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 Amendments/Integrated Safety Analysis
 Public Workshop

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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PUBLIC WORKSHOP FOR DISCUSSION OF PART 40 PROPOSED
RULE DOMESTIC LICENSING OF SOURCE MATERIAL
AMENDMENTS/INTEGRATED SAFETY ANALYSIS

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WEDNESDAY, AUGUST 17, 2011

The Public Workshop convened at 9:00 a.m
in Room EBB2-B13/15 of the Executive Boulevard
Building, 6003 Executive Boulevard, Rockville,
Maryland.

PRESENT:

MATT BARTLETT, NRC

JONATHAN EVANS, NRC

MARIA C. GUARDIOLA, NRC

TOM HILTZ, NRC

DEBBIE JACKSON, NRC

JOHN KINNEMAN, NRC

EDWARD LOHR, NRC

CINTHYA ROMAN, NRC

CHARLIE ARNOTT, Tennessee*

TOM CONWAY, Kansas*

GERARD COUTURE, Westinghouse

DALLAS GARDNER, USEC, Inc.*

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11 JOHN MILLER, International Isotopes
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21 CHARLIE VAUGHAN, NEI
22 HUNTS WAGER, Texas*
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24 DOUG YATES, Mox Services

25 *1-present via telephone

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P R O C E E D I N G S

9:05 a.m.

MS. JACKSON: Welcome to the Proposed Part 40 Integrated Safety Analysis Rulemaking.

I'm Debbie Jackson, I'm Deputy Division Director of the Division of Intergovernmental Liaison and Rulemaking in the Office of FSME at the NRC.

The purpose of this public meeting is to provide the public with an opportunity to provide comments on the proposed changes to the Part 40 Rule as it relates to the proposed rule published in the *Federal Register* Notice on May 17, 2011.

The NRC is very interested in your feedback and I want to thank all of you taking your time to attend the public meeting this morning.

Stakeholder involvement is very important and your input will be considered very carefully in this rulemaking process. NRC staff is here today to listen to your comments and clarify any information, if possible. However, because we are in a listening mode the issues and information will not be debated. We're just going to take in your comments and then listen to what you have to say to us.

We don't have a facilitator in this meeting, so I'm going to go over a couple of

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1 administrative issues. This is a transcribed meeting,
2 so for the record when you speak if you could state
3 your name and your affiliation.

4 If you could set all of your electronic
5 devices to vibrate, that would be greatly appreciated.

6 And we ask that you be professional in
7 your conduct and allow others to speak. Don't
8 interrupt someone when they're speaking.

9 While this meeting is transcribed, we
10 encourage you to send your comments in writing. The
11 public comment date closes on September 9th, 2011.

12 So stated in the *Federal Register* notice
13 comments received after September 9th will be
14 considered if practical, but the NRC is not able to
15 assure that your comments will be considered for
16 consideration after that date.

17 If you've not done so, please pick up
18 copies of the handouts. They're located on a counter
19 behind me. And also we have public meeting forms for
20 you to fill out.

21 So, with that I will turn it over to John
22 Kinneman.

23 MR. KINNEMAN: Thank you, Deb.

24 I'm going to let Jonathan ask who it was
25 that just came on the line.

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1 MS. JACKSON: Okay.

2 MR. EVANS: Who just then came on the
3 line?

4 MR. GARDNER: This is Dallas Gardner from
5 USEC Paducah.

6 MR. EVANS: If you would, if you're able
7 to, mute your phones. If you can't mute your phones,
8 you can mute your individual lines from the bridge
9 line by using star 6.

10 MR. KINNEMAN: Yes. I'll just add one
11 thing. Since we do have a fairly extensive group of
12 people on the bridge line, one of the things I'll ask
13 Jonathan or Debbie to do periodically is that we ask
14 them so that they can participate if they choose. And
15 we'll try and make that work.

16 So I guess what I want to add to Debbie's
17 remarks is welcome to all of your today.

18 One of the things that I've been doing for
19 a number of years working with a different group of
20 licensees is asking licensees to try and make sure
21 that they're aware of proposed rules and take the time
22 to read them and look what effect they're likely to
23 have on their operations. And at least from the
24 initial comments we got already, I and some other
25 approaches, it's apparent that you've done that. And

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1 we really do appreciate the attention you've given to
2 the rule. We're going to listen very closely to your
3 comments, try to make sure we understand them. And as
4 Debbie said, I think our approach today is going to be
5 very much try to understand the comments and not to
6 try and argue why we wrote the rule the way we wrote
7 the rule.

8 So, you know to the extent that you can
9 I'm going to ask everybody to give us your best
10 explanation when you do make a comment of both what is
11 good about the rule, because that's one of the things
12 that occasionally gets lost. If there's a piece that
13 supports something and even if you're not planning to
14 talk about that, that counterpoint helps us because
15 when we respond to a comment we then do damage to
16 something else that the commentor thought was good and
17 just didn't think about commenting on. So, I would
18 ask you to consider that: What's good about the rule.
19 If you're commenting about something you want to see
20 change, then the more you can tell us about the impact
21 and change that would be better that you think would
22 achieve our objectives better, then that's the most
23 helpful kind of comment.

24 Obviously, we're open to any comments you
25 have. I think Debbie and Ed can talk about the

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1 process later, which is that we will resolve all the
2 comments we receive and answer them. And that's why
3 we're not going to try to answer comments or give a
4 lot of explanation today so we have the maximum time
5 to hear what you've said.

6 So, thank you all for coming. I look
7 forward to hearing what everybody has to say.

8 All right. With that, I think Ed is going
9 to actually go through a couple of introductory
10 remarks to kind of set up where the rule came from and
11 get us started thinking in the right direction. And
12 then --

13 MS. JACKSON: Can we just go around the
14 room and maybe introduce everybody?

15 MR. KINNEMAN: Oh, sure. Absolutely.
16 That's probably a good idea.

17 My name is John Kinneman. I'm Director of
18 the Division of Fuel Cycle Safety and Safeguards.

19 I don't think we ask the transcriptionist.

20 MR. GREENO: Mike Greeno, Regulatory
21 Affairs Manager at Honeywell Metropolis.

22 MR. PARSCALE: I'm Larry Parscale.
23 Metropolis, Honeywell Metropolis.

24 MR. MILLER: John Miller, International
25 Isotopes.

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1 MS. SCHLAETER: Janet Schlaeter, Nuclear
2 Energy Institute.

3 MR. VAUGHAN: Charlie Vaughan, NEI.

4 MR. SMITH: Tyson Smith with Winston &
5 Strawn.

6 MR. SENSUE: Terry Sensue, USEC.

7 MR. MAUER: Andrew Mauer, NEI.

8 MR. COUTURE: Gerry Couture, Westinghouse.

9 MS. ROMAN: Cinthya Roman, NRC.

10 MS. GUARDIOLA: Maria Guardiola, NRC.

11 MR. YATES: Doug Yates, Mox Services.

12 MR. LOHR: Ed Lohr, NRC.

13 MR. BARTLETT: Matt Bartlett, NRC.

14 MS. JACKSON: Debbie Jackson.

15 MR. HILTZ: Tom Hiltz, NRC.

16 MR. EVANS: Jonathan Evans, NRC.

17 MR. KINNEMAN: And actually if I could
18 ask, we probably should do one other thing. What's our
19 schedule for the overall meeting? How long are we
20 going to go and are we going to take a break, and are
21 you going to cover that?

22 MR. LOHR: I'll cover that.

23 MR. KINNEMAN: Okay. Fine. I'll leave
24 that to you.

25 MR. LOHR: Okay. Good morning, everybody.

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1 And welcome to everybody on line as well.

2 I'm Ed Lohr from the Office of Federal and
3 State Materials Environmental Management Program.

4 MR. KINNEMAN: I'm sorry, Ed.

5 Why don't we ask Jonathan to go through
6 the list that he has for the people on the phone. And
7 then if we don't name someone that's on the phone, you
8 can add your name.

9 MR. EVANS: Okay. As far as the people on
10 the phone, I'll just go through the list. If your name
11 is not listed, just speak up and let me know.

12 We have Tom Conway from Kansas.

13 Michael Ortiz from New Mexico.

14 Mike Welling from Virginia.

15 Brian Gretzky from Arizona.

16 Lydia Litinski from Honeywell Illinois.

17 Ruth McBurney from CRCDD

18 Mary Rose from New Mexico.

19 Craig Lawrence from Washington.

20 Rusty Roberson from Emercon.

21 Matt McKinley from Kentucky.

22 Bob Stokes from Honeywell.

23 Julia Schmidt from Nebraska.

24 Dallas Gardner from Paducah, Kentucky.

25 Am I missing anybody?

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1 MR. LOHR: Thanks, Jonathan.

2 Once again, as I said earlier to the folks
3 here in the room, the agendas are available over here
4 where you picked up your handouts.

5 We're scheduled to go from 9:00 until
6 12:00 noon today. Though there is not a break
7 schedule in here, if we're still going at it hot and
8 heavy at 10:30, I would suggest that would be a good
9 break point for a 15 to 20 minute break.

10 With that, I'd like to go ahead and get
11 started.

12 Did somebody join us, Jonathan?

13 MR. EVANS: Did somebody just join us?
14 Can you please give me your name and state location?

15 MR. WAGER: Yes. This is Hunts Wager,
16 Texas.

17 MR. LOHR: Okay. Well, good morning,
18 again.

19 As I started earlier, I'm Ed Lohr from the
20 Rulemaking Group in the Office of Federal and State
21 Materials Environmental Management Programs commonly
22 known as FSME. Together with Matt Bartlett from the
23 Office of Nuclear Material Safety and Safeguards I
24 will be presenting an overview of the Part 40
25 Integrated Safety Analysis proposed rule. And Matt

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1 will be talking to you about the associated guidance
2 document.

3 This public meeting is to provide you with
4 an additional opportunity to present comments on the
5 published proposed amendments to Part 40 that would
6 require the Integrated Safety Analysis, I'll refer to
7 as an ISA from henceforth, for certain licensees and
8 its associated guidance documents.

9 As with all published proposed rules you
10 may submit written comments to the NRC via the venues
11 that are in the *Federal Register* notice. And that
12 *Federal Register* notice is one of the handouts over
13 here on our side. And there's other things from email
14 to sending them in snail mail.

15 We've had some folks joining us.

16 MR. LINK: Sorry. Bob Link Areva.

17 MR. LOHR: Bob, welcome. Take a seat.

18 MS. JACKSON: And Cal Manning.

19 MR. KINNEMAN: Yes. Could you just
20 announce yourselves?

21 MR. MANNING: I'm Cal Manning, also with
22 Enrichment.

23 MR. LOHR: Thank you.

24 I plan to present a short overview of the
25 Part 40 proposal rule and Matt will follow me, as I

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1 said earlier, with the guidance documents.

2 At the end of our presentation we'll open
3 the meeting up to invite public comments on both the
4 proposed rule and the draft guidance.

5 This rulemaking began in August of 2008,
6 and the proposed rule was published in the *Federal*
7 *Register* for comment on May 17, 2011. The comment
8 period, I believe as Debbie has already said, and the
9 associated documents for guidance have been extended
10 to September 9th from the original date of August 1st
11 per NEI's request.

12 The next slide is on background. Fuel
13 cycle facilities are regulated, as you're all probably
14 aware in this room, under both Part 40 and Part 70
15 with the Part 70 facilities having the potential for
16 criticality. Most fuel cycle facilities licensed
17 under Part 40 are involved in the conversion and
18 deconversion processes where the chemical hazard is
19 the main safety issue.

20 Though there are a lot of similarities
21 between Part 40 and Part 70, Part 40 as it applies to
22 conversion/deconversion facilities does not contain as
23 many detailed requirements. For examples, it lacks an
24 ISA requirement.

25 Both conversion and deconversion

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1 facilities handle large quantities of hydrogen
2 fluoride. As a result, the Commission in staff
3 requirement memorandum issued in October 2007 directed
4 the NRC staff to conduct rulemaking to amend 10 CFR
5 Part 40 to require large facilities with significant
6 quantities of hydrogen hexafluoride, henceforth I'll
7 call UF_6 , to conduct ISAs similar to those that are
8 already required in 10 CFR Part 70 Subpart (h). The
9 Commission directed that any new license application
10 submitting during this rulemaking process that the
11 staff should impose the performance requirements as
12 part of the licensing basis that's in Subpart (h) of
13 Part 70.

14 The SRM, or the staff requirement
15 memorandum, also stated that the facilities with
16 significant quantities of uranium hexafluoride would
17 only be licensed by the NRC in not the Agreement
18 States. These requirements would not apply to any
19 existing facilities undergoing decommissioning in
20 Agreement States or NRC space.

21 Also, prior to developing the proposed
22 rule, the staff was directed to conduct a workshop
23 with stakeholders and invite public comments on the
24 issue. And that workshop occurred in February of
25 2008.

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1 The Commission directed the staff to
2 require an ISA in facilities possessing a significant
3 quantity of UF₆. But what number is significant? A
4 review of other federal agency standards for
5 additional safety criteria based on quantities of UF₆
6 revealed that OSHA had established a listing of toxic
7 and reactive highly hazardous chemicals that could
8 present a potential for a catastrophe event at or
9 above a threshold quantity. The OSHA regulation
10 required for preventing or minimizing the consequence
11 of a catastrophe release of toxic, radioactive,
12 flammable or explosive chemicals that may result in an
13 explosion, fire or accident.

14 Under these OSHA regulations facilities
15 that possess hazardous chemicals in quantities greater
16 than listed must perform a process hazard analysis.
17 This analysis is similar but less comprehensive than
18 the requirements in the proposed ISA and does not
19 provide a structured risk-informed requirement for
20 evaluating consequences of facility accidents as an
21 ISA does.

22 Additionally, the OSHA regulations only
23 address chemical hazards. An Integrated Safety
24 Analysis would address both radiological and chemical
25 hazards from licensed materials and hazardous

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1 chemicals produced in the processing of licensed
2 material.

3 The staff applied the threshold quantity
4 used in the OSHA regulation for identifying hazardous
5 chemicals. The value for hydrogen fluoride is
6 approximately 453 kilograms.

7 When the 2,000 kilograms of UF_6 reacts
8 with water it yields about 450 kilograms of HF. 450
9 kilograms is approximately equal to a 1,000 pounds,
10 which is the OSHA threshold for additional safety
11 requirements. In the SRM SECY-10-0128 the Commission
12 agreed with the staff's recommendation to use the
13 2,000 kilograms of UF_6 as a threshold requirement in
14 ISA.

15 I want to talk a little bit about the
16 actual proposed rule and some of the components in it.

17 The proposed rule would incorporate
18 performance requirements of the Part 70 ISAs into Part
19 40. Those performance requirements that involve
20 criticality, for example would not be incorporated
21 because they were not applicable.

22 The proposed rule would also add an
23 additional evaluation criteria related to the
24 emergency plan that's already in Part 40. In
25 40.31(j) it requires any licensee or applicant who

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1 plans to possess 1,000 kilograms or more of UF₆ to
2 submit an emergency plan or in lieu of that, an
3 evaluation showing that the maximum intake of uranium
4 by a member of the public due to release would be less
5 than 2 milligrams.

6 The proposed rule will add an additional
7 criterion in addition to 40.31(j) for licensees or
8 applicants who possess or plan to possess 2,000
9 kilograms or more. It would require a demonstration
10 that the acute chemical exposure from licensed
11 material or hazardous chemical produced from licensed
12 material due to a release would result in neither
13 irreversible nor mild transient health effects to the
14 members of the public off-site.

15 This new provision supplements the
16 existing requirements in 40.31 to capture the
17 additional hazards posed by operations involving
18 2,000 kilograms or more of UF₆. Accidents involving
19 UF₆ can produce hydrogen fluoride, a highly reactive
20 and corrosive chemical generated in gaseous form when
21 it reacts with the moisture in the air. And the HF,
22 or hydrogen fluoride presents a substantial inhalation
23 and skin absorption hazard to both workers and the
24 public as a cloud of the UF₆ gas can quickly move off-
25 site.

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1 Additionally, a backfit provision similar
2 to what's in Part 70 would be added to Part 40 that
3 would only apply to those sections that effect
4 licensees who possess or plan to possess 2,000
5 kilograms or more of UF₆.

6 I want to bring you up to date where we
7 are currently with the rule. As stated earlier, the
8 proposed rule and associated guidance was published in
9 the *Federal Register* on May 17, 2011 and the comment
10 period ends on September 9th. And as I stated
11 earlier, there are multiple avenues available for
12 submitting comments and are detailed in the *Federal*
13 *Register* notice available.

14 All comments received today and those
15 submitted in writing will be addressed in the final
16 rule.

17 As in all our rules, the final rule must
18 be approved by the Commission or their designee,
19 before publication. We anticipate and hope to have
20 the final rule published by December of 2011.

21 At this time I'd like to turn it over to
22 Matt to talk a little bit about the guidance documents
23 associated with the proposed rule.

24 MR. KINNEMAN: When do you expect to have
25 the final rule published?

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1 MR. LOHR: We hope to have it published by
2 December, 2012. Thank you. I said '11. Thank you.

3 MR. KINNEMAN: Yes, you did.

4 MR. LOHR: Boy, that'd be good, wouldn't
5 it?

6 MR. KINNEMAN: It certainly would be.

7 MR. BARTLETT: Well, good morning.

8 As Ed mentioned, my name is Matt Bartlett.
9 I'm the MNF's representative on the Part 40 Rulemaking
10 Working Group.

11 We developed this draft guidance NUREG-
12 1962. It has a distinct but catchy title Guidance on
13 Implementation of Integrated Safety Analysis
14 Requirements for 10 CFR Part 40 Facilities Authorized
15 to Possess 2,000 Kilograms Or More of Uranium
16 Hexafluoride.

17 Our main purpose for this guidance was
18 really twofold. We wanted to provide information on
19 how to develop an ISA and document it, and then also
20 provide a Standard Review Plan with acceptance
21 criteria for an ISA.

22 The guidance is relatively short, so
23 that's quite a bit to accomplish in a short guidance
24 document. It contains several pages of introductory
25 information. But I would say the bulk of the guidance

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1 is really in the tables, and there's four tables in
2 the guidance. And I'll talk a little bit about those
3 in the next slide.

4 As you may wonder how did we accomplish
5 these two big goals in this relatively small document?
6 Well, when you consider that the Part 40 rulemaking
7 essentially adopts ISA requirements that are in Part
8 70 into Part 40, we looked at it and realized that the
9 bulk of the guidance that exists for Part 70 would
10 also apply for Part 40. So two of these primary
11 guidance for Part 70 is NUREG-1513 which accomplishes
12 that first goal of telling how to develop and document
13 an ISA, but again for Part 70. And then NUREG-1520
14 which is the Standard Review Plan for Part 70 fuel
15 cycle facilities and it has a section on the
16 acceptance criteria for ISAs.

17 So it became our plan for this guidance
18 document rather than just repeat all this applicable
19 guidance in its own document, we just referenced the
20 applicable portions that are in these existing
21 documents.

22 Okay. And that's why I say that the bulk
23 of the useful information in this 1962 is the tables,
24 because the tables, there's four tables.

25 The first table just gives a summary of

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1 the new sections that we added to Part 40. There are
2 some pieces that don't parallel with Part 70. Those
3 pieces are highlighted and described. And so Table 1
4 just takes you through what we added to Part 40 and
5 gives a discussion on it.

6 The second table really is to me the most
7 useful table. It provides a section-by-section
8 crosswalk between Part 40 and Part 70 and then it
9 references the applicable criteria in NUREG-1520. It
10 also provides a brief discussion that compares the two
11 parts of Part 70 and Part 40.

12 The third table is a little bit more
13 detailed information. What it does is it takes you
14 section-by-section of the Part 40 and tells you where
15 the applicable requirement would be in NUREG-1520.
16 And the way it does that is, for example if there's a
17 reference in NUREG-1520 to 10 CFR 70.61, it lists all
18 the sections in the NUREG where that requirement is
19 referenced. And then it ties it back to the Part 40
20 requirement.

21 The fourth table, Expanded Information
22 Requirements for the ISA Summary. this table existed
23 in NUREG-1520, but it only applied for Part 70. We
24 expanded it to also apply to Part 40. So it tells
25 where the information requirements are in Part 40.

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1 So, when you use this NUREG-1962 you
2 should think of it more as a crosswalk to the existing
3 guidance. It references the NUREG-1513 and the NUREG-
4 1520.

5 By the way, I just wanted to mention the
6 bulk of NUREG-1513 really applies to Part 40. There
7 are some direct references to criticality, but in
8 general the principles apply.

9 For 1520 there was a little bit more
10 explaining we had to do in this NUREG because there's
11 quite a bit of criticality, double contingency; those
12 kinds of things that they don't apply directly to Part
13 40. But those are described in this NUREG.

14 And then finally, you know the primary
15 purpose of this is, again, to provide a crosswalk
16 between Part 40 and Part 70.

17 And that's all I have.

18 MR. LOHR: At this point in the public
19 meeting, we'd really like to open it up for comments
20 from the public. I know that NEI has a slide
21 presentation. If you'd pull that up, Matt.

22 But additionally, I know that we have
23 several Agreement States that are on the
24 teleconference with us that are interested in one
25 particular issue. And so I was going to sort of tee

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1 that issue up and solicit comments from the Agreement
2 States and, of course, from the rest of the folks here
3 in the room. Not that the Agreement States may not be
4 interested in the rest of the rule, but I believe this
5 particular item is of high interest.

6 MS. JACKSON: Someone else came on the
7 line, I believe.

8 MR. EVANS: Somebody just joined the
9 conference, would you please give your name and
10 affiliation?

11 MR. ARNOTT: Charlie Arnott, State of
12 Tennessee.

13 MR. EVANS: What's your last name again?

14 MR. ARNOTT: Arnott, A-R-N-O-T-T. Also
15 Johnny Gray, State of Tennessee.

16 MR. EVANS: Thank you.

17 MR. LOHR: Could you hand that down to
18 her, sir?

19 MS. SCHLAETER: Okay. I'm Janet
20 Schlaeter, NEI.

21 It might help if I could suggest that
22 maybe we go through all the presentation, because
23 pretty quickly we'll get into the jurisdictional
24 issue, and that way maybe if we could frame it out as
25 we understand it based on the rule, that might give

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1 the Agreement States a little bit more context for
2 chiming in or asking any additional questions. It
3 might help if you heard what confusion we have with
4 the rule.

5 MR. LOHR: That's fine. However you want
6 to do it. What I don't want to do is to address
7 multiples.

8 If you want to go through your complete
9 presentation, and then address them individually, is
10 that correct?

11 MS. SCHLAETER: It probably would help.

12 MR. LOHR: Okay. That's fine.

13 MS. SCHLAETER: I suspect it would help.

14 MS. JACKSON: That's good.

15 MS. SCHLAETER: Okay.

16 MR. CONWAY: Janet, could you speak up a
17 little bit, please?

18 MS. SCHLAETER: Sure.

19 MR. CONWAY: Thank you.

20 MS. SCHLAETER: I think I had something
21 sitting over the mic. Sorry about that. Is that
22 better?

23 MR. KINNEMAN: Why don't you say something
24 and see if it's better?

25 MS. SCHLAETER: Tom, was that better?

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1 Tom? Can you hear me?

2 MR. CONWAY: Yes. Thank you.

3 MS. SCHLAETER: Okay. Well, I'm Janet
4 Schlaeter from NEI. And behalf on industry, I'd like
5 to say thank you for granting our request to conduct
6 the meeting. And to also to extend the comment period
7 to about three weeks from now because our whole intent
8 of having this meeting was to lay out some issues,
9 some areas that we're seeking some clarification from
10 the NRC based upon the statements of consideration and
11 the rule language, and the guidance documents. And
12 we're hoping that this meeting will inform our
13 comments.

14 Our comment letter will be much more
15 inclusive and broader then the issues that we're
16 raising here. We're going to go over some specific
17 rule edits. But that's a small snapshot of what we
18 intend to put into the letter. So when we have a
19 concern or an issue, or an area that we think would
20 benefit from some clarification, we'll try to provide
21 a corresponding suggested rule edit for you to
22 consider.

23 So, we have a set of slide. We do change
24 speakers sort of as we go, just to have everyone have
25 an opportunity really to speak and to, perhaps in some

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1 cases, speak to an issue that is of particular
2 interest to them. And so we'll be switching off here a
3 little bit.

4 Our slide set is pretty short, but we
5 welcome NRC clarifying questions as we go or questions
6 from the phone, but I'll let NRC decide when you want
7 to open it up to the people on the phone to ask
8 questions. I won't try to control that. Okay?

9 I guess this how we do it.

10 Okay. We have a few different areas, as
11 the slide mentions. We're going to have Larry
12 Parscale talk about some concerns we have with the
13 current rule based on what we're reading in the
14 statements of consideration with regard to ISA
15 implementation, in particular the two facilities that
16 are impacted here that have ISAs already conducted and
17 how they will transition under this new rule.

18 We'll talk a little bit about ISA
19 development and implementation cost. And we intend to
20 provide you some data in our comment letter that will
21 document a range of costs that the industry has seen
22 for developing their ISAs under Part 70 as well as
23 Part 40 because it's a small fleet; it's all relevant.

24 And in that regard, we have a discussion
25 on jurisdictional issues which is really the Agreement

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1 State and the UF₆ issue that we're hoping to get some
2 clarification here on, and other consistency concerns.
3 And that means really consistency within the entire
4 fuel facility fleet. So we're talking about
5 consistency issues between Part 70, how Part 70 has
6 been implemented, regulatory issues that we've been
7 addressing with the NRC over time on Part 70 and how
8 they potentially impact Part 40.

9 Again, we have just a few rule edits on
10 the slide just to give you a flavor, but it is just
11 illustrative. The letter will be more comprehensive.
12 And then we'll just step through the brief conclusion.

13 And as I mentioned, we'll basically just
14 allow for questions as we go.

15 I know that you are in a receiving mode,
16 as you've mentioned, but to the degree that you can
17 engage us to make sure that we are not talking past
18 one another and we're clearly communicating,
19 particularly on the jurisdictional issue, I think
20 would be most helpful.

21 Okay. Larry?

22 MR. PARSCALE: Thanks, Janet.

23 Okay. My name is Larry Parscale from
24 Honeywell in Metropolis, Illinois.

25 As Janet indicated, I'm going to lead the

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1 discussion on this first slide. The main point of
2 this is to talk about how to address licensees that
3 already have ISAs in place and then a little bit about
4 the schedule and how that plays together.

5 We broke it down into three main bullets.
6 The first one is stability. And I'm going to be
7 speaking from a Honeywell perspective and using
8 Honeywell as an example, but I'll open the floor to
9 anybody else who wants to jump in at that point and
10 throw in some additional help.

11 Starting with an example form and
12 description from this, in the *Federal Register* notice
13 the background section acknowledges that Honeywell has
14 an ISA, but then it stops. It does not go on and
15 explain that that ISA is incorporated into the
16 Honeywell license as a licensed condition. And then
17 nowhere through the rest of that introduction and the
18 discussion or through the rule itself does it talk
19 about how that ITAAC current existing ISA is going to
20 be handled or the schedule for doing that, at least
21 from our reading of the rule.

22 An example of the problem of that is the
23 rule, as we read it, says that we are to submit the
24 ISA summary within 18 months. Then the rule and
25 proposed rule continues in 40.84(c) to say that that

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1 ISA summary will be submitted either as a license
2 application or license renewal with appropriate
3 amendments as needed. And so we also understand from
4 our reading of the rule that with the submittal of the
5 ISA summary and it's also effective, at least in
6 parts. It's not real clear, you can read different
7 things from there, but it appears that certain
8 elements of -- at least certain elements of that new
9 ISA become effective at that 18 months. For example,
10 the requirement to put in compensatory measures for
11 the remaining 18 months, or that it would imply that
12 the ISA is effected.

13 So the predicament is with that ISA
14 submittal simultaneously we're submitting a new ISA
15 that becomes effective. At the same time we would be
16 requesting disposition of a former ISA. So
17 theoretically we have two ISAs with completely
18 different regulatory requirements. Not only that, but
19 completely different contents of the ISAs that were
20 effective at the same time. And we so we need some
21 guidance or clarification about how to proceed with
22 that situation.

23 One suggested thing that I would put in
24 the terms of what we'd like to see would be maybe in
25 the context of plan, the six month submittal plan and

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1 I'll couch it a little bit more in just a minute, that
2 we would have the option to include in the plan
3 integrated consideration of not only the current ISA
4 and how that would be handled, but how that might
5 effect the rest of the schedule through complete
6 implementation which now is would possibly address the
7 18 month schedule submittal and the three year end
8 date, how that might all play out and submit that in
9 the plan.

10 One of the problems with that is that as
11 we currently need definitional plan, it's a little bit
12 confusing what can be included in that plan and to the
13 extent to which NRC might review and consider what
14 might be in it. And I'll talk about that a little bit
15 more. But that is one way we see of addressing the
16 problem here and the first point about existing ISA.

17 I'll move on to schedule. And all of
18 these are going to have the impact consideration
19 together.

20 I've got three main points to pick out
21 under schedule.

22 First one I've already alluded to, was
23 that the schedule doesn't address how and when the
24 current ISA is going to be addressed. And I want to
25 point out that that's not only referring to the

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1 paperwork, the details about how to get it out of our
2 license or what other effects it might have on other
3 licensing documents, but the fact that removing the
4 ISA and going to a new ISA for us mostly likely means
5 a completely different comparison. We don't call them
6 IROFS in the current ISA, but the IROFS in our current
7 ISA are likely to be completely different from the new
8 ISA. So transitioning in our minds speaking from
9 NRC's efforts, again that's not quite as simple as
10 just saying delete it and put the new one in effect.
11 It may be, and maybe that's the best way to go, but
12 it's a lot more involved then just paperwork.

13 Number 2 item from schedule is that the 18
14 month to complete the ISA as we currently understand
15 the rule is not realistic. And I'm going to explain
16 and add more to this when I get to the cost
17 discussion. But just to wet our appetites on cost
18 assumptions, the NRC states in some of the cost
19 assumptions part supporting the decision for this
20 rulemaking, that the Part 70 analyses are more
21 complex. And the only definition and explanation of
22 that given is that complexity equates to criticality
23 and Part 40 does not have the criticality. So the
24 assumption there is that therefore Part 40 is to say
25 it is as not complex and the implication is there's

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1 not as much as required. But there's no consideration
2 nor addressed to the fact that some of these chemical
3 PHAs are indeed quite complex. Also, the fact that
4 chemical facilities are going to have a lot more
5 chemical processes to analyze and do a PHA on then
6 perhaps a Part 70 facility. So there's not clear
7 explanation of the cost to defend this differentiation
8 which boils down into a final statement there in that
9 cost assumption is that it's stated that a simple
10 system, meaning Part 40, is one-fourth as complex as a
11 complex system, meaning I presume one-fourth of the
12 time is required. And there's no basis for that. And
13 the taking of that information we think leads in to
14 why we have an 18 month schedule for completing the
15 ISA on a Part 40 facility. We just think that's
16 totality unrealistic, and more information I'll tell
17 you in a minute on the cost will explain why we think
18 that's more.

19 Number three under schedule is the plan
20 that's discussed in 40.82(c)(3)(i). That plan as it's
21 described in a couple of different places leaves us
22 somewhat unclear as to exactly what can be included in
23 the plan.

24 In one section, and this particular
25 section I reference, it says that there are three

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1 things that can be included in the plan:

- 2 (1) Describe the ISA approach;
- 3 (2) Describe the processes that will be
- 4 analyzed; and,
- 5 (3) Provide the schedule for completing
- 6 those processed analysis.

7 And then it stops. And then in another

8 section it says a little bit more, and I'm not sure

9 how it comes to us: It's not clear that a plan can be

10 devised and submitted for NRC's review and approval

11 that could say, as I indicated before, here is a

12 complete plan and schedule for doing a total ISA, then

13 done implemented at the end including the disposition

14 of the current existing ISA. It doesn't lead me to

15 believe that that's the well intent of the plan, at

16 least it's not clear. But that's what we would like

17 to see is the ability to submit a plan start to finish

18 and have that accepted for review and approval.

19 MR. KINNEMAN: So if I could just ask a

20 question about that?

21 MR. PARSCALE: Yes.

22 MR. KINNEMAN: So I heard you right, what

23 you would like is a better description or a clarity

24 that more things can be included in the plan rather

25 then that there's anything wrong with the idea of

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1 having a plan, you want the ability to put into it
2 more about how you would transition and a better
3 description of the entire process, am I getting that
4 right?

5 MR. PARSCALE: Yes.

6 MR. KINNEMAN: Okay. Thank you.

7 MR. PARSCALE: And I'll add.

8 I'm sorry.

9 MR. VAUGHAN: Let me just chime in.

10 MR. KINNEMAN: Could you just give your
11 name so everyone knows you who are.

12 MR. VAUGHAN: Charlie Vaughan, NEI.

13 MR. KINNEMAN: Thank you, Charlie.

14 MR. VAUGHAN: Let me just mention from my
15 Part 70 experience that the wording in this rule is
16 very similar to what was in Part 70 with regard to the
17 plan. And one of the rough spots in implementing the
18 70 subpart(h) was over this question of the plan. And
19 all the licensees turned in their plan and since there
20 wasn't a lot of guidance about what the plan looked
21 like, these plans looked, you know considerably
22 different from one licensee to the other. And what
23 that ended up with then was some iterations between
24 the licensees in terms of getting an acceptable plan
25 that seemed to work for the NRC as well as the

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1 licensee.

2 So my suggestion here is that come to
3 grips on some better definition from the NRC side as
4 to what they expect in the plan. And there probably
5 ought to be some give and take from the licensee so
6 the licensee would give some input as to what they
7 expect to be there. And I think in the NEI letter we
8 can flush that out a little better.

9 But this planned step in the process needs
10 a little bit of attention over and above just the
11 simple Part 70 subpart(h) implementation.

12 MR. KINNEMAN: Thank you.

13 MR. PARSCALE: The final bullet there is
14 cost. And the real point here from my perspective on
15 cost is, like I say you unless I just missed it
16 totally, but rather to relate it to what we think
17 translates in the schedule. Because the dollars that
18 are presented in the cost assumption involved in the
19 analysis are so small, it seemed reasonable, and this
20 is an assumption on my part, that it says that -- and
21 we add to that the ruling about simple and complex
22 translates into well you don't need as much time. But
23 my point here is to say that's not true from our point
24 of view, and let me clear out some specifics on that.

25 There are estimates of \$119,000 annual

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1 cost and \$290,000 developmental costs.

2 Honeywell is currently working on a
3 project right now to develop this ISA that we started
4 approximately two years ago in developing the project,
5 and we've been working. And it is currently scheduled
6 for six years total duration. And it's estimated the
7 current project is \$6.7 million. And we didn't make
8 that a big number just to go spend money. We're doing
9 it because the transition from the current ISA to the
10 new ISA is a brand of development. It is a
11 substantial effort. There is essentially little to no
12 comparison from where we are to where we're going and
13 it requires not only just do the analyzes, of which we
14 have approximately: 11 PHAs to do from ground up; 14
15 external events; program the management measures or
16 ground up development. So there's a substantial
17 effort that's leading to that.

18 Now it's also a project of discovery. So
19 we don't know what we're going to know until we get
20 there, and we're finding as we get into these more
21 things. Now we're staying on the schedule that we
22 originally set, but that's subject to what do we find
23 tomorrow and on into hardware procurement and
24 implementation.

25 So \$6.7 million, but that does not include

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1 the Honeywell resources that we have been using to
2 develop along the way. It does include the Honeywell
3 hires, staffing increases that we will have to do, and
4 have identified in house to be able to implement final
5 aspects from maintenance to operations all across the
6 board; none of that is included in that cost. And it
7 does not include the hardware that will need to be
8 procured and implemented.

9 So how big is the total number? We don't
10 know until we get there, but it'll probably be more
11 than \$6.7 million. So substantial difference from
12 \$290,000 that's in there now.

13 MR. KINNEMAN: I'm sorry, Larry.

14 MR. PARSCALE: Yes.

15 MR. KINNEMAN: Could I just again make
16 sure that I heard you correctly?

17 So what you just said is the \$6.7 million
18 does not include, I guess, basically the people on
19 board that you used to do the analysis and it does not
20 include the increase in staff that you believe you
21 will require, nor does it include the actual hardware
22 changes that are necessary?

23 Can I just ask you, but if you're planning
24 later on this I'll, is that all contractor resources
25 then or what actually is in the \$6.7 million?

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1 MR. PARSCALE: In the \$6.7 million it is
2 contractor resources, which are primarily for doing
3 the background. At one time we started off with the
4 contractor was going to perform the PHAs.

5 MR. KINNEMAN: Okay.

6 MR. PARSCALE: We have since been able to
7 identify in-house Honeywell resources to do those. So
8 we've taken that out of the scope. But all of the
9 surrounding procedural development, how the ISA is
10 going to be formatted, put together, controlled,
11 calculation of procedures, software control, et
12 cetera, it's all contracted.

13 MR. KINNEMAN: Okay.

14 MR. PARSCALE: And we also have
15 contractors not only for there, but we have
16 contractors associated from like seismic support, some
17 of the external event analyses and that's all, it's
18 contracted.

19 MR. KINNEMAN: Thank you.

20 MS. JACKSON: Can I ask a question?

21 MR. PARSCALE: Yes.

22 MS. JACKSON: You mentioned hardware, is
23 this new hardware that has to be procured or upgraded
24 existing hardware?

25 MR. PARSCALE: It's a combination of both.

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1 MS. JACKSON: Okay.

2 MR. PARSCALE: For example, if you take
3 seismic as an example. There are things that we're
4 needing to do to modify building support structures.
5 In other cases there are equipment or components that
6 we're buying to install in support of that.

7 MS. JACKSON: Okay. Thank you.

8 MR. VAUGHAN: This is Charlie Vaughan,
9 NEI.

10 Also on the cost aspect, just looking at
11 the NRC's estimates of their cost, it looked like from
12 our perspective of the Part 70 experience that you
13 probably underestimated what you, the NRC, in terms of
14 reviewing the licensee claims and then reviewing the
15 summaries to find them acceptable. So you might need
16 to go back -- we were going to go back and look at
17 that from a Part 70 standpoint and see if we could get
18 some numbers. But it just looks like that they're
19 underestimated, too.

20 I mean, everybody believes that we're
21 going to do the right thing, but when we come up with
22 a project like this and you look at it from the public
23 perspective, right this minute it looks like a little
24 cheap simple fix when in fact it looks like both the
25 industry and NRC are actually extending a significant

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1 amount of effort to improve the safety margin of the
2 facility. So, you know, it would be nice to get the
3 right picture of this thing.

4 MR. PARSCALE: Thank you.

5 Just to wrap up my points here. If I can
6 go back to the Appendix Cost Assumption that was
7 provided by NRC, it states in there that the cost
8 estimate was provided was based on NRC's experience
9 with eight Part 70 fuel cycle facilities back in 2000.
10 And I'm not questioning that, but there's been a lot
11 done maybe since 2000 even though the numbers are
12 inflation brought up. There are changes since then
13 and they need to be factored in. And then there is
14 the fact that I've talked about the difference in
15 understanding here about complexity driving
16 criticality for the Part 40 facilities, but the
17 increased workload from the other chemical processes
18 that have to be analyzed. An then this assumption of
19 a one-fourth comparison simple to complex, there's no
20 basis provided there for that. And in my experience
21 they're quite complex.

22 So, the real point of bring these up in
23 the dollars is to say that to tie it back to the
24 schedule of 18 months. I'm trying to portray that 18
25 months is not realistic whatsoever. If we were

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1 starting with the implementation of this rule in 18
2 months based on what we know today, we will not be
3 successful in completing that.

4 Where will we be when the rule comes out
5 in 18 months time? That remains to be seen based on
6 our discovery. So, that's the real point that I had to
7 make there.

8 And with that, I know John has a couple of
9 things to add. I'm through.

10 MR. MILLER: This is John Miller with
11 International Isotopes. And I just had a couple of
12 comments on some of the bullets on Larry's slide.

13 The transition of existing ISAs, we're
14 going to be in a little bit of a different situation
15 then Honeywell. We submitted an ISA as part of our
16 license application. Now we are hoping that we will
17 have a license before this rule goes to effect. We've
18 had a license before White Flint Three goes up, too,
19 and was finished but --

20 MR. KINNEMAN: You can say what you like.

21 MR. MILLER: -- where we're going to end
22 up is in 40.82(3)(c), you know we're going to be an
23 existing licensee. And so this section then throws us
24 into what Larry's going to have to do as far as
25 submitting a plan, submitting an ISA. And what we have

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1 done is submitted the ISA along with our license
2 application. So there's nothing in the proposed rule
3 that recognizes that. You know, I don't know if it
4 needs to be in the rule or if it needs somewhere else,
5 but there has to be a way where we transition from
6 where we are today and once the rule goes into effect
7 and where we're a licensee. We need to recognize that
8 the ISA we've already completed and have complied,
9 essentially with the way the proposed Part 40 is
10 written.

11 The other comment that I have is
12 associated with the cost, and that is for the
13 development of the ISA. And we were at a public
14 meeting, I don't want to go into details as far as the
15 costs but I can tell you we've exceeded substantially
16 the \$290,000 estimate. And we don't consider our ISA
17 complete because we developed the ISA based on a
18 conceptual design. The design is still not finalized.
19 And so when that design is finalized, we are aware
20 that we have to go back and reevaluate the ISA. And
21 there's likely going to be changes to that ISA based
22 on the final design. So we're still going to incur
23 costs associated with that initial ISA development.

24 So, those were the two points that I had
25 on Larry's slide.

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1 MR. KINNEMAN: Thank you.

2 MS. SCHLAETER: John actually this next
3 one.

4 MR. MILLER: So I've got the next one, and
5 this is jurisdictional concerns. And it really does--
6 we started looking at the proposed rule language and
7 looked at the discussion points in the proposed rule.
8 And then we started doing the what-ifs, what we're all
9 familiar with doing.

10 And so the discussion point there it talks
11 about the NRC being the sole licensing authority. And
12 this is for, you know Agreement State facilities. And
13 then holding the licensing authority for all
14 radiological activities of such licenses. And there
15 was discussion about specifically licensed activities,
16 generally licensed activities.

17 And so we started asking ourselves well
18 what really does this mean and how does this effect
19 the scope of the ISA, and how are other uranium
20 compounds other UF₆ considered? You know, I could
21 give you a scenario in an Agreement State where you
22 have a licensee that is authorized to have 2,000 kgs
23 of UF₆, but after that UF₆ is processed there's greater
24 then 2,000 kgs of uranium oxide or some other
25 compound. And so it's unclear how that dividing line

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1 is really made.

2 I mean, you know I could see some
3 Agreement State might want to have regulatory
4 authority over uranium oxide. The Agreement State
5 might not want to have great authority over that other
6 compound of uranium.

7 The other aspect of the proposed rule
8 language in 40(3)(a) it talks about new licensees. So
9 for existing licensees I'm wondering is that a
10 grandfather? If a facility that is currently licensed
11 by an Agreement Statement has greater than 2,000 kgs,
12 are they grandfathered because of that language?

13 You know, it says "May not issue new
14 licenses covering the possession." So that's a
15 question that we had.

16 The other aspect, and that's with the
17 scope of the ISA for other uranium compounds. You
18 know, the whole genesis of the ISA for UF_6 was the
19 formation of HF. When you're at the backend of, say,
20 deconversion, you're left with depleted uranium oxide
21 which is fairly benign material; I mean there's no
22 hazardous chemicals that are going to be issued or
23 produced from the uranium oxide, how does that play
24 into the ISA? You know, the way the rule is written
25 and if an Agreement State wanted to regulate those

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1 other compounds, I mean I could see a facility having
2 an NRC license, an Agreement State license. The items
3 in the NRC license are covered in an ISA. The items
4 that are in the Agreement State license are not
5 covered in an ISA. So it gets a bit confusing.

6 The last bullet there is really for the
7 Part 70 licensees, like, possess natural or depleted
8 UF₆ above that criteria. I mean, for the most part
9 that form of UF₆ has been incorporated into their
10 current ISA, the Part 70 ISA. But how does Part 40
11 recognize that there are other licensees that have
12 depleted their natural UF₆ that are already covered in
13 an ISA? That's the focus of that last bullet down
14 below.

15 So we thought that Part 40 should at least
16 recognize that that situation exists.

17 MR. KINNEMAN: Okay. Are you finished?

18 MR. MILLER: Yes.

19 MR. KINNEMAN: Can I just kind of take you
20 back to the beginning. I heard you make a couple of
21 points.

22 (1) is that just thinking of the facility
23 that you're involved with --

24 MR. MILLER: Yes,

25 MR. KINNEMAN: -- is obviously you start

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1 with UF₆. Your plan is to end up with an oxide. And
2 I'm not sure I understand how do you read the rule as
3 its written what does the rule require of your
4 facility for that? And I realize we have an
5 intention. I'm asking what do you read in the
6 statement now?

7 MR. MILLER: Well, I'll tell you how our
8 ISA, how we prepared it. Everything is covered by the
9 ISA.

10 MR. KINNEMAN: Okay.

11 MR. MILLER: License application included,
12 everything from start to finish.

13 The question comes up, though, when you
14 read the rule and the rule is really specific to UF₆
15 and the basis of that UF₆ --

16 MR. KINNEMAN: Yes.

17 MR. MILLER: -- is the HF that's produced,
18 once you get your uranium into a compound that really
19 is benign, I mean doing the ISA we do have some IROFS
20 associated with the oxide. They're, you're know
21 radiological IROFS --

22 MR. KINNEMAN: Okay. Sure. Okay.

23 MR. MILLER: -- for the worker.

24 MR. KINNEMAN: Yes.

25 MR. MILLER: But that uranium compound can

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1 be utilized at other facilities that don't have UF₆.

2 MR. KINNEMAN: Oh, sure.

3 MR. MILLER: And actually won't be doing
4 an ISA. And so it just doesn't seem -- it seems like
5 there's a disconnect as for what the intent of the ISA
6 was and then the scope of that ISA covers --

7 MR. KINNEMAN: Okay. Understand.

8 MR. MILLER: It's a little broader then--

9 MR. KINNEMAN: So are you proposing by the
10 way you're kind of going at it that therefore when the
11 oxide is produced and kind of moves away from that
12 process that involves the UF₆, that that should be
13 licensed, I'll say differently at first?

14 MR. MILLER: I'm not -- I don't want to
15 say licensed differently. I --

16 MR. KINNEMAN: It should be licensed by
17 the Agreement State at that time in accordance with
18 the same sort of criteria that would apply is if there
19 was a facility who simply processing for whatever
20 reason uranium oxide?

21 MR. MILLER: I would think that that would
22 be up to the Agreement State. As a licensee, I would
23 prefer to be licensed by one regulator.

24 MR. KINNEMAN: Okay. That's fine. I'm
25 trying to get you to answer.

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1 MR. MILLER: And it would be difficult to
2 juggle.

3 MR. KINNEMAN: Okay.

4 MR. MILLER: At least in my opinion it
5 would be difficult to juggle a number of licenses.

6 MR. KINNEMAN: Okay.

7 MR. MILLER: But the concern that I have
8 with, say, oxide --

9 MR. KINNEMAN: Yes.

10 MR. MILLER: -- you know where do you draw
11 the boundary of an ISA? I mean we're going to be
12 producing a lot of uranium oxide. And it's going to
13 be staged, you know to go out to a disposal site and,
14 you know in a warehouse. And so, you know it's just
15 another effort of evaluating uranium oxide in a
16 warehouse that's ready for --

17 MR. KINNEMAN: Did the -- I'm sorry to
18 interrupt you. But does the ISA process not give you
19 enough flexibility to deal with that? Are you looking
20 for something in the rule that would say that would
21 give more clarity that at some point something can
22 kind of move off the ISA? Is that what you're looking
23 for?

24 MR. MILLER: Either in the rule or in the
25 guidance.

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1 MR. KINNEMAN: Okay.

2 MR. MILLER: It would be better in
3 guidance.

4 MR. KINNEMAN: Okay. I think I understand
5 that.

6 And I thought I had a question about it,
7 but I think I understand the comment you're making
8 about the new -- again, it's a transition kind of
9 issue; we're in one place the rulemaking moves us to
10 another place. We need a way to -- that's kind of it?

11 MR. MILLER: For the transition of the
12 ISA, going back to the original --

13 MR. KINNEMAN: No. But in jurisdiction
14 that there will be licensees who are licensed without
15 the rule and the rule comes into place. I think what
16 I'm hearing is we need to say well what happens -- if
17 you're licensed in one way, do you stay that way?
18 Does there have to be a change to the rule?

19 MR. MILLER: Yes.

20 MR. KINNEMAN: And I think that's pretty
21 clear.

22 MR. MILLER: Yes, right.

23 MR. KINNEMAN: And I think that's a
24 reasonable question that we need to think about. So
25 thanks.

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1 MR. LOHR: Actually, John, at this point
2 I'd like to get to the folks who are on our bridge
3 line and allow them an opportunity to comment on all
4 the items that have been presented by NEI at this
5 point: The regulatory stability; the scheduling; the
6 cost issue; and, this jurisdiction issue.

7 So with that, let's open it up to the
8 folks who are the bridge line for comment.

9 MR. CONWAY: This Tom Conway from Kansas.

10 I need a little clarification. I'd like
11 to know just exactly when this rule goes into effect
12 what will change with respect to the Agreement State's
13 jurisdiction and authority? That's something I am
14 clear on. What will be different as far as the
15 Agreement States?

16 MR. KINNEMAN: You want to take that or
17 you want me to take that?

18 MR. LOHR: Sure. I'd be happy to address
19 that.

20 MR. CONWAY: Yes.

21 MR. LOHR: The proposed rule as written
22 would have the NRC as a sole licensing authority for
23 any facility that would possess or could possess 2,000
24 kilograms of UF₆.

25 MR. KINNEMAN: Authorized.

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1 MR. LOHR: And authorized. Thank you.
2 Practically what that means is and in simple terms if
3 you have a leveling gauge, a nuclear gauge on site
4 that's licensed by the Agreement State and it then
5 would now become NRC jurisdiction, one-stop-shopping,
6 if you will or one regulator. And so that's the
7 proposed part of the rule.

8 And I believe the gentleman from
9 International Isotope says, his comment was that he
10 liked the idea of one authority. I'm not trying to
11 put words in your mouth.

12 MR. MILLER: That would be my preference
13 is that I have one license to manage.

14 MR. LOHR: Right. So that's the proposal,
15 sir.

16 MR. CONWAY: Okay. Well, my comment is
17 not so much whether or not that's the right way to do
18 it, but my comment is the way you're approaching it is
19 the wrong way to do it.

20 The NRC has entered into agreements with
21 the Agreement States and actually has relinquished
22 their authority over certain materials and therefore,
23 cannot simply retract -- you know, take that authority
24 back by publishing a rule. There's a process to go
25 through in accordance with the Atomic Energy Act as

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1 amended which in simple terms basically states that
2 the NRC can take back any part of the agreement if the
3 state has been shown to be incapable of implementing
4 that part. The only other alternative then would be
5 to amend the agreement with the Agreement States, not
6 by just arbitrarily changing a regulation.

7 And so, quite frankly, what has been done
8 here and the notice given to the Agreement States,
9 because quite frankly the true nature of your intent
10 was not revealed until the email that we got yesterday
11 afternoon. And quite frankly, this process the way
12 it's going is not acceptable.

13 MR. LOHR: Is there any other comments or
14 any other clarification you need, sir?

15 MR. CONWAY: I think I understand what
16 you're doing, and it's not that I disagree or agree
17 with what you are doing. The problem is the process is
18 unacceptable.

19 MR. KINNEMAN: Tom, this is John Kinneman.
20 I think I understand that comment very,
21 very clearly and we appreciate that perspective.

22 Do you have a thought on apart from
23 process what would be the best way to manage a
24 facility like this where there is NRC interest in
25 regulating the facility with greater than 2,000

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1 kilograms of UF₆? Assuming we work out the process
2 issues, would it be better from the Agreement State
3 perspective to work it out such that there was sole
4 jurisdiction or is it better that there remains some
5 sort of divided jurisdiction?

6 MR. CONWAY: Well, at this time, you know
7 like I said, frankly having been given less than 18
8 hours of notice on the true intent here in how it
9 would effect Agreement States, I really can't answer
10 that question.

11 What needs to happen is there needs to be
12 some discussions with the Agreement States as to what
13 is the best way to handle that. I'm not saying one
14 way. At this point, I simply don't have enough
15 information to decide if -- you know, which way is
16 best.

17 You know, in Kansas we don't have any of
18 these licensees so it doesn't directly effect us. But
19 if we were to have one, you know say an application
20 came in today, I simply don't have enough information
21 to make an informed decision on which would be the
22 best way to go. And I think those discussions have
23 not been held and they need to be held before anything
24 further happens with this.

25 MR. KINNEMAN: Okay. Thanks.

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1 As Ed said, is there anyone else on the
2 phone who would like to comment on any of the
3 discussion so far, including the jurisdiction issue?

4 MR. LAWRENCE: This is Craig Lawrence with
5 Washington State.

6 I'd kind of like to follow-up with Tom's
7 thoughts because we were in the same position, caught
8 unawares of how the impacts of this would effect us
9 until yesterday at 1:00 when we received an email from
10 Donald Saw that kind of put it in plain language how
11 this would effect us. There was nothing when the
12 original FSME letter came out that indicated to us
13 that this would be the impact. And when we did a
14 simple two hour review of the total rule, we're going
15 to look to the summaries and we looked through the
16 Agreement State liability and there was nothing in the
17 rule that identified it. Buried in there was the
18 denial of licensing by the Agreement States, but we
19 only dug that out yesterday when we had an opportunity
20 to understand how this would impact the states.

21 So, at this time we do have an operating
22 facility that we license, and it's a large facility
23 that we get a fee of about \$11,000 from. We stand
24 losing that fee at this point. So I think we would
25 also be in agreement with Kansas and Tom with his

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1 statement that at this time we just don't have enough
2 information to say if we could agree in principle with
3 this rule change.

4 MS. SCHMIDT: Julia Schmidt from Nebraska.
5 And I want to chime in with this, too.

6 Our concern is with the preemptions
7 provision of this proposed rule. It appears that this
8 regulation lacks the explicit provision authority from
9 Congress that's required by the Presidential
10 Memorandum of May 20, 2009. And that Memorandum
11 refers to legal provisions addressed in Executive
12 Order 131-32. And short of having authority by
13 Congress, as that's always been the way it's been done
14 in the past like when the definition of byproduct
15 demand and material was amended a few years ago. I
16 mean, I think that was amended in 2005 by Congress.
17 And short of having been given that explicit
18 congressional preemption authority, wouldn't this
19 action have to occur under NRC's Common Defense and
20 Security authority since the authority to relinquish
21 those materials has already been relinquished to the
22 states?

23 MR. LOHR: If I may, this is Ed Lohr.

24 Those questions are probably for our legal
25 counsel. I'm not in a position to answer or address

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1 those. But please submit those comments before the
2 comment period ends on September 9th so we can get
3 them to our legal counsel for review.

4 Do you have any additional comments,
5 Nebraska?

6 MS. SCHMIDT: I don't.

7 MR. LOHR: Is there anybody else on the
8 teleconference that would like to --

9 MR. WELLING: Well, this is Mike Welling
10 from Virginia.

11 For those last questions, has this been
12 reviewed by counsel yet?

13 MR. LOHR: I can answer that. This
14 proposed rule has been reviewed by legal counsel. It's
15 also been reviewed by the Commission prior to
16 publication in the *Federal Register*. But I cannot say
17 what they looked at specifically. I do not have that
18 information.

19 MR. WELLING: Do you have any feedback
20 from counsel and what they said when they reviewed it?

21 MR. KINNEMAN: I think what we can say is
22 that legal counsel believes that the action that was
23 proposed by the staff was within the law. But the
24 reason for the comment period is to identify concerns
25 that might not have been addressed. And so we

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1 appreciate that you're putting these out. And we'll
2 have to, quite honestly, circle back with the legal
3 counsel and see whether they considered each and every
4 one these.

5 MS. SCHLAETER: This is Janet Schlaeter.

6 Just one frame of reference for everyone
7 in the discussion, and I don't have it in front of me
8 but maybe Ed does. And that is back in SECY 10-0128
9 the staff had identified, probably on about page 5,
10 that there are six existing Agreement State licensees
11 where an Agreement State has issued a license and is
12 operating at a threshold which exceeds the proposed
13 value in Part 40. So there obviously was some
14 recognition last year that the NRC needed to work with
15 the Agreement States on this issue on a site-by-site
16 basis and work it through.

17 There's obviously -- I'm sure Ed is aware
18 of the background that went into those statements in
19 the SECY paper. So there's got to be some specifics
20 that the NRC and the Agreement States can use as a
21 starting point for those discussions. And I think you
22 know who they are; I think you know what sites are
23 involved.

24 MR. LOHR: We do. We are aware, and we
25 contacted those states early on, well over a year ago,

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1 in discussions with them on this issue. I'm not at
2 liberty to say what was discussed or the resolutions
3 at this point. And quite frankly, my memory isn't
4 good enough without going back to my notes to see.

5 But those comments are welcome. And as
6 John said, we will look into each and everyone of
7 those.

8 Is there any additional comments from
9 anybody on the teleconference?

10 MR. LAWRENCE: This is Craig Lawrence
11 again. I do have one additional comment in license
12 state. We also regulate the radioactive air emissions
13 from the facility. Not having had a chance to go
14 through the rule change, I doubt that it addresses
15 that. So we would continue to regulate the facility
16 from the state Clean Air and federal Clean Air Act
17 standpoint of radioactive air emissions. So they
18 would not necessarily be one-stop-shopping free of
19 having more than a one license regulator.

20 MS. SCHLAETER: And see, I think that's
21 where our confusion comes in as referenced on the
22 slides. When the word "sole licensing authority,"
23 I mean, you can see how out here in industry there is
24 some confusion as to what the real breadth of that
25 statement is.

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1 MR. LOHR: Okay.

2 MR. LINK: I have an additional comment
3 against your question.

4 MS. JACKSON: Can you state your name?

5 MR. LINK: Robert Link, Areva, Richland,
6 Washington.

7 We're one of the facilities that's been
8 talked about. We're in an existing Agreement State.
9 We have a materials license with that State of
10 Washington for greater than 2,000 kgs of UF₆. In
11 fact, we have a very large amount of licensed material
12 both on-site and under license.

13 We also hold, as the last caller
14 commented, a state license relative to our air
15 emissions.

16 So, yes, when I see the words "sole
17 licensing authority," I have a materials license. I
18 also have licenses for over 28 stacks with the State
19 of Washington that is under license and actually under
20 license renewal as we speak.

21 So I need clarification as to what the
22 intent is and the scope of Part 40. I have an ISA,
23 obviously under Part 70. We do include the treatment
24 of UF₆ regardless of whether it's the source material
25 or the SNM material because of the chemical

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1 characteristics that have been discussed. So I'm
2 reasonably confident that my ISA meets if not the
3 intent or not the letter of intent of what is
4 proposed, but I don't have an understanding as to
5 whether or not I would have to either resubmit or have
6 a separate license under Part 40 relative to
7 proceeding.

8 So, we have confusion not only as to what
9 our status in our existing license under Part 70, but
10 obviously the multiple licenses we hold within the
11 Agreement State status.

12 MR. KINNEMAN: Bob or Washington, could I
13 ask, you said a separate license for the stacks. Is
14 it the Washington State practice that for the
15 emissions there's a separate license or is that simply
16 a portion of the Agreement State license?

17 MR. LINK: Well, they can comment but my
18 understanding it is a separate license.

19 MR. KINNEMAN: Okay.

20 MR. LINK: And it's within the Department
21 of Health of Washington, but there are separate
22 divisions within the Department of Health that treat
23 those different licenses.

24 MR. KINNEMAN: Okay. Thank you.

25 MR. LAWRENCE: This is Craig Lawrence with

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1 the Washington Department of Health. And it depends
2 on the facility how it is. Sometimes it is an
3 attachment to the Agreement State license for the
4 radioactive air emissions. But in the case of large
5 facilities like AREVA there is a separate branch that
6 enforces our air emissions, and that license is issued
7 by them.

8 So, he is absolutely right there.

9 MR. KINNEMAN: Okay. Thank you, Bob.
10 Thank you for the comment.

11 MR. LOHR: Is there any additional
12 comments on the teleconference? If not, is there any
13 comments from the folks here? Because I think this is
14 a good time for a break point if we're finished with
15 these particular topics.

16 MR. COUTURE: This is Gerard Couture with
17 Westinghouse in Columbia just in regards to the
18 jurisdiction issue. We've actually modified our
19 existing NRC license in anticipation of this
20 rulemaking. But again, it's not one-stop-shopping. I
21 noticed the reference to the licensing of the
22 radioactive sources and that type of thing. You know,
23 South Carolina initiated the discussions and agreed to
24 the removal of the significant quantities of natural
25 depleted uranium that we use in our process because it

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1 was part of the process which essentially ended up in
2 a fuel assembly which is licensed by the Nuclear
3 Regulatory Commission. They were not comfortable and
4 did not agree to removing their jurisdictional
5 authority over things like nonspecial nuclear material
6 sources.

7 So again, it's not -- I share the issue
8 that's been raised about this whole licensing. I
9 mean, the state did not agree in that.

10 MR. KINNEMAN: Okay.

11 MR. COUTURE: So again, they obviously
12 knew to reach those agreements with the appropriate
13 states because everybody's states' laws are different.
14 But I just throw that in. And South Carolina has
15 several facilities that are subject to this rule.

16 And again, just for the record, we have
17 submitted written comments, you know on the rule by
18 the original proposed deadline. So we're looking
19 forward to those responses.

20 MR. KINNEMAN: Good. Thank you.

21 I'll just comment that we're hearing
22 children screaming. That's not unusual because there
23 is a child care facility as part of this building.
24 They normally don't torture the children, but the
25 children occasionally behave as if they are being

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1 tortured. So just so you know that there's no crimes
2 being committed as far as we know.

3 MR. LOHR: Is there any additional
4 comments from anybody here?

5 One more time for the teleconference
6 folks? If not, let's take a 15 minute break. I have
7 approximately 10:25 Let's come back at quarter 'til.

8 (Whereupon, at 10:28 a.m. off the record
9 until 10:44 a.m.)

10 MR. LOHR: Welcome everybody back, you
11 still with us on the teleconference and those who are
12 still with us physically in the conference room.

13 At this point, since we've -- I'm not
14 saying we exhausted those topics, but we discussed
15 them. Janet, do you want to go on to your next slide
16 and next topic?

17 MS. SCHLAETER: Sure. We are on slide 5
18 entitled "Consistency Needed." We thought we would
19 highlight just a few areas where we'd like to see in
20 the context of the Part 40 rule more consistency with
21 Part 70 across the fuel facility fleet. As you know,
22 it's a small fleet and the rules are very much
23 related, especially since a lot of Part 70 was sort of
24 mirrored over into Part 40.

25 So the first item on the slide is about a

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1 license term. We'd like to see the NRC allow for a 40
2 year license term in the Part 40 rule itself. There
3 have been at least three Part 70 facilities that have
4 requested and been granted a 40 year license term.

5 Also, the submittal of the ISA summary
6 updates provides the NRC a timely and routine
7 mechanism to keep up to date on the changes of the
8 ISA, the changes of the facilities. We also have
9 resident inspectors at some of the facilities. So we
10 think there's a good basis for extending the license
11 term for 40 years in the rule.

12 The second item is related to our Petition
13 for Rulemaking on Part 70 that we submitted in 2009,
14 maybe. It has to do with the reportable safety events.
15 They're in Appendix A in Part 70, but they're mirrored
16 over into Part 40 in Section 40.88. They read the
17 same.

18 We had petitioned the NRC based on
19 implementation of the rule some changes that we
20 thought were needed. And we do recognize that three of
21 the items in our petition are being addressed in the
22 Part 40 rule. But I think our question is, is there
23 an effort by the staff to make conforming changes to
24 Part 70? Because the petition is not discussed in the
25 statements of consideration for the Part 40 rule, but

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1 you obviously accepted or dispositioned three of them
2 within the context of Part 40. So there's not a lot
3 of transparency there for the public, perhaps, on how
4 that occurred. And then if you don't make confirming
5 changes to Part 70 Appendix A for those three items,
6 you have a fleet that has different reportable safety
7 event requirements within it. Two sets, two sets of
8 reportable safety event requirements.

9 So, if you could maybe give us a little
10 insight on whether. on how you intend to make
11 conforming changes to Part 70, that would be useful.

12 MR. LOHR: If you don't mind me, I think I
13 can address part of your concern. And that is that
14 the Petition, the PRM 70-8, as you know, has been
15 resolved and published in the *Federal Register*. And
16 there was sections that I believe the NRC accepted in
17 part and are being addressed in a Direct Final Rule
18 Forum even as we speak. Now, that Direct Final Rule
19 Forum will probably, if it goes as planned, actually
20 publish before this Part 40 rule becomes final next
21 summer and thus the changes that we incorporated, if
22 you will, into our proposed Part 40 rule will be the
23 same as though it's in Part 70.

24 You want to add anything to that, John?

25 MR. KINNEMAN: No. I guess what I would

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1 say is it would be nice if we could have done all of
2 it in the same rulemaking, but it's simply not
3 possible. So there were be a time period where
4 there's some misalignment, but the plan is to go
5 forward with the Direct Final Rule which will answer
6 the petition and then, obviously, we can't either
7 promise that that action will happen, the staff has it
8 in motion, it has to go through the process and I
9 believe the intent is to have everything lined up with
10 Part 40. But, of course, we're in the process of
11 doing Part 40 and getting the comments. We do
12 recognize the comment that we didn't discuss the
13 petition in the statements of consideration for this,
14 and we'll take that as a comment which, I guess in
15 some respects, will force us to discuss the petition
16 because we'll have to answer the comment. Whether
17 we'll change the statements of consideration will be
18 part of Ed's job, Ed and Matt's job to figure out as
19 we answer the comments.

20 So, I think that we have a plan for
21 getting them all aligned with the petition.

22 MR. HILTZ: Can I be clear? They won't be
23 the same is my understanding. There will be
24 additional reporting requirements in Part 70 because
25 the review of Part 40 indicated that some of those

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1 would be nonapplicable for Part 40. So --

2 MR. KINNEMAN: Oh, yes.

3 MR. HILTZ: -- to say that they're the
4 exact same, will likely not be the case. But they
5 will be compatible with each other.

6 MS. SCHLAETER: Could you repeat that?

7 MR. HILTZ: Yes.

8 MR. BARTLETT: The point is that not all
9 of the Part 70 will include the --

10 MR. HILTZ: Right. The ones that are
11 applicable to Part 40 we believe are already
12 incorporated into the draft rule.

13 MS. SCHLAETER: Oh, you mean the ones we
14 raised in our petition?

15 MR. HILTZ: That's correct.

16 MS. SCHLAETER: Okay. I thought all of a
17 sudden we had some ideas about putting some new
18 reportable pieces --

19 MR. HILTZ: No, no, no, no, no.

20 MS. SCHLAETER: -- that's required in Part
21 70 that we needed to look for.

22 MR. HILTZ: I was trying to clarify that
23 even when the direct final rule in this Part 40 are
24 final --

25 MS. SCHLAETER: Okay.

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1 MR. HILTZ: -- they still won't be the
2 same requirements.

3 MS. SCHLAETER: They won't be a mirror
4 image, right. Okay.

5 MR. HILTZ: They'll be compatible.

6 MS. SCHLAETER: Fair enough.

7 MR. KINNEMAN: I don't know, maybe we'll
8 slip something in there.

9 MS. SCHLAETER: Yes. Well, we're watching.

10 MR. KINNEMAN: No. The plan is, I think
11 Tom's right. The plan is to respond as we said we
12 would to the petition.

13 MS. SCHLAETER: Okay. Great. Okay.
14 Well, that answers that question, and I think it's
15 clear for everyone and public record.

16 The next issue has to do actually with
17 another effort that's gone back to an industry NRC
18 initiative back in 2007 and has to do with higher
19 soluble uranium intake values. It really is probably
20 more of a guidance issue, but it is also related to
21 the petition for rulemaking in one way.

22 The guidance was originally established
23 because there was a need recognized by NRC and the
24 industry that industry could likely justify higher
25 values when it was making its high consequent event

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1 determinations then had previously been recognized or
2 allowed by the NRC. And so since then licensees have
3 proposed and been allowed to use higher SOLU limits
4 when making these determinations of high consequence
5 events. That sort of recognition would be helpful to
6 be placed in the NUREG-1962, for example. But I will
7 back up and say that this white paper came into the
8 NRC, and I know Tom is very familiar with this.

9 We submitted it in December of 2008. We
10 had a meeting. We revised it slightly and we submitted
11 our final version again in May of '09. I understand
12 that you've let a contract and you intend to issue
13 that document as a draft in draft form for comment.
14 So, it is in the works to some degree. But we weren't
15 sure that everyone involved in the Part 40 rulemaking
16 effort really knew about the white paper on SOLU and
17 the fact that it is in fact relevant to the
18 performance requirements in 40.61 just as it is
19 relevant to the comparable Part 70 -- well, it's
20 40.81. I'm not sure, I'll have to look. 40.81? Yes.
21 And the comparable section in 70.61.

22 As part of the petition and related to
23 SOLU to some degree as well, we suggested some changes
24 back in Appendix A reporting requirements with regard
25 to the individual being either located inside or

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1 outside the controlled area. But I also recognized
2 that in your disposition of the petition you have
3 denied those items.

4 We're going to go back and look at Part 40
5 in that context as well and make a decision as to
6 whether or not we would suggest again that you
7 reconsider those items and we'll provide our basis for
8 that, if you will. But I think what we'd like to see
9 out of this item the process move on to get the draft
10 white paper on SOLU out there for comment and see that
11 issue resolved and recognize that the NRC has in fact
12 allowed licensees to use the higher limits that we
13 suggest in that white paper. Because you've done it
14 on a case-by-case basis.

15 MR. KINNEMAN: Understand. I guess I'd
16 just like to ask you to clarify a little bit. I
17 appreciate your kind of comprehensive recognition of
18 some the complicated --

19 MS. SCHLAETER: Process.

20 MR. KINNEMAN: -- processing we've gone
21 through.

22 What I think I heard is you want some
23 recognition, but what kind of -- and I understand that
24 the key is when you actually are in the process to
25 hopefully get some guidance for comment. Are you

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1 looking for some incorporation or pointing to the
2 issue, because we don't have a specific guidance out
3 at the moment, in the guidance that Matt has put
4 together? Are we looking for something specific in
5 the rule? I just want to understand a little better.

6 MS. SCHLAETER: I may rely on others to
7 chime in.

8 MR. KINNEMAN: Sure.

9 MS. SCHLAETER: But I think at this point
10 it's more 1962 and 1520 as well because it's relevant
11 to both.

12 And I don't know your timing for getting
13 the draft guide out for comment. From our perspective,
14 it wouldn't need to be out for comment too long
15 because it was industry generated and I doubt that
16 you're really going to get a lot of members of the
17 public to weigh in on it.

18 MR. KINNEMAN: Yes.

19 MS. SCHLAETER: But it might be by the
20 time you get through the Part 40 process and get to a
21 point where its getting out and published to be final
22 and then effected, this document could actually be
23 done. You know, that the SOLU white paper draft guide
24 could have actually already been out for public
25 comment.

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1 MR. KINNEMAN: Yes.

2 MS. SCHLAETER: And you could have been in
3 a finalization phase so that you could recognize it in
4 1962 and 1520.

5 MR. KINNEMAN: Okay.

6 MS. SCHLAETER: Obviously, you all have to
7 figure out the timing.

8 MR. KINNEMAN: I understand the comment.

9 MS. SCHLAETER: Yes. We just want to make
10 sure that you realize that it's not just relevant to
11 70, it is relevant to 40 as well.

12 MR. KINNEMAN: Okay.

13 MS. SCHLAETER: And there is the
14 opportunity through the two different guides to
15 address it.

16 MR. KINNEMAN: Okay.

17 MS. SCHLAETER: Does anyone want to chime
18 in on that because I'm not the SOLU expert?

19 MR. LINK: Just a follow-up in terms of --
20 and you know, I can't speak for Larry here.

21 MS. JACKSON: Could you identify yourself,
22 please?

23 MR. LINK: I'm sorry. Bob Link from
24 AREVA.

25 But from our perspective knowing how we

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1 use that issue relative to our own ISA, it would have
2 an influence if not a direct impact on their ISA
3 determinations because of the threshold quantities
4 used for the performance criteria are directly out of
5 that presentation and that submit.

6 MS. SCHLAETER: Okay. The last item is
7 sort of a statement of fact, but we wanted to
8 acknowledge the ISA approach is consistent with what
9 is in Part 70. And as you heard from one applicant
10 and one licensee, they have conducted ISAs.

11 And in keeping with John's introductory
12 remarks that we point out something we like the rule,
13 I would say it's a good thing to see a backfit
14 provision placed in the Part 40. And, of course,
15 we'll be taking a look at that.

16 As we mentioned, we have some examples of
17 suggested rule edits. I think a lot of them are
18 really to effect some of the discussions that we've
19 already had, although the first item we have not
20 raised yet in our discussions. And this is just a
21 sample and snapshot, and the letter will have quite a
22 few more.

23 So Miller will speak to the first one.

24 MR. MILLER: In fact, I speak on the first
25 two bullets and really the first two bullets are

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1 derived really from lessons learned with Part 70
2 licensees. And those are two topics that the industry
3 and the NRC has been discussing in depth for a couple
4 of years. In fact, the first bullet there:
5 Considering a definition for design features and
6 confirming modifications to definitions of
7 configuration and management, and ISA we're going to
8 be discussing design features later this afternoon.

9 You know, the consideration we've talked
10 about including design features, clarification for
11 design features in 1520 and then subsequently in 1962.
12 The thought is, you know why not consider putting that
13 into the actual rule. And, you know we believe that
14 the rule and the reg. guides support the use of design
15 features, but there's nothing specific in the rule
16 where you can hang your hat on it. The rule doesn't
17 endorse or acknowledge design features. So we'll
18 leave the rest of the design feature discussion for
19 later this afternoon.

20 The second topic, add inhalation for
21 worker exposure standard. And this is for currently
22 the current Part 70 rule and the propose Part 40 rule
23 has performance requirements for acute chemical
24 exposures. And what we would like to see is the term
25 "inhalation" included into that performance

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1 requirement. An acute chemical inhalation exposure.

2 The reason being is trying to tackle the
3 dermal exposure issue is difficult, to say the least.
4 You know, there are some licensees would have a dermal
5 exposure level. I've done quite a bit of searching to
6 find some scientific study, some basis for where you
7 could come up with some exposure standards. I
8 discovered a recently published April of 2011
9 publication from NIOSH "Skin Profile for HF." And if
10 you go through this document, there are comments such
11 no in vivo or in vitro data were identified that would
12 enable estimating the absorption of HF following
13 dermal exposure.

14 The human dermal lethal dose of HF has not
15 been estimated. So throughout the publication, you
16 know the message is that there's nothing concrete to
17 develop this standard. And so we're struggling on how
18 we go about doing that.

19 Now, the other performance criterias are
20 measured directly. The chemical exposure standard is
21 measured -- you know, it's an indirect measurement.
22 The Reg. Guide and the proposed rule recommends using
23 the AEGL and the ERPG, and that is strictly an
24 inhalation exposure. And if you read the definitions
25 of AEGL and the ERPGs, the various levels, the

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1 definition of those terms mirrors the hazard -- the
2 consequence that is identified in the performance
3 criteria. You know, "irreversible or other serious
4 lung and health effect." I mean, you can do a
5 crosswalk between the definitions of the AEGLs and the
6 ERPGs directly to what is high consequence,
7 intermediate consequence exposures to the worker and
8 to members of the public.

9 And so this is a suggested edit that we
10 will submit, at least I will.

11 MR. KINNEMAN: Okay. Can I just question
12 on that? And some of this is my own ignorance on this
13 particular issue. I'm reading more of it and trying to
14 come up to speed. But is the point that you're making
15 that -- I know there's a fair deficiency in data about
16 the effect -- we know it's bad, that HF does not do
17 good things to human beings but we don't have good
18 thresholds probably either for dermal or for
19 inhalation. We probably have a little better for
20 inhalation. And that what you want to do is move
21 the controlling to inhalation rather than dermal, is
22 that the --

23 MR. MILLER: Yes, that's one of the
24 intent.

25 MS. SCHLAETER: For the worker.

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1 MR. KINNEMAN: For the worker, I
2 understand.

3 MR. MILLER: I mean, you know the one
4 thing that the proposed rule does say it lumps dermal
5 exposure hazard to -- you know skin exposure hazard to
6 the worker to the public. And I'm still trying to
7 scratch my head why the public has not been there.

8 MR. KINNEMAN: Okay.

9 MR. MILLER: I would think, you know when
10 you talk about an HF cloud being dispersed and so that
11 would be an inhalation exposure to the public.

12 But there's two reasons. One the chemical
13 industry standard is, you know you prevent and
14 mitigate. I mean, you know you can splash HF on
15 somebody's skin. You can wear a PPE to prevent that.
16 If it does happen, it can be mitigated.

17 There are no industry standards at what
18 level of HF, what concentration over what percentage
19 of skin constitutes a health effect that can be tied
20 back to these performance requirements. And if you
21 considered the size of fuel cycle facility industry
22 and compare that with the rest of the HF industry, it
23 seems -- you know, it just doesn't make sense that
24 such a small group would be coming up with standards
25 that don't exist. And these standards don't exist in

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1 industry and they don't exist with their regulators
2 that are regulating that industry. They're just
3 simply not there.

4 MR. KINNEMAN: Again, I'll show ignorance,
5 can you give me some sense of what the difference in
6 the size of the industries is? As best you know, I'm
7 just curious. I mean, is it ten times bigger?

8 MR. MILLER: Oh, I'm not quite sure. I
9 mean --

10 MR. KINNEMAN: That's fine. It's not a
11 fair question. I'm sorry.

12 MR. MILLER: It's been in here but --

13 MR. KINNEMAN: Okay. It's not a fair
14 question, so I withdraw it.

15 MR. MILLER: Okay.

16 MR. KINNEMAN: Okay. I think I understand
17 your comment.

18 MR. LINK: Just an additional comment, and
19 I know we've talked about the HF as an example. But
20 HF is not the only chemical we're talking about here.

21 MR. KINNEMAN: Sure.

22 MR. LOHR: Just a reminder, please
23 identify yourself.

24 MR. LINK: I'm sorry. Bob Link, AREVA.

25 MR. LOHR: Charlie?

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1 MR. VAUGHAN: Charlie Vaughan, NEI.

2 This question of inhalation versus dermal
3 it seems to me that inhalation is the one that really
4 needs to be watched and there is more information
5 available on inhalation type quantities that cause
6 damage. But once a chemical like HF is inhaled,
7 there's not a heck of a lot you can do to mitigate
8 it. I mean, the damage has kind of been done.

9 In the dermal world we have plenty of
10 opportunities to mitigate, I mean large dermal
11 exposures to HF. I mean, everybody has got wash
12 fountains. Everybody has got chemical treatment
13 immediately available. And so while it's in the dermal
14 region it seems like that there's a lot of opportunity
15 to mitigate it. But the focus ought to be more on
16 providing the ability to be able to mitigate even
17 though you don't want to exposure. But the second
18 line of defense there is mitigation as opposed to real
19 straight dermal exposure standards which are very
20 difficult to set and very difficult measure.

21 I don't know, those are just some things
22 that you might think about.

23 MR. KINNEMAN: You want to move on.

24 MR. VAUGHAN: So Charlie Vaughan of NEI
25 again. I guess I've got a bullet or two up there to

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1 discuss.

2 Larry already talked quite a bit about
3 timing, but I want to just kind of go back and
4 reiterate the Part 70 experience on implementing
5 subpart (h). And this proposed rule has a lot the
6 same kind of timing issues.

7 And one thing in the rule requires the
8 submission of a plan. Well, the timing of the rule is
9 all geared to when the rule becomes final and it
10 doesn't set time fences so much for all of the other
11 steps in terms of how they'll get completed. It says
12 that the licensee will turn in their plan within six
13 months, but their plan has to be approved. But there's
14 nothing in this time sequencing that allows for the
15 approval time. And it's not wise for licensees to do
16 large amounts of work where they have to have a plan
17 approved until they actually have some degree of
18 concurrence on a plan. Otherwise, the licensee can be
19 forced to go back and redo work. Now, that doesn't
20 mean that the licensee sits there and does absolutely
21 nothing until the plan's approved because there's a
22 lot of things that the licensee can do. But there
23 needs to be some provision in here where the licensee
24 has to get approval where the time cycle for the
25 implementation of these various pieces of the rule

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1 take into account that the licensee has to have some
2 feedback before they necessarily are free to move on
3 to the next step.

4 And that was a little part of a problem in
5 Part 70 because I think all of the licensees, for
6 example, dealt with the issue of reporting
7 differently. Some people felt like as soon as they
8 submitted their ISA summary that everything became a
9 requirement and they started reporting one way. Other
10 licensees took the position that no, until my ISA is
11 approved I'm not sure what is appropriate for me to be
12 approving. And, of course, these four facilities are
13 also sitting there operating. They have a current
14 license that they had to comply with, a current set of
15 requirements. Now they've generated an ISA which
16 didn't make a wholesale change, but it made some
17 degree of significant changes in what was called out
18 as a safety component and the implementation of the
19 ISA concept. And so it was very confusing as you work
20 through that transition exactly when do each one of
21 these pieces come into effect and what makes sense.
22 What makes rational sense from both sides of the fence
23 as to when these things need to come into play.

24 So, I think we'll probably in line with
25 what Larry was saying, and he may want to add some

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1 other things here on that, but in our suggestions
2 we'll probably make some recommendations on how to
3 deal with some of that. But the bottom line is, is
4 let's get these time fences where they stack up and
5 make sense as you go through the process and the
6 transition.

7 And I'll tell you this: From the
8 licensee's standpoint, you may not be sensitive to
9 this, but when you're sitting there with a current ISA
10 or a current license and a current set of requirements
11 and you've done this new ISA that you got to
12 implement, you go through a period of time where you
13 have to maintain configuration management and
14 compliance to both pieces. And that is a real strain
15 on a licensee. So you need to think about, you know
16 how to move through this transition as swiftly as
17 possible. I mean, you know you don't want to stumble
18 over yourself. But you need to think about how to
19 move through this transition as quickly as possible to
20 minimize this burdensome situation and somewhat
21 confusing situation.

22 If you have never been on the other side
23 of this thing, you may not be too sensitive to that.
24 But I would encourage you to look at that.

25 And I don't know, Larry, did you want to

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1 add anything else on this?

2 MR. PARSCALE: Yes, Charlie. I want to
3 say amen.

4 The one thing at risk is certainly a big
5 concern with us, but we'd have not only concerns about
6 the paperwork process and how all of that is going to
7 lay out, but a substantial dollar invest. And the
8 last thing we need is to get down the road only to
9 have to come back and go down another road. So the
10 quicker we can lay out exactly what Charlie well
11 described is exactly what we're going to do.

12 MR. VAUGHAN: Okay. And then the other
13 one is is what we talked about earlier, and that is
14 where you have Part 70 licensees that handle
15 significant quantities of source material, the way
16 this Part 40 rule reads right now it's a little
17 unclear as to where those facilities might fit in this
18 whole ball of wax. And I think most all of them have
19 treated their source material, particularly in the UF₆
20 area, they've treated it right along with their
21 enriched material from an integrated safety analysis
22 standpoint. And so they're applying the same controls
23 and oversight to the source material that they are to
24 the enriched. And therefore, there needs to be some
25 recognition. We have used the term there "exemption,"

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1 is in a category for exemption and somewhere in the
2 lead in to Part 40. But it seemed like there ought to
3 be some recognition to make sure that those facilities
4 don't get caught up in a regulatory trap.

5 MR. KINNEMAN: Can I just follow-up on
6 that question, Charlie?

7 MR. VAUGHAN: Sure.

8 MR. KINNEMAN: Is an exemption the right
9 way to do or should there be a recognition that -- and
10 I'm not sure how to do this, but I'm just saying it
11 sounded like almost like -- at first I understood the
12 word exemption and then as you continued to talk you
13 said that they've already done and incorporated it.
14 Is the right way to say that there be recognition of
15 that or that the NRC will consider that the licensee
16 has complied with this provision if they've
17 incorporated the consideration of all of the UF₆ in
18 their -- and again, I have to admit I'm responding
19 without much thought, so I'm just asking a question.

20 MR. VAUGHAN: At this particular meeting
21 we're not proposing necessarily the exact remedy for
22 this.

23 MR. KINNEMAN: Yes. Understood.

24 MR. VAUGHAN: And we used the term
25 exemption and several people have raised the question

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1 about do you really mean exemption.

2 What we were thinking when we used that
3 term was in a number of places in the regulations
4 there are categories for explosions or exemption
5 provisions written into the rule.

6 MR. KINNEMAN: Right.

7 MR. VAUGHAN: And that's typically what we
8 were thinking of. Something that had enough weight
9 that there isn't going to be a misunderstanding in the
10 future.

11 MR. KINNEMAN: Right.

12 MR. VAUGHAN: Now, whether we've called it
13 the right thing right this minute or not, I'm not
14 sure.

15 MR. KINNEMAN: Okay.

16 MR. VAUGHAN: But some recognition that
17 has enough weight that there's not ongoing confusion
18 about this.

19 MR. LINK: This is Bob Link, AREVA.

20 Just to make sure, because obviously we're
21 at least one licensee that we have this concern.

22 I'm not sure what the right term or method
23 of handling it is, but I want to make clear that even
24 if you recognize using your words John of our ISA, I
25 don't want two different rules of 40 Part 70 to rule

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1 my ISA.

2 MR. KINNEMAN: Okay.

3 MR. LINK: That's my concern. I want it
4 clear that we write our ISA in accordance with a part
5 and it's submitted in accordance with that part in all
6 aspects.

7 Now if we need some assurance or you need
8 some assurance that our ISA -- I think we've
9 adequately covered the chemical risk relative to the
10 source material commingling, yes, we can deal with
11 that. But I'd rather not have to deal with another
12 NUREG even that's Part 40 specific if I can avoid it.
13 It just adds to the complexity of both mine and your
14 job.

15 MR. KINNEMAN: Since you have the specific
16 situation, in the current environment do you treat,
17 other the obvious difference of not a criticality
18 concern, do you treat the Part 40 UF₆ any differently
19 under your ISA, other than the fact that it obviously
20 has the required criticality controls now forgetting
21 about this Part 40?

22 MR. LINK: No. I'll say it differently.

23 MR. KINNEMAN: Okay.

24 MR. LINK: In our accident scenarios we
25 treat UF₆ independent to whether it's SNM or source

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1 material.

2 MR. KINNEMAN: Okay. Okay.

3 MR. LINK: Now also on the oxide forming
4 downstream, yes, we have as I stated before a
5 materials license with the State of Washington which
6 technically that drum over there is depleted or
7 natural, technically it's under the jurisdiction of
8 the State Washington. And that drum right next to it
9 is SNM.

10 MR. KINNEMAN: Yes.

11 MR. LINK: That's under the jurisdiction
12 of NRC.

13 MR. KINNEMAN: Yes.

14 MR. LINK: In our radiological treatment
15 of those materials, both of them, radiologically
16 speaking now typically we have the dust scenarios, we
17 have the inhalation scenarios; we have all of those.
18 We don't differentiate in the accident scenarios
19 again.

20 MR. KINNEMAN: Okay.

21 MR. LINK: So it's not just in the UF₆
22 state.

23 MR. KINNEMAN: Okay.

24 MR. VAUGHAN: And I know enough about
25 G&F's operation to know that they treat UF₆ handling

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1 regardless of enrichment the same.

2 MR. SENSUE: Yes. This is Terry Sensue.

3 We have our ISA the same way, so I second
4 everything that he said.

5 I would like one set of requirements to
6 write my ISA to. And for us right now that's Part 70.
7 If we could stick with that, that would be fantastic.

8 MR. VAUGHAN: Okay.

9 MS. SCHLAETER: Okay. Clear on that one?
10 Okay.

11 The last one is a little bit of an
12 administrative item, but we think it's really an
13 efficiency item in several ways.

14 In the Part 70 world we've had some
15 discussions with the staff about the timing of
16 submitting the ISA annual updates in January, which is
17 now required you know 30 days after the end of the
18 calendar year. And we've discussed sort of the
19 resource issue that that poses for industry in the
20 sense of it's the end of fiscal year for a lot of
21 these plants. It does take some time to prepare. It's
22 over the holidays. There's really no rhyme or reason
23 for why it goes into the NRC in January.

24 The NRC has stated to us that they are
25 reviewed, perhaps, at different times depending on the

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1 resources that are available. So it doesn't seem like
2 that January is really a hard fixing date. So we
3 thought maybe administratively that we could suggest a
4 modification to the rule just as the slide says to
5 submit those annual updates within 60 days of the
6 license anniversary date instead of in January time
7 frame. So it would be tied to different months,
8 they'd come in at different times. It might help the
9 NRC staff resourcing issue a little bit more if you
10 knew that they were going to be coming in at different
11 times the year. And it would, obviously, give date
12 that all licensees would be sure to adhere to and tied
13 to their anniversary license date as well. So it
14 makes some sense there.

15 It could be an item that could be chopped
16 into your direct final rule, perhaps, on Part 70 or
17 some other opportunity coming down the line because
18 it's administrative in nature and we've discussed it
19 in public meetings and the staff has said, "Well, we
20 might consider doing that but we don't have a good
21 vehicle to do that right now. We don't want to open
22 up Part 70 just to tweak that little section." But if
23 you have another opportunity to open up Part 70, like
24 it sounds like you might, this would be an easy one.

25 MR. KINNEMAN: Okay.

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1 MS. SCHLAETER: A win/win.

2 MR. KINNEMAN: Well, thank you.

3 MS. SCHLAETER: How do you like that
4 pitch.

5 MR. KINNEMAN: Yes, great pitch. And we
6 will take it under advisement. Really, I don't know
7 whether we can do that or not, Janet, but I appreciate
8 the thorough comment.

9 MS. SCHLAETER: All righty. Well, you'll
10 see it in our comment letter so you can consider it.

11 This is just our conclusion slide. Just
12 wanted to wrap up and reiterate as I think it's been
13 pretty clear as we've stepped through these that the
14 implementation transition issues caused concern under
15 the ISA.

16 The jurisdiction issue, as we know, is a
17 pretty big one that we'll all benefit from some
18 additional clarity there.

19 And then, of course, the consistency
20 issues that we've raised across the board.

21 And our letter will include some suggested
22 rule that it's to help effect some of these changes
23 that we're suggesting.

24 Okay. Anything else from any of our
25 industry reps?

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1 MR. LOHR: We wanted to check now to see
2 if there's anybody on the teleconference that would
3 like to comment on any of those issues, or any of the
4 issues that have been brought up earlier today.

5 MR. KINNEMAN: Or any new issues, for that
6 matter.

7 MR. LOHR: Absolutely.

8 MR. KINNEMAN: Is there anyone on the
9 phone who would like to make a comment?

10 MR. LOHR: Is there anybody on the phone?

11 (Affirmative responses).

12 MR. KINNEMAN: Great. Thank you.

13 Just so you know, if we're inclusive I
14 would appreciate the fact that NEI has kind of lead
15 the comment discussion today. But we're open to
16 comments from anybody either on the phone for in the
17 room that don't have to be coordinated with NEI. We
18 want to make sure that we give the opportunity to
19 anybody to comment on anything they'd like to comment
20 on.

21 MR. LOHR: Not hearing anything, I'm
22 assuming that there are no additional comments.

23 From the rulemaking perspective, I want to
24 reiterate and I think John said this earlier, that
25 when you submit your comments and we really encourage

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1 you to do so in writing, please explain why you agree
2 or disagree, suggest alternative and substitute
3 language as you have in some of your cases on your
4 slides. Please describe any of your assumptions,
5 write any technical information or data that you used
6 to arrive at those assumptions.

7 And especially since you had some thoughts
8 on the cost, could you also on your estimate of
9 potential cost of burdens explain how you arrived at
10 your estimates in sufficient detail so that we at the
11 staff of the NRC can reproduce that.

12 I would ask that as the Project Manager
13 for this particular rule. It makes it very helpful in
14 the working groups to have that information. It also
15 is very helpful for us when we do our statements of
16 consideration when we have the rationale of your
17 position.

18 I have no thing further. If there is no
19 further comments from the folks on our teleconference
20 or in the room, this meeting is open until 12:00 and
21 staff will be here to receive comments.

22 So, we can continue or you folks can have
23 a nice afternoon.

24 MR. KINNEMAN: Most of them will be back
25 this afternoon, I think.

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1 Actually, could I ask one question, Janet,
2 that's really actually outside this meeting. Do you
3 expect many more people this afternoon? Do we need a
4 larger room and more chairs this afternoon?

5 MS. SCHLAETER: Yes. There will be a few
6 more.

7 MR. KINNEMAN: Okay. We'll take care of
8 that later.

9 Yes, sir.

10 MR. COUTURE: This Gerry Couture,
11 Westinghouse.

12 You asked about the cost information. And
13 the difficulty with that is primarily to allow the
14 rational how we costed is considered proprietary. And
15 I have in the past submitted that information with a
16 proprietary and staff is kind of this is really good
17 information but unless you're willing to make it
18 public, we can't use it. So we're in that catch 22.

19 MR. KINNEMAN: Yes.

20 MR. COUTURE: So as much as I would love
21 to help you with that cost estimate, my comment is
22 substantially higher than what you are putting out. I
23 really can't do that because there's just no mechanism
24 available for us to do that.

25 MS. SCHLAETER: Yes, I think --

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1 MR. COUTURE: Unless NRC is willing to
2 utilize that proprietary information to help guide
3 their decision.

4 MS. SCHLAETER: Yes. I think to the degree
5 that the facilities are able to provide their data to
6 us at NEI and we will provide a range to the degree
7 the facilities are able, willing and interested in
8 sharing it, then we will provide it in a anonymous
9 fashion to the NRC.

10 MR. COUTURE: Okay.

11 MS. SCHLAETER: It would not identify
12 licensees for those that are interested in the fleet
13 of doing that.

14 MR. COUTURE: Okay.

15 MR. KINNEMAN: I think I can't speak for
16 Larry and Matt on this, we certainly would consider it
17 and see whether we can make use of it.

18 And I think you've adequately described
19 the fact that there's a little bit of a catch 22 with
20 respect to the fact that the industry has to keep some
21 information proprietary. On the other hand, we have to
22 make sure that in the rulemaking process, there has to
23 be a fair amount of transparency, and that does make
24 for a difficult problem here. But we certainly heard
25 some of your comments on the fact that your estimates

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1 are higher then our estimates.

2 Do you have any other thoughts on that, Ed
3 or Matt?

4 MR. LOHR: No. I think you've captured it.
5 Any information that you are willing to provide we
6 will consider as we look at that issue.

7 MR. BARTLETT: Any way that you can
8 provide it. Say those numbers get squirrely because
9 they're annualized. So if you take that into
10 consideration when you provide that data, that'll help
11 us too.

12 MR. KINNEMAN: Okay. Our process says we
13 cannot close this meeting until 12:00. You are
14 welcome to stay. But because we have made it a
15 publicly announced meeting. Ed and Matt have to stay,
16 the rest of you are certainly welcome to stay in case
17 some tremendous comment comes in, but I think it's
18 unlikely. So, again, I'll say thank you very much for
19 coming. Thank you very much for the careful comments.
20 And I look forward to seeing many of you -- what time
21 do we start this afternoon?

22 MS. SCHLAETER: We start at 1:00. I'm not
23 sure if we're in this room or not.

24 MR. KINNEMAN: I think what we're going to
25 do is we're going to open the room probably if you

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1 expect more people. Again, I think it's most likely
2 that it's your people that it's your people who are
3 going to be here, so we'll open up the room and
4 rearrange it after Ed and Matt are finished with this
5 meeting.

6 MS. SCHLAETER: Thank you.

7 MR. KINNEMAN: Thank you for coming.

8 (Whereupon, at 11:30 a.m. the meeting was
9 concluded.)
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