be submitted to the NRC for review ~~and~~ ~~approval to confirm adequacy~~. Guidelines for the choice of protective actions during an emergency, consistent with Federal guidance, are developed and in place, and protective actions for the ingestion exposure pathway EPZ appropriate to the locale have been developed.

10 CFR 50.54(q)

Draft Final Rule:

(1) Definitions for the purpose of this section:

- (i) *Change* means an action that results in modification or addition to, or removal from, the licensee's emergency plan ~~or the resources, capabilities, and methods identified in the plan.~~ All such changes are subject to the provisions of this section except where the applicable regulations establish specific criteria for accomplishing a particular change.
- (ii) *Emergency plan* means the document(s), prepared and maintained by the licensee, that identify and describe the licensee's methods for maintaining ~~and performing~~ emergency ~~planning functions preparedness and responding to emergencies.~~ An emergency plan includes the plans ~~s~~ as originally approved by the NRC and all subsequent changes made by the licensee with, and without, prior NRC review and approval under § 50.54(q).
- (iii) *Emergency planning function* means a capability or resource necessary to prepare for and respond to a radiological emergency, as set forth in the elements of section IV. of appendix E to this part and, for nuclear power reactor ~~s licensees~~, the planning standards of § 50.47(b).
- (iv) *Reduction in effectiveness* means a change in an emergency plan that results in reducing the licensee's capability to perform an emergency planning function in the event of a radiological emergency.

10 CFR 50.54(q) (cont.)

Draft Final Rule (continued):

- (2) A holder of a license under this part, or a combined license under part 52 of this chapter after the Commission makes the finding under § 52.103(g) of this chapter, shall follow and maintain the effectiveness of an emergency plan that meets the requirements in appendix E to this part and, for nuclear power reactor licensees, the planning standards of § 50.47(b).
- (3) The licensee may make changes to its emergency plan without NRC approval only if the licensee ~~can demonstrate through performs and retains an~~ analysis **demonstrating** that the changes do not reduce the effectiveness of the plan and the plan, as changed, continues to meet the requirements in appendix E to this part and, for nuclear power reactor licensees, the planning standards of § 50.47(b).
- (4) The changes to a licensee's emergency plan that reduce the effectiveness of the plan ~~as~~ as defined in § 50.54(q)(1)(iv) may not be implemented without prior approval by the NRC. A licensee desiring to make such a change shall submit an application for an amendment to its license. In addition to the filing requirements of §§ 50.90 and 50.91, the request must include all emergency plan pages affected by that change and must be accompanied by a forwarding letter identifying the change, the reason for the change, and the basis for concluding that the licensee's emergency plan, as revised, will continue to meet the requirements in appendix E to this part and, for nuclear power reactor licensees, the planning standards of § 50.47(b).

10 CFR 50.54(q) (cont.)

Draft Final Rule (continued):

- (5) The licensee shall retain a record of each change to the emergency plan made without prior NRC approval for a period of three years from the date of the change and shall submit, as specified in § 50.4, a report of each such change, including **a summary of** its analysis, within 30 days after the change is ~~made~~ **put into effect**.
- (6) The nuclear power reactor licensee shall retain the emergency plan and each change for which prior NRC approval was obtained pursuant to § 50.54(q)(4) as a record until the Commission terminates the license for the nuclear power reactor.

10 CFR PART 50, APPENDIX E, SECTION IV

Draft Final Rule:

3. Licensees shall use NRC approved evacuation time estimates (ETEs) and **NRC confirmed** updates to the ETEs ~~shall be used by licensees~~ in the formulation of protective action recommendations and ~~must be~~ **shall** provide ~~the ETEs and ETE updates~~ to State and local governmental authorities for use in developing protective action strategies.

Within ~~180~~ **365** days ~~of the later~~ of ~~issuance~~ **the availability** of the decennial census data ~~by~~ **from** the U.S. Census Bureau **or [INSERT EFFECTIVE DATE OF FINAL RULE]**, nuclear power reactor licensees ~~and license applicants~~ shall develop an ETE **analysis using this decennial data** and submit it **under § 50.4** to the NRC for review ~~and approval under § 50.4 to confirm adequacy~~.

4. During the years between decennial censuses, licensees shall estimate **EPZ** permanent resident population changes ~~at least annually once a year, but no later than 365 days from the previous estimate,~~ using **the most recent** U. S. Census Bureau ~~data~~ **annual resident population estimate** and ~~or~~ State/local government population ~~estimates data, if available~~. Licensees shall maintain these estimates so that they are available for NRC inspection during the period between **decennial** censuses and shall submit these estimates to the NRC with any updated ETE ~~s~~ **analysis**.

10 CFR PART 50, APPENDIX E, SECTION IV (cont.)

Draft Final Rule:

5. If at any time during the decennial period, the **EPZ permanent resident** population ~~of either the EPZ or the most populous Emergency Response Planning Area~~ increases ~~or decreases by more than 10 percent from the population that formed the basis for~~ such that it causes the longest ETE value for the 2-mile zone or 5-mile zone, including all affected Emergency Response Planning Areas, or for the entire 10-mile EPZ to increase by 25 percent or 30 minutes, whichever is less, from the licensee's currently approved ~~or confirmed~~ ETE, the licensee shall update the ETE ~~analysis must be updated~~ to reflect the impact of that population ~~change-increase~~. ~~This~~ The licensee shall submit the updated ETE ~~analysis must be submitted~~ to the NRC for review and ~~approval~~ confirmation under § 50.4 no later than ~~180-~~ 365 days after the licensee's determination that ~~a population change of more than 10 percent has occurred~~ the criteria for updating the ETE have been met.

10 CFR PART 50, APPENDIX E, SECTION IV (cont.)

Draft Final Rule:

6. After a license applicant receives its license, the licensee shall conduct at least one review of any changes in the population of its EPZ at least 365 days prior to its scheduled fuel load. The licensee shall estimate EPZ permanent resident population changes using the most recent U.S. Census Bureau annual resident population estimate and State/local government population data, if available. If the EPZ permanent resident population increases such that it causes the longest ETE value for the 2-mile zone or 5-mile zone, including all affected Emergency Response Planning Areas, or for the entire 10-mile EPZ, to increase by 25 percent or 30 minutes, whichever is less, from the licensee's currently approved ETE, the licensee shall update the ETE analysis to reflect the impact of that population increase. The licensee shall submit the updated ETE analysis to the NRC for review and confirmation under § 50.4 no later than 365 days before the licensee's scheduled fuel load.

APPENDIX E, SECTION IV.A.7

Draft Final Rule:

Identification of, and **a description of the** assistance expected from, appropriate State, local, and Federal agencies with responsibilities for coping with emergencies. ~~Nuclear power plant licensees shall ensure that offsite response organization resources (e.g., local law enforcement, firefighting, medical assistance) are available to respond to an emergency, including a hostile action³ event at the nuclear power plant site.~~ For purposes of this appendix, “hostile action” is defined as an act directed toward a nuclear power plant or its personnel that includes the use of violent force to destroy equipment, take hostages, and/or intimidate the licensee to achieve an end. This includes attack by air, land, or water using guns, explosives, projectiles, vehicles, or other devices used to deliver destructive force.

APPENDIX E, SECTION IV.A.9

Draft Final Rule:

Nuclear power ~~plant reactor~~ licensees ~~under this part and Part 52 must provide shall perform~~ a detailed analysis demonstrating that on-shift personnel assigned emergency plan implementation functions are not assigned ~~any~~ responsibilities that would prevent the timely performance of their assigned functions as specified in the emergency plan.

APPENDIX E, SECTION IV.B.2

Draft Final Rule:

A **licensee's** revision to ~~an its~~ emergency action level scheme must be submitted as specified in § 50.4 for NRC approval before implementation if the licensee is changing ~~from an its entire~~ emergency action level scheme ~~based upon NUREG-0654~~ to ~~another the most current NRC-~~ **approved** emergency action level scheme ~~based upon NUMARG/NESP-007 or NEI-99-01~~ **applicable to the design of the licensee's reactor**. ~~The licensee~~ **Licensees** shall follow the change process in § 50.54(q) for all other emergency action level changes.

APPENDIX E, SECTION IV.C.2

Draft Final Rule:

Nuclear power ~~plant reactor~~ licensees ~~and applicants under this part and Part 52~~ shall establish and maintain the capability to assess, classify, and declare an emergency condition within 15 minutes after the availability of indications to plant operators that an emergency action level has been exceeded and shall promptly declare the emergency condition as soon as possible following ~~a determination that an emergency action level has been exceeded~~ **identification of the appropriate emergency classification level. These criteria must not be construed** Licensees **shall not construe these criteria** as a grace period to attempt to restore plant conditions to avoid declaring an emergency action due to an ~~EAL~~ **emergency action level** that has been exceeded. ~~These criteria must not be construed~~ **Licensees shall not construe these criteria** as preventing implementation of response actions deemed by the licensee to be necessary to protect public health and safety provided that any delay in declaration does not deny the State and local authorities the opportunity to implement measures necessary to protect the public health and safety.

APPENDIX E, SECTION IV.D.3

Draft Final Rule:

...The use of this alerting and notification capability will range from immediate alerting and notification of the public (within 15 minutes of the time that State and local officials are notified that a situation exists requiring urgent action) to the more likely events where there is substantial time available for the appropriate governmental authorities to make a judgment whether or not to activate the public alert and notification system. ~~The licensee shall identify and demonstrate that the appropriate governmental authorities have both the~~ **The alerting and notification capability shall additionally include** administrative and physical means for a backup method of public alerting and notification capable of being used in the event the primary method of alerting and notification is unavailable during an emergency to alert or notify all or portions of the plume exposure pathway EPZ population. The backup method shall have the capability to alert and notify the public within the plume exposure pathway EPZ, but does not need to meet the 15-minute design objective for the primary prompt public alert and notification system. When there is a decision to activate the alert and notification system, the appropriate governmental authorities will determine whether to activate the entire alert and notification system simultaneously or in a graduated or staged manner. The responsibility for activating such a public alert and notification system shall remain with the appropriate governmental authorities.

APPENDIX E, SECTION IV.E.8.d

Draft Final Rule:

For nuclear power ~~plant reactor~~ licensees ~~and applicants under this part and Part 52~~, an alternative facility (or facilities) to function as a staging area for augmentation of emergency response staff **and collectively** having the following characteristics: accessibility even if the site is under threat **of a**, or **during an** actual ~~attack~~ **hostile action**; communication links with the emergency operations facility, control room, and plant security; the capability to perform offsite notifications; and the capability for engineering assessment activities, including damage control team planning and preparation, for use when onsite emergency facilities cannot be safely accessed during ~~a~~ **hostile action event**. The alternative facility **(or facilities)** will also be equipped with general plant drawings and procedures, telephones, and computer links to the site;

APPENDIX E, SECTION IV.F.2.b & d

Draft Final Rule:

b. Each licensee at each site shall conduct a subsequent exercise of its onsite emergency plan every 2 years. Nuclear power ~~plant reactor~~ licensees shall submit exercise scenarios under § 50.4 for prior NRC review and ~~approval-verification~~. The exercise may be included in the full participation biennial exercise required by paragraph 2.c. of this section. In addition, the licensee shall take actions necessary to ensure that adequate emergency response capabilities are maintained during the interval between biennial exercises by conducting drills, including at least one drill involving a combination of some of the principal functional areas of the licensee's onsite emergency response capabilities. The principal functional areas of emergency response include activities such as management and coordination of emergency response, accident assessment, event classification, notification of offsite authorities, assessment of the onsite and offsite impact of radiological releases, protective action recommendation development, protective action decision making, plant system repair and ~~corrective-mitigative actions-~~ **implementation...**

d. A State should fully participate in the ingestion pathway portion of exercises at least once every ~~6-years exercise planning cycle~~. In States with more than one site, the State should rotate this participation from site to site.

APPENDIX E, SECTION IV.F.2.j

Draft Final Rule:

The exercises conducted under paragraph 2 of this section by nuclear power ~~plant reactor~~ licensees ~~under this part and Part 52~~ must provide the opportunity for the ERO to demonstrate proficiency in the key skills necessary to implement the principal functional areas of emergency response identified in paragraph 2.b of this section. Each exercise must provide the opportunity for the ERO to demonstrate key skills specific to emergency response duties in the control room, TSC, OSC, EOF, and joint information center. Additionally, in each ~~six eight~~ calendar year exercise planning cycle, nuclear power ~~plant reactor~~ licensees ~~under this part and Part 52~~ shall vary the content of scenarios during exercises conducted under paragraph 2 of this section to provide the opportunity for the ERO to demonstrate proficiency in the key skills necessary to respond to the following scenario elements: hostile action directed at the plant site ~~(at an exercise frequency of at least once every 8 years)~~, no radiological release or an unplanned minimal radiological release that does not require public protective actions, an initial classification of or rapid escalation to a Site Area Emergency or General Emergency, implementation of strategies, procedures, and guidance developed under § 50.54(hh), and integration of offsite resources with onsite response. The licensee shall maintain a record of exercises conducted during each ~~six-eight~~-year exercise planning cycle that documents the contents of scenarios used to comply with the requirements of this paragraph.

APPENDIX E, SECTION IV.F.2.j (cont.)

A licensee shall begin its first eight year exercise planning cycle no later than the date of its first biennial exercise conducted after [INSERT DATE 395 DAYS AFTER THE DATE OF PUBLICATION IN THE FEDERAL REGISTER], and that first biennial exercise must include a hostile action scenario.

IMPLEMENTATION DATES

- Amended Emergency Plan Change Process
 - 30 days after final rule publication with no deferral
- Evacuation Time Estimate Update
 - 365 days after effective date of final rule or availability of decennial census data
- Licensee Coordination with OROs
 - 365 days after final rule publication
- On-Shift Staffing Analysis
 - 365 days after final rule publication

IMPLEMENTATION DATES (cont.)

- Alert and Notification System Backup Means
 - First biennial exercise conducted more than 365 days after effective date of final rule
- New Drill and Exercise Requirements
 - First biennial exercise conducted more than 365 days after effective date of final rule
- Other Changes
 - 30 days after final rule publication with option to defer implementation until 180 days after publication

REGULATORY ANALYSIS

- Costs/Benefits Evaluated Relative to Current Regulations, Orders, and Voluntary Actions
- Costs Are Site-Based Rather Than Reactor-Based
- Average Power Reactor Site Cost
 - One-Time = \$485,000
 - Annual = \$40,000
- Average Non-Power Reactor Site Cost
 - One-Time = \$14,000
 - Annual = \$0

BACKFIT ANALYSIS

- Final Rule Requirements Qualify as Backfits
- Two Exceptions
 - Amended Emergency Plan Change Process
 - Performance-Based Emergency Operations Facility
- Backfits Substantially Increase Level of Emergency Preparedness
- Backfits Substantially Enhance Protection of Public



REP Program Manual/NUREG-0654, Supp. 4 Implementation

November 1, 2010



FEMA

Harry E. Sherwood
Branch Chief
Technological Hazards
FEMA Region IX

Public Comment Process

- Program Manual and Supplement 4 released May 18, 2009 for 150 day comment period
- FEMA received over 120 submissions containing over 2300 individual comments
- FEMA convened the Public Comment Adjudication Team (PCAT):
 - 10 FEMA Regional representatives
 - 5 FEMA Headquarters staff
- FEMA/NRC convened a Joint Comment Adjudication Team (JCAT)



FEMA

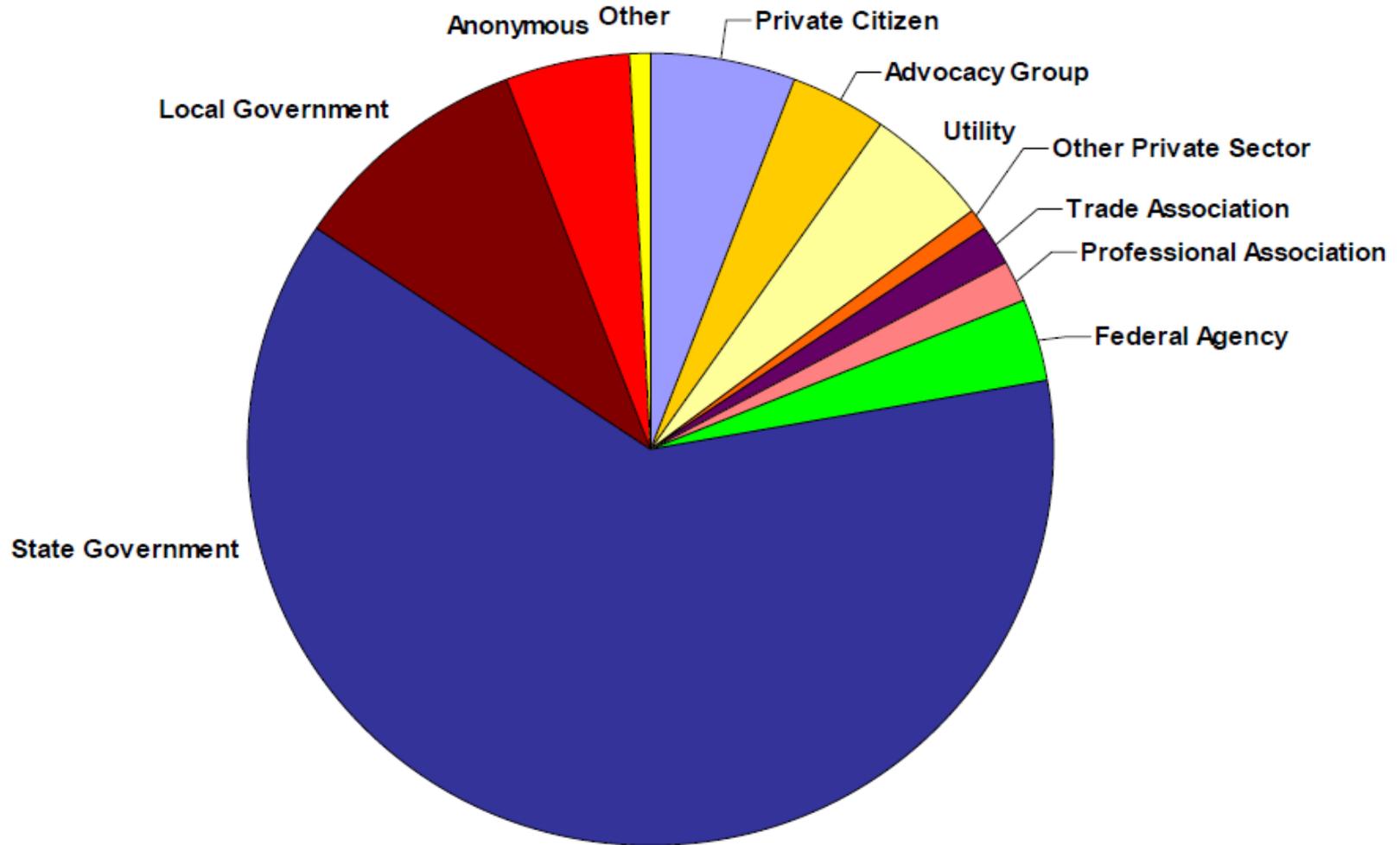
RPM/Supp 4: Key Policy Changes

- Preparing for and responding to hostile action-based (HAB) events
- Aligning the REP Program with national preparedness systems and initiatives (e.g., NIMS/ICS and HSEEP)
- Ensuring more challenging drills and exercises to enhance exercise activities
- Ensuring backup means for Alert & Notification System



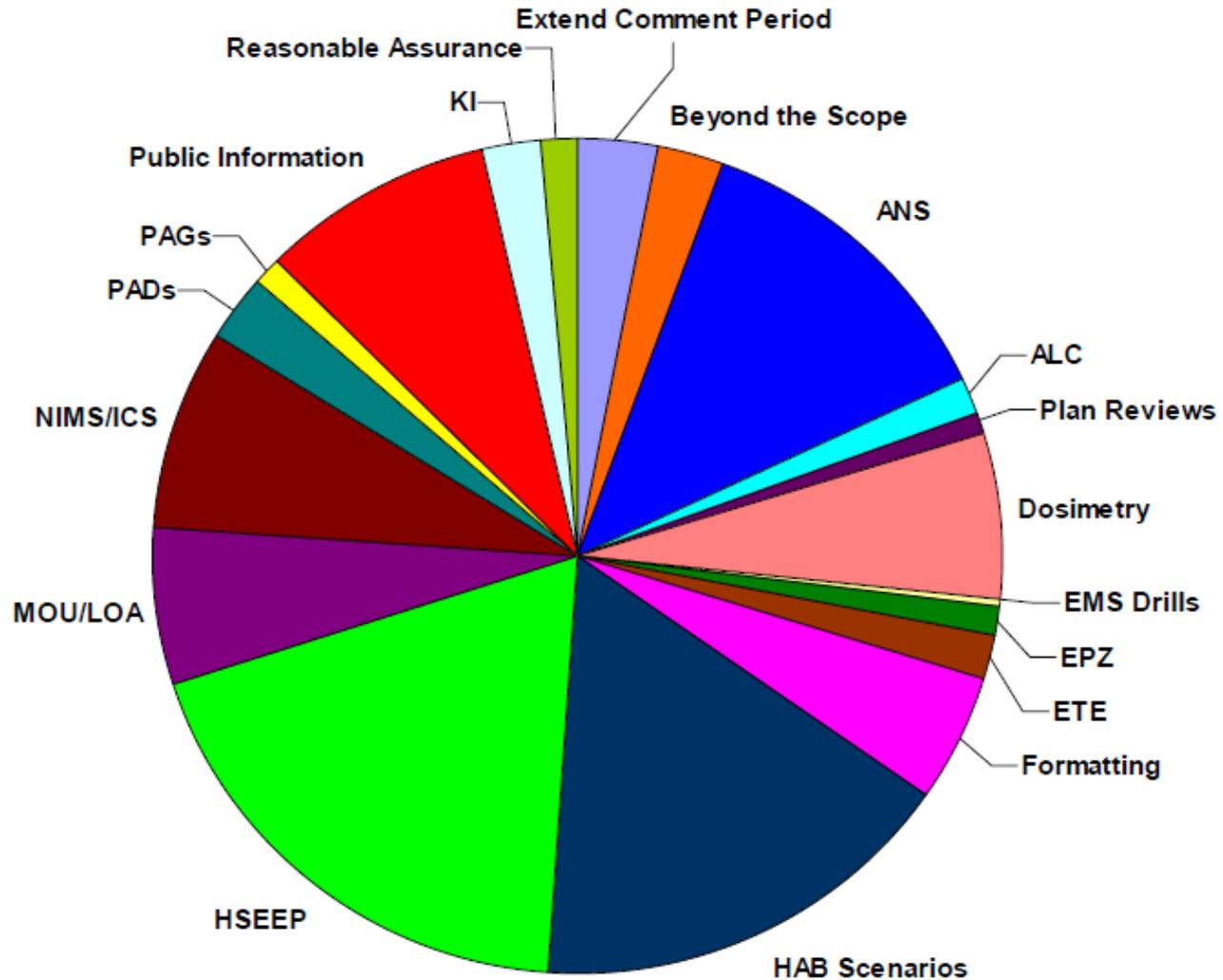
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Stakeholder Comments



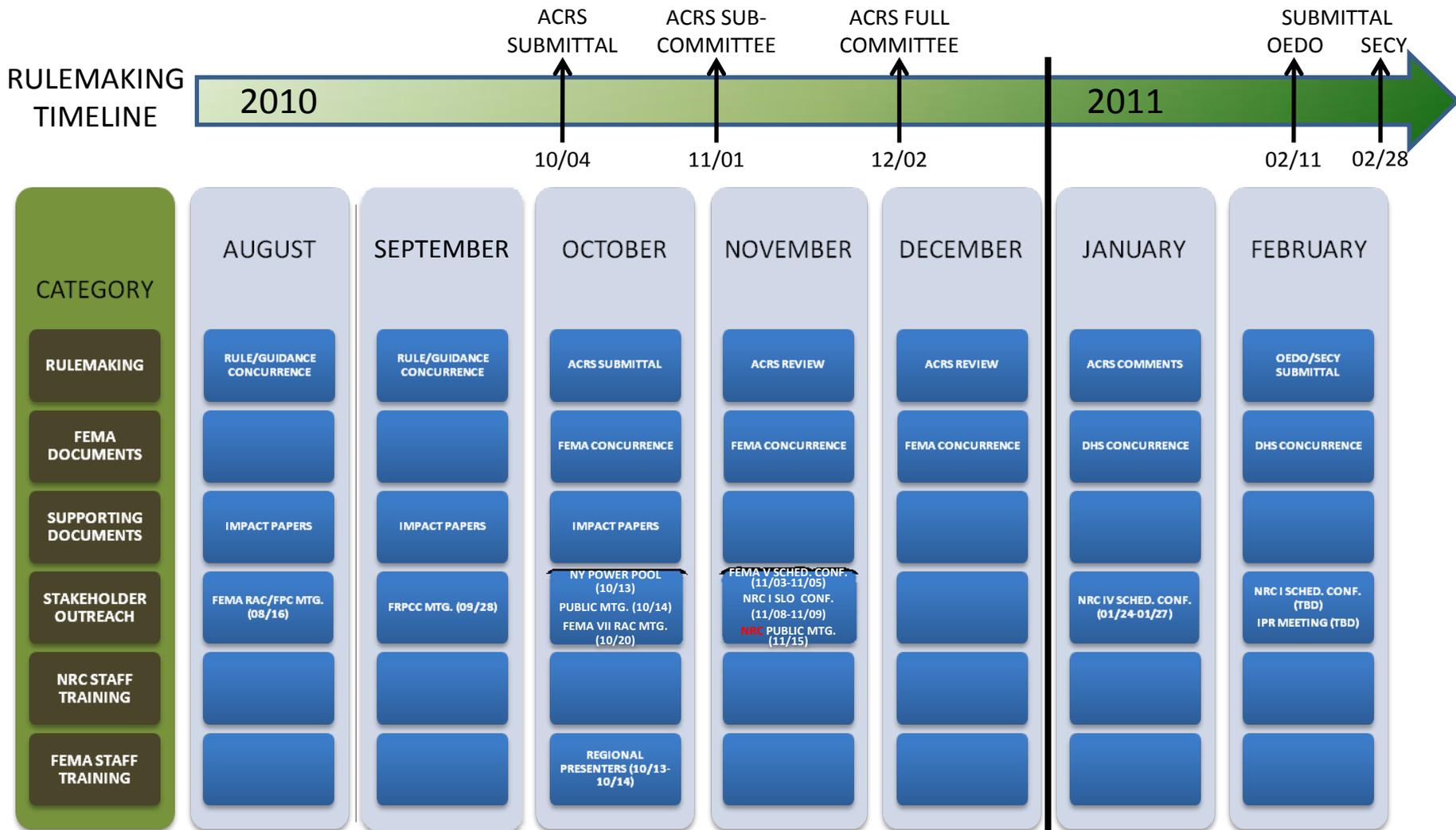
FEMA

Public Comment Summary

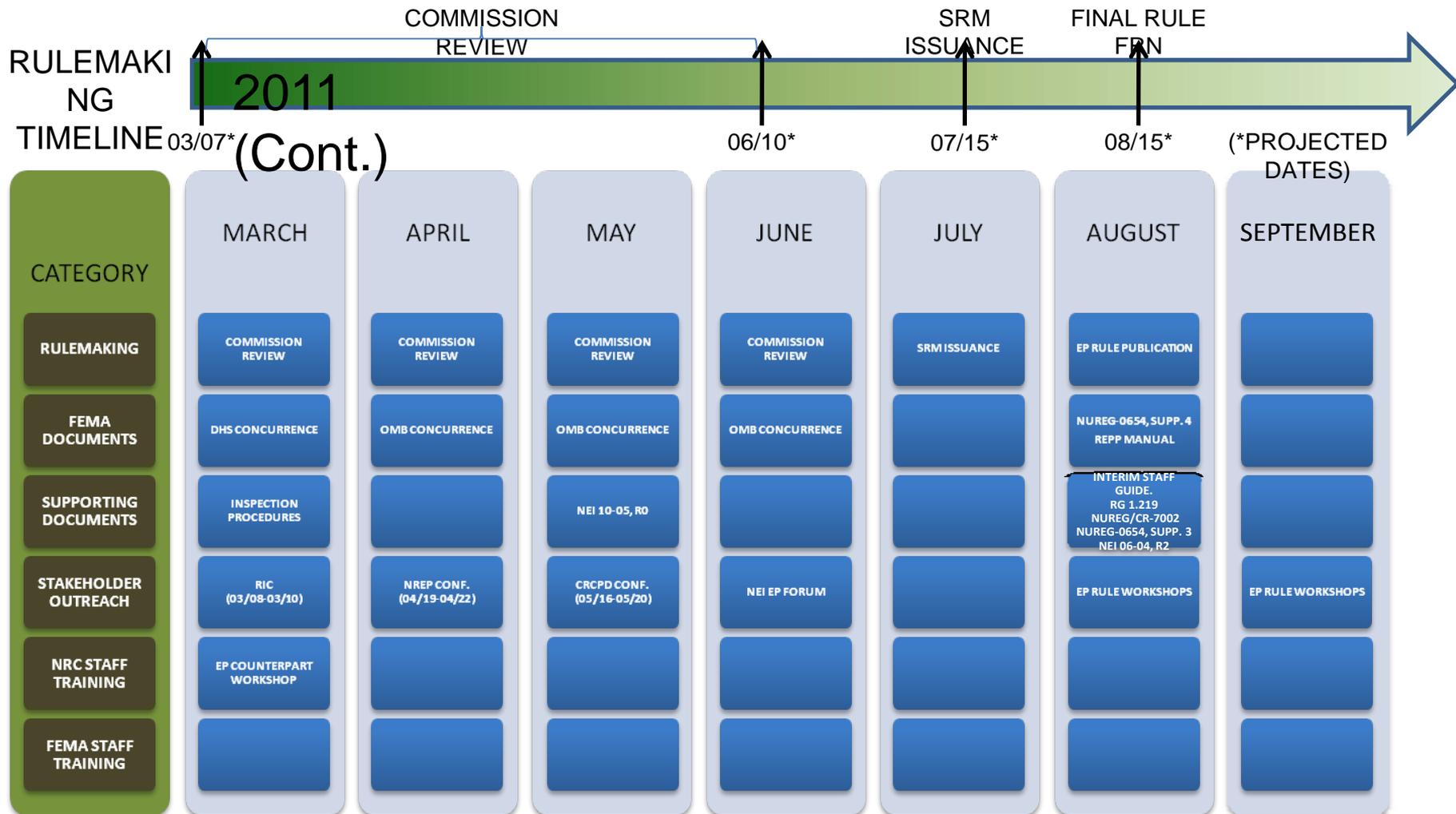


FEMA

EP RULE/GUIDANCE INTEGRATED TRANSITION & IMPLEMENTATION PLAN



EP RULE/GUIDANCE INTEGRATED TRANSITION & IMPLEMENTATION PLAN



FEMA/NRC Cooperation

- Joint NRC/FEMA Integrated Transition and Implementation Plan (ITIP) Working Group
- Determines:
 - *Scope*
 - *Milestones*
 - *Schedule for an integrated FEMA-NRC transition/implementation plan*



FEMA

Impact Papers

- Joint NRC/FEMA Integrated Transition and Implementation Plan (ITIP) Working Group
- Summary documents intended to highlight key areas important to the implementation process
- Topics which have the most significant changes and impact to the stakeholders



FEMA

Impact Paper Topics

- Scenario Variations
- Eight-Year Exercise Cycle
- Plan/Procedure Updates for HAB/No Release and Rapid Escalation
- Back-up Alert Notification System (ANS)
- National Incident Management System/Incident Command System
- Homeland Security Exercise Evaluation Program
- Interpretation of the Terms Should & Shall



FEMA

Scenario Variations

- The initiating event of a REP Program exercise scenario will now be varied to bring more of an all-hazards perspective to the overall exercise cycle
- Three enhanced scenario variations:
 - *Hostile Action*
 - *Rapidly escalating event or initial classification of Site Area Emergency (SAE) or General Emergency*
 - *No/Minimal release resulting in at least a SAE*
- Historically, the exercise scenarios were based on the plume exercises and ingestion pathway exercises. These ingestion pathway guidelines have also been enhanced



FEMA

Exercise Cycle

- Six-year Exercise Cycle has been changed to an Eight –year Cycle
- Exercise Cycle begins with a hostile action based (HAB) exercise in 2014



FEMA

Plan/Procedures Updating

- Updates include:
 - *HAB incident, no-release, rapid-escalating*
 - *Must be incorporated into REP Program plans/procedures six-months prior to first scheduled exercise*
 - *HSEEP*



FEMA

Back-up Alert and Notification

- FEMA has clarified the time requirement for back-up:
 - *Reasonable time and timely manner (recommended goal of 45 minutes)*
 - *New systems need to be submitted to FEMA for technical review and compliance with design objectives*
 - *Implementation periods of up to three years will be considered*



FEMA

NIMS/ICS

- NIMS provides:
 - Consistency
 - Facilitates integration of response elements/resources during an incident
- ORO and licensees are encouraged to align and coordinate Incident Response plans with one another.



FEMA

Homeland Security Exercise Evaluation Program (HSEEP)

- The integration of HSEEP into current planning and preparedness will not alter requirements or replace existing REP Program Demonstration Criteria
- REP Program exercises will follow HSEEP principles
 - Objectives based exercise planning
 - Integrated planning activities that incorporate all stakeholders
 - Documented outcomes through after action process
 - Follow up through improvement planning and corrective actions



FEMA

Steps Forward

- *2,300+ comments have been adjudicated by PCAT*
- Initial FEMA HQ & Regional/NRC Management Review
- Final FEMA/NRC Management Review **
- DHS Review
- Office of Management and Budget (OMB) Review
- Target Date for Publication & Issuance: Maintaining alignment with the NRC Rulemaking



FEMA



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Nuclear Energy Institute Remarks Emergency Preparedness Rulemaking

**Advisory Committee on Reactor Safeguards
Plant Operations and Fire Protection Subcommittee
Meeting**

November 1, 2010

**Susan Perkins-Grew
Director, Emergency Preparedness**



Introduction

NEI agrees with the NRC's conclusion that the existing basis for emergency preparedness remains valid including scope and timing issues.

NEI Topical Remarks

- **Proposed Rule Implementation Process**
- **Cumulative Impact on Licensees and Offsite Response Organizations**
- **Consideration of the State of the Art Reactor Consequence Analysis (SOARCA)**

Recommendations

- **Consider holistic impacts to licensees concerning implementation schedule based on:**
 - Other rulemaking impacting licensees
 - ISG language ambiguity
- **Consider SOARCA findings in ACRS review**
 - If “greater use of quantitative data” should be considered, then associated guidance and rules should be deferred