

**Date:** January 7, 2015

**Case:** Convention on Supplementary Compensation Proposed  
Rulemaking



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UNITED STATES DEPARTMENT OF ENERGY  
OFFICE OF GENERAL COUNSEL  
CONVENTION ON SUPPLEMENTARY  
COMPENSATION PROPOSED  
RULEMAKING  
COST ALLOCATION REGULATIONS PURSUANT TO  
SECTION 934  
OF THE ENERGY INDEPENDENCE AND SECURITY ACT OF 2007  
JANUARY 7, 2015  
FORRESTAL BUILDING, ROOM 8E-089  
1000 INDEPENDENCE AVENUE, SW  
WASHINGTON, DC

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

2 (10:00 a.m.)

3 MS. CAPOFERRI: Good morning everyone. Thank  
4 you for coming, for joining us. I am Anita  
5 Capoferri, I'm with the DOE office of General  
6 Counsel, Deputy Assistant General Counsel for  
7 Civilian Nuclear Programs and with me this morning is  
8 Sophia Angelini.

9 MS. ANGELINI: Sophia Angelini and I'm  
10 also with the Department of Energy, Office of General  
11 Counsel.

12 MS. CAPOFERRI: I think that will be a  
13 refrain for the morning, speaking into the mic.

14 MS. ANGELINI: I'm Sophia Angelini and I  
15 work at the U.S. Department of Energy for Anita  
16 Capoferri, Office of General Counsel for Civilian  
17 Nuclear Programs.

18 MS. CAPOFERRI: And I think if we could,  
19 perhaps go around the table and have everybody  
20 introduce themselves, in part for the court reporter.  
21 The meeting is being transcribed, so he can get  
22 everybody's name.

1 MR. TEMPLE: Good morning I'm Bob Temple  
2 from Babcock & Wilcox.

3 MR. KUYLER: Ray Kuyler, Morgan Lewis.

4 MS. CAPOFERRI: Can you press that  
5 button.

6 MR. KUYLER: Ray Kuyler, Morgan Lewis,  
7 Nuclear Infrastructure Counsel.

8 MR. MILLER: Russ Miller, Bechtel.

9 MR. CATES: Dwight Cates, FLUOR  
10 Corporation.

11 MR. WENTWORTH: Mike Wentworth, Exelon.

12 MS. BERRIGAN: Carol Berrigan, Nuclear  
13 Energy Institute.

14 MR. RICHARD: Michael Richard,  
15 Westinghouse.

16 MS. HAYWARD: Mary Alice Hayward, AREVA.

17 MS. NAPIER: Vicky Napier, Energy  
18 Solutions

19 MR. WILLIAMS: Richard Williams, GE  
20 HITACHI Nuclear Energy.

21 MR. COLEMAN: Walt Coleman, Chicago  
22 Bridge and Iron.

1 MR. BROWN: Omer Brown for the Contractors  
2 International Group on Nuclear Liability.

3 MS. MANN: Melissa Mann, URENCO USA, Inc.

4 MR. WILLIAMSON: Clint Williamson, LES  
5 URENCO USA.

6 MR. MCGARVEY: Dan McGarvey with Marsh.

7 MS. CAPOFERRI: Okay thank you. The next  
8 thing we will just do a couple of administrative  
9 matters before we get started with the meeting. I  
10 think you may already know bathrooms are out the door  
11 to the left the same thing with any emergency exit,  
12 out the door and to the left to the stairwell. Cell  
13 phones, if you have got cell phones on you, you might  
14 want to mute them and I think we will take about a  
15 ten minute break either at the end of the  
16 presentation that I will be providing or at the end  
17 of an hour whichever comes first, so you can  
18 anticipate that if that's needed.

19 A little bit more about the meeting setup.  
20 I will start with a slide presentation and then we  
21 can do some brief questions and answers that you may  
22 have. As I've noted before the meeting is being

1 transcribed and the presentation that I have and the  
2 meeting transcript will be posted on the website that  
3 we have set up for this rulemaking. The presentation  
4 should be there by tomorrow, the transcript will take  
5 a couple more weeks after we go through reviewing it.

6 Hard copies of the presentation will also  
7 be available at the end of the meeting and you can  
8 pick up a copy of that. Some of the ground rules  
9 for this, this is a fairly informal meeting but  
10 nevertheless if everybody could speak at one time,  
11 raise your hand and we will try to figure out a  
12 system that's fair to everybody but we will see how  
13 many people want to speak and at what points and as  
14 we said in the notice this is really an overview  
15 session.

16 It's an information session, don't expect  
17 everybody to come with comments, statements as we  
18 have also noted in the NOPR we will have a public  
19 workshop for the rulemaking that will provide  
20 everybody with the opportunity to provide much, you  
21 know much fuller comments after you have had time to  
22 digest the rule.



1 I know it's a little long, so this is just  
2 meant to orient everybody to the rule and provide  
3 just that basic overview and you know we will try and  
4 answer questions that we can today. We may not be  
5 able to answer everything today and some of this of  
6 course we will just take back for comment. We are  
7 certainly looking for everybody's comments so this  
8 might be a good way to gauge some of the feedback  
9 based on the somewhat limited time folks have had to  
10 review it so far.

11 So bear that in mind as we go through this  
12 and another little ground rule or kind of  
13 administrative matter is to watch when you do turn on  
14 the mic. You don't want to have sidebar  
15 conversations that will be picked up by the mic. You  
16 probably don't want everybody to know that plus it  
17 will confuse the court reporter.

18 So with that I will jump in.

19 MS. ANGELINI: Could everybody please  
20 provide their business card to Mr. Catherine, the  
21 court reporter? Thank you.

22 MS. CAPOFERRI: Thanks Sophia. Okay, so

1 I am new to using this device but I will try and see  
2 how tech savvy I am. Okay very good. So as we have  
3 here just a basic introduction to the rulemaking. On  
4 just this past December 17th the Department issued  
5 the proposed regulations to implement Section 934 of  
6 the Energy Independence and Security Act of 2007.

7 If you don't already know it's published  
8 at 79FR75076 and Section 934 of the Energy  
9 Independence and Security Act implements in the U.S.  
10 the Convention on Supplementary Compensation and that  
11 is an international convention establishing a global  
12 nuclear liability regime.

13 The U.S. is a party to the CSC and as a  
14 party to the CSC we are obligated to contribute if we  
15 are called upon to the international supplementary  
16 fund that was created under the CSC and that fund was  
17 created to insure that there would be adequate  
18 financial compensation to victims of certain nuclear  
19 incidents.

20 Section 934 establishes a retrospective  
21 risk pooling program that allocates the cost of any  
22 U.S. contribution to the international supplementary

1 fund to the U.S. nuclear suppliers that benefit from  
2 the CSC. Just a very basic background on the  
3 convention, again it establishes a global nuclear  
4 liability regime that benefits the victims of nuclear  
5 incidents by providing them with a prompt and  
6 meaningful compensation under its two tier system.

7 The first tier of compensation is provided  
8 by the law of the state where the incident occurs and  
9 it equals minimum or roughly 450 million dollars. In  
10 the U.S. that state law would be the Price-Anderson  
11 Act. Other countries have their own national laws  
12 that provide for this first tier minimum compensation  
13 available to victims of nuclear incidents and then  
14 there is the second tier and that's the subject of  
15 the rulemaking. The international supplementary  
16 fund was also created under the convention and it's  
17 funded by contributions from the CSC member states.

18 And the other beneficiaries of the CSC are  
19 nuclear suppliers because the CSC provides consistent  
20 rules for dealing with legal liability. It replaces  
21 the potentially open-ended liability that nuclear  
22 suppliers may be subject to, it provides

1 predictability across countries and in effect  
2 provides insurance for the potential nuclear  
3 liability in part because the convention channels  
4 legal liability to the nuclear operator and it does  
5 other things such as designates the one, the  
6 competent court of jurisdiction being the location  
7 where the nuclear incident occurs, so it has other  
8 legal principles that help to channel liability to  
9 the operator and thereby benefit nuclear suppliers.

10 CSC member states contribute to the  
11 international fund only if there is a nuclear  
12 incident for which the first tier of compensation  
13 under a state's national law is insufficient so it's  
14 not necessarily going to come into play unless you  
15 have had a significant, very significant nuclear  
16 incident.

17 Okay, there might be a seat down there  
18 you can take if that's more comfortable.

19 MR. MCGARVEY: Thanks.

20 MS. CAPOFERRI: Some additional  
21 background on the CSC. It's been signed by 18  
22 countries and ratified at present by 5 countries,

1 Argentina, Morocco, Romania, United Arab Emirates and  
2 the U.S. It will come into force and effect when 5  
3 countries having the required or sufficient threshold  
4 nuclear capacity have ratified. Many of you may  
5 already know that the Japanese Diet has given its  
6 approval to ratification by Japan just very recently  
7 and the CSC is expected to come into force and effect  
8 90 days after Japan deposits its instrument of  
9 ratification with the IAEA which again is expected in  
10 early 2015.

11 Canada is also another major nuclear  
12 generating country that is expected to join the CSC  
13 in 2015. So in short, up to this point the CSC has  
14 not come into force and effect but it is anticipated  
15 to come into force and effect very soon.

16 More background on Section 934 of the Act  
17 -- it mandates that nuclear suppliers, not taxpayers,  
18 not reactor operators, will fund the U.S.  
19 contribution to the international supplementary fund  
20 for incidents that occur abroad. It establishes  
21 that the amount or what is otherwise called the  
22 premium payment of a nuclear supplier is

1 retrospective, meaning it's paid only if a nuclear  
2 incident occurs and the U.S. is called upon to  
3 contribute to the international supplementary fund.

4           So, some of you may be aware that it is  
5 similar in that regard to the Price-Anderson Act. It  
6 doesn't come into play unless and until a nuclear  
7 incident actually occurs, with nothing to pay at the  
8 moment so to speak. It mandates that the premium  
9 payment be risk based and prorated and meaning its  
10 determined based on the risk associated with the  
11 goods or services that are supplied by a nuclear  
12 supplier and it's apportioned equitably among all of  
13 the U.S. nuclear suppliers.

14           And lastly it directs DOE to promulgate  
15 regulations to establish this retrospective risk  
16 pooling program and the risk informed assessment  
17 formula to calculate and collect premium payments  
18 from the nuclear suppliers.

19           With regard to development of the  
20 rulemaking, in 2010 the Department issued a Notice of  
21 Inquiry and we sought comments from the public to  
22 assist us in developing these regulations, in order

1 to implement the mandate of Section 934. We  
2 certainly received lots of good and fulsome comments  
3 from some of you here and others and those were very  
4 helpful in developing the proposed regulations that  
5 we have now published.

6 They went through the interagency, the  
7 usual interagency comment and review process. In  
8 late October we got clearance from OMB to release the  
9 proposed regulation.

10 This is an overview of the rulemaking and  
11 the structure of the rulemaking. It's as we have  
12 said it will be codified in part 951 and it basically  
13 contains four parts, subpart A general provisions,  
14 subpart B the retrospective risk pooling program.  
15 Subpart C payment to the U.S., subpart D is the  
16 information collection requirements and under  
17 subpart B we have proposed two alternative risk  
18 assessment formulas.

19 Alternative one is a formula, a risk  
20 assessment formula by nuclear goods and services and  
21 alternative two is the risk informed assessment  
22 formula by nuclear sector. So you will see in the

1 regulation subparts A, B and D are the same between  
2 the two alternatives but subpart B is different and  
3 we have laid out two different regulations for review  
4 and comment.

5           Subpart A as I said is the general  
6 provisions, pretty standard. It states the purpose  
7 which is basically to establish the retrospective  
8 risk pooling program and the risk assessment formula.  
9 The scope of the rule covers nuclear incidents that  
10 occur outside the U.S. that result in a request for  
11 contributions to the international supplementary  
12 fund that are not covered by the Price-Anderson Act  
13 and it has a definition section.

14           It provides meaning to several of the  
15 words or phrases that are specific to the regulation  
16 and its operation in addition to some of the  
17 terminology from the Atomic Energy Act as well as  
18 Section 934 of the EISA so as in many regulations the  
19 definitional section is pretty important and its  
20 helpful to be mindful of those definitions as you go  
21 through with the regulation because some of the words  
22 are specifically different here.



1           Section B as I mentioned it's actually two  
2 alternatives. Section B is basically two different  
3 risk formulas, both of them have some commonalities.  
4 Both of them define risk, that is the risk of a  
5 nuclear supplier's goods or services that will  
6 provide the basis for a claim for damage resulting  
7 from a nuclear incident that could give rise to a  
8 call for contributions under the CSC. That is the  
9 risk that is in the risk-informed part of the formula  
10 and they both are pro-rated so that the amount of the  
11 premium of any individual nuclear supplier is  
12 pro-rated, assessed based on a pro-rated share of the  
13 U.S. contingent cost based on the risk exposure of a  
14 nuclear supplier relative to the other nuclear  
15 suppliers in the group.

16           Both alternatives exclude small nuclear  
17 suppliers and they include a cap on the premium  
18 payment of any one nuclear supplier and as I  
19 mentioned the main difference between them is the  
20 method or the way in which risk is expressed.  
21 Alternative one expresses risk on the basis of the  
22 type of goods or services that a nuclear supplier

1 would supply to a nuclear installation whereas  
2 alternative two cuts the baby in terms of the  
3 nuclear sector that a nuclear supplier provides  
4 services, goods or services to.

5           Alternative 1 -- a little bit more on that  
6 -- again it's based on the type of good or service  
7 that is supplied. There are two appendices that go  
8 with Alternative 1, Appendix A lists what we call  
9 primary nuclear items and services and those relate  
10 to different categories and then within each of  
11 those categories there are more specific items.

12           Category 1 is the nuclear plant steam  
13 supply systems, nuclear plant safety systems and  
14 nuclear plant containment and as I said look at  
15 Appendix A it has more detail on the types of goods  
16 or services within each of those categories. And  
17 then Appendix B lists secondary nuclear items and  
18 services and those are related to nuclear plants,  
19 enrichment and fuel fabrication facilities,  
20 irradiated nuclear fuel reprocessing facilities,  
21 nuclear material transportation and nuclear material  
22 storage facilities and those are listed in appendices

1 A and B and I will get to this later but they have  
2 different weightings.

3           The items in Appendix A are weighted a 2  
4 and the items in Appendix B are weighted a 1 and  
5 again it corresponds with the relative risk of those  
6 items supplied. The items in Appendix A and B were  
7 drawn from several sources and I have just included  
8 some, not all of the NOPR notes, with the reference  
9 material for some of those items. In particular of  
10 course, is 10 CFR Part 110 on import and export and  
11 NRC regulations and 10 CFR Part 50 on reactors and  
12 some of the international sources, the IAEA  
13 information circulars that pertain to controlled  
14 nuclear materials, equipment, facilities, and  
15 technology.

16           Again, these were sources of information  
17 about the type of goods, services, components,  
18 equipment et cetera that go into various nuclear  
19 installations and that's what we look at in terms of  
20 trying to figure out what type of item might  
21 contribute to a nuclear incident, or the type of  
22 nuclear installation.

1 More about Alternative 1, this is a very  
2 rough sketch of the way the formula works. It's in  
3 the NOPR -- I would encourage you to look at it.  
4 I'll try to explain it in words -- the premium  
5 payment is basically based on the nuclear supplier's  
6 risk share of the contingent cost. Again the  
7 contingent cost is the cost to the U.S. government of  
8 its contribution to the convention.

9 And then the risk share is a function of a  
10 nuclear supplier's risk exposure relative to the risk  
11 exposure of all nuclear suppliers. That risk  
12 exposure is calculated based on the adjusted value of  
13 the covered transactions of a particular nuclear  
14 supplier so basically how much you have sold under  
15 covered transactions, that value is then used to  
16 assess your relative share against other suppliers.

17 The items in Appendix A as I have  
18 mentioned are given a weight of 2 meaning they have a  
19 greater likelihood of contributing to a nuclear  
20 incident resulting in a call for funds. The items  
21 in Appendix B are given a weight of 1 meaning they  
22 have a lesser likelihood of contributing to a nuclear

1 incident resulting in a call for funds.

2           So again it's a way of approximating the  
3 type of goods and services provided by a nuclear  
4 supplier, the relative weight of whether those items  
5 are risky or not in terms of potentially causing a  
6 nuclear incident and then taking all of that together  
7 and then assessing what each supplier has provided in  
8 value versus the totality of nuclear suppliers. That  
9 gives you a risk share that is then multiplied by  
10 whatever the contingent cost is for the U.S.  
11 government; that percentage then gives a dollar  
12 amount that each nuclear supplier would then be  
13 responsible to contribute.

14           Alternative 2 -- this takes a different  
15 tack at looking at how we would determine the risk  
16 for a particular nuclear supplier so it is based on  
17 the nuclear sector that a supplier contributes to.  
18 We have identified 4 nuclear sectors and within each  
19 nuclear sector the type of nuclear supplier to that  
20 particular sector. So the 4 sectors are the  
21 facilities sector and the type of supplier in that is  
22 what we call a lead nuclear supplier which is defined

1 in the regulation. The lead nuclear supplier is  
2 involved in the development and the deployment of a  
3 nuclear installation.

4 The equipment and technology sector and  
5 those are nuclear suppliers of equipment, components  
6 or technology used in a nuclear installation and then  
7 there is the nuclear materials and nuclear material  
8 transportation sector and that's comprised of nuclear  
9 suppliers of nuclear materials to a nuclear  
10 installation or to the transport of nuclear material.

11 And then the service sector and those are  
12 nuclear suppliers of services to a nuclear  
13 installation for the design, construction, operation  
14 for decommissioning of a nuclear installation.

15 And then each of the nuclear sectors is  
16 allocated a risk amount that the sector is deemed to  
17 be responsible for. In the facility sector that has  
18 a risk amount of 50%; in the equipment and technology  
19 sector it's 25%; and the nuclear materials and  
20 nuclear transportation sector it's 15%; and the  
21 nuclear services sector it's 10%.

22 As an overview of how the premium payment

1 works this alternative is a little bit more  
2 complicated than Alternative 1 in terms of arriving  
3 at the premium payment. The payment is based on a  
4 nuclear supplier's risk share of the U.S. contingent  
5 cost allocated to the nuclear sector in which they  
6 are grouped. And then the risk share is a function  
7 of the nuclear supplier's risk exposure relative to  
8 the risk exposure of the nuclear suppliers within  
9 that sector.

10 And then the risk exposure is calculated  
11 for a nuclear supplier and each sector based on  
12 either the adjusted value or the quantity of the  
13 covered transactions of a supplier within this sector  
14 and again that's multiplied by 2 or 1, the multiple  
15 of 2 applies to transactions involving nuclear  
16 reactor facilities or facilities for reprocessing of  
17 the irradiated nuclear fuel.

18 And a multiple of 1 applies to  
19 transactions involving nuclear material processing  
20 facilities, nuclear material storage facilities, and  
21 nuclear material transportation. Again the weights  
22 of 2 and 1 reflect facilities or services that have

1 at least a risk of leading to a nuclear incident of a  
2 greater weight than transactions of a weight of 1.

3 So that's subpart B. Subpart C tracks  
4 the statute, Section 934, and provides the means by  
5 which the United States will be paid. And again it's  
6 -- we call for contributions only when the U.S. is  
7 called to contribute under the CSC so in the event  
8 the U.S. is called upon to contribute we would  
9 notify each nuclear supplier that is subject to the  
10 regulation and request payment of their  
11 retrospective premium and that would be calculated in  
12 accordance with the risk informed formula.

13 The payment is due to the general fund of  
14 the U.S. Treasury. Payments can be made in full or  
15 in equal, annual installments over a 5 year period  
16 and failure to pay would result in a penalty  
17 assessment in addition to the premium payment  
18 itself. In accordance with the statute that amount  
19 can be up to double the premium payment amount with  
20 interest.

21 And subpart D, the information collection  
22 requirements. These, of course, are the requirements



1 for obtaining the information that the Department  
2 needs to calculate this premium. So a nuclear  
3 supplier that is covered by the regulation would be  
4 required to provide to DOE information on its  
5 reportable transactions from prior years as well as  
6 on an annual basis on a go forward basis.

7 The reporting requirement only applies to  
8 reportable transactions which are essentially an  
9 export to a foreign nuclear installation by a covered  
10 nuclear supplier that occurred after a certain date  
11 and involving only those nuclear goods or services or  
12 nuclear sectors that have been specified in  
13 Alternatives 1 or 2. The information to be  
14 collected would include the date and the description  
15 of the transaction, the location of the nuclear  
16 installation, the volume or the quantity of the goods  
17 or services exported and the value of each of the  
18 items exported and the total volume of each export  
19 transaction.

20 Disclosure requirements mostly work in  
21 the normal course, the information provided by a  
22 nuclear supplier would be protected in accordance

1 with the law. If proprietary or other such  
2 information is provided to the Department as needed  
3 to comply with the reporting requirements that would  
4 be protected to the extent the law permits.

5 As I mentioned this is basic information  
6 that the Department would need in order to calculate  
7 a supplier's premium payment and it basically  
8 constitutes the value or the quantity of the goods  
9 and services that have been supplied by a nuclear  
10 supplier to a covered installation.

11 So just to recap, I've noted key features.  
12 There may well be others so don't consider this as an  
13 exclusive list of key features of the rulemaking.  
14 The premium, as we have mentioned before, the premium  
15 payment is owed by nuclear suppliers that meet the  
16 following criteria: you need to export goods or  
17 services that if supplied in the U.S. would be  
18 subject to NRC regulations at 10 CFR part 21  
19 pertaining to the reporting on defective and  
20 non-compliant goods or services.

21 You need to be exporting the type of goods  
22 or services or exporting within a nuclear sector that

1 is covered by alternative 1 or 2 respectively. You  
2 need to be exporting goods or services to the type of  
3 nuclear installation covered by the CSC and you need  
4 to have obtained the export license or the  
5 authorization for the export of the goods or  
6 services.

7 As I mentioned before the proposed  
8 regulation would exclude certain small nuclear  
9 suppliers and it would include a cap on the premium  
10 amounts by any one nuclear supplier.

11 Again some key definitions and concepts,  
12 not an exclusive list, but just a couple to go over  
13 here. Covering nuclear supplier -- nuclear supplier  
14 is a broad term so we have attempted to narrow it  
15 somewhat for purposes of the rule. Covered nuclear  
16 suppliers are, nuclear supplier's whose goods or  
17 services if supplied in the U.S. would be subject to  
18 NRC's regulations at 10 CFR part 21 on reporting of  
19 defective or non-compliant products.

20 Final nuclear supplier is the nuclear  
21 supplier that obtains the require NRC general or  
22 specific license under 10 CFR part 110, the

1 Department of Commerce export license under 15 CFS  
2 734 or a DOE authorization under 10 CFR 810 for the  
3 export of items involved in a reportable  
4 transaction.

5 So again, between the covered nuclear  
6 supplier and the final nuclear supplier, we have  
7 tried to narrow the focus to those kinds of suppliers  
8 that can be identified on an objective basis that the  
9 nuclear industry would understand. For example 10  
10 CFR part 21 requirements and what nuclear goods or  
11 services fit within those kinds of reporting  
12 requirements and of course what entity would be  
13 exporting and what would be required -- otherwise be  
14 required -- to obtain an export license or  
15 authorization.

16 Lead nuclear supplier is a term that is  
17 used only in alternative two and the risk assessment  
18 formula there. It defines the type of nuclear  
19 supplier based on adjusted value. It's the lead  
20 nuclear supplier in the facility sector. It's  
21 defined as the nuclear supplier with adjusted value  
22 of transactions for the period 1960 through 2007 that

1 would exceed 500 million or some other amount to be  
2 set. It denotes the type of nuclear supplier that  
3 perhaps in years past would have been -- would have  
4 supplied main components and equipment to a nuclear  
5 installation abroad with some recognition of the fact  
6 that the nuclear industry has changed a bit. It's a  
7 bit more disparate than it used to be but the  
8 intention of course is to capture those suppliers who  
9 in years past would have supplied many of the nuclear  
10 installations that exist around the world and so we  
11 had a category for that type of supplier specific to  
12 the facilities section.

13 A couple more key definitions -- nuclear  
14 installation, the definition in the rule is taken  
15 pretty much from the CSC and it's any nuclear reactor  
16 facility or plant other than one used for sea or air  
17 transport. It's any facility or plant using nuclear  
18 fuel for the production of nuclear material or any  
19 plant processing nuclear material, including any  
20 facility for reprocessing irradiated nuclear fuel  
21 and it's any plant or facility where nuclear material  
22 is stored, other than storage incidental to

1 transport.

2           So as we have explained in the preamble to  
3 the rule, what works out to be, which might be an  
4 easier way of representing what we would think are  
5 nuclear installations covered by the regulation would  
6 include civilian nuclear power plants, civilian  
7 nuclear research and test reactors, nuclear fuel  
8 fabrication facilities, spent or used nuclear fuel  
9 reprocessing facilities, uranium enrichment  
10 facilities, and storage facilities for nuclear  
11 materials including storage of used nuclear fuel or  
12 radioactive waste.

13           What it would not include would be  
14 radioactive waste disposal facilities, uranium mining  
15 or milling facilities, or uranium conversion  
16 facilities.

17           Another key definition of what's a  
18 reportable transaction -- again there's a little bit  
19 of difference between Alternative 1 and 2. Under  
20 Alternative 1 it would be any kind of transaction by  
21 a covered nuclear supplier after 1959 to provide any  
22 of the items listed in Appendix A or after 2007 for

1 items listed in Appendix B.

2 Under Alternative 2 it would be any  
3 transaction by a covered nuclear supplier involving  
4 the supply of a nuclear installation outside the U.S.  
5 between 1960 through 2007. Equipment, components or  
6 technology for a nuclear installation outside the  
7 U.S. after 2007, nuclear materials to a nuclear  
8 installation outside the U.S. after 2007,  
9 transportation outside the U.S. of nuclear material  
10 to or from a nuclear installation, again after 2007  
11 and services to a nuclear installation outside the  
12 U.S. after 2007.

13 And as I mentioned there are certainly  
14 more definitions and more explanations of definitions  
15 and terminology in the preamble to the rule.

16 We also have a section of the rule in  
17 which we have summarized the areas that we are  
18 soliciting comments on. I would emphasize of course  
19 that this is again not an exclusive list and we  
20 welcome comments on every aspect of the rule. We  
21 wanted to roll up some of the areas where throughout  
22 the rule and preamble discussion we have sought

1 comments so Section 3 of the NOPR is basically a  
2 roll-up of those things and I've only listed for  
3 example purposes, some of the items that we are  
4 seeking comment on.

5           The definition of covered nuclear supplier  
6 as well as the lead nuclear supplier, small nuclear  
7 supplier exclusion, we have several options in the  
8 rule for what might be a small nuclear supplier,  
9 either based on an amount of sales or revenue or  
10 Small Business Administration-type definitions of a  
11 small nuclear supplier. Same thing with the  
12 retrospective premium payment cap, it can be an  
13 amount, it can be a percentage, it is an area where  
14 we would certainly like to hear from industry and  
15 others on what might be an appropriate method of  
16 formulating the cap and the amount.

17           Nuclear sectors -- Alternative 2 is based  
18 on four nuclear sectors, we would like to hear  
19 certainly about that. The risk share calculation  
20 that's also another area for commentary and the  
21 reporting requirements, clearly we would like to hear  
22 from folks on the reporting requirements and where we



1 have got it right, wrong and things that we might  
2 have missed.

3 And in conclusion, additional information  
4 and background on the rule is found at the DOE  
5 website for the rulemaking and I've got the cite up  
6 there. It's probably important that we will be  
7 holding at least one public workshop on the  
8 rulemaking and it will be scheduled in the upcoming  
9 weeks and certainly prior to March 17th.

10 We will put in the notice, we could do one  
11 workshop or more depending on time and what kind of  
12 feedback we receive so certainly that might be a  
13 topic you would want to give us some feedback on  
14 today. Information and instructions on how to  
15 provide written comments are also found in the  
16 federal register of the NOPR, at the first page or  
17 two of the NOPR, so by all means those processes can  
18 be utilized as well to provide comments, written  
19 comments.

20 So that's the conclusion of the  
21 presentation so I guess I will leave it open if folks  
22 want to take a little break now before we come back

1 for any questions or comments or if Brenda needs to  
2 tell me something.

3 MS. ANGELINI: Excuse me, could everybody  
4 give their cards to Brenda who is collecting them,  
5 thank you.

6 MS. CAPOFERRI: Yes, all right, ten minute  
7 break.

8 (Whereupon a ten minute recess was taken.)

9 (Meeting reconvened)

10 MS. CAPOFERRI: Okay I think most folks  
11 are back. Again we will take questions and comments.  
12 Just to calibrate though we may not be able to  
13 answer all of your questions today or provide  
14 responsive comments so if we can we will do what we  
15 can but otherwise hold the comments. There will be a  
16 public workshop where we can get into some further  
17 detail and engage a little bit more interactively but  
18 if you have got any kind of so to speak simple  
19 questions or comments that you wanted this morning we  
20 will try to think of a fair way to -- everybody  
21 should raise their hand and we will try and get  
22 people as they go up or if that system doesn't work

1 we will have to do something more like alphabetical  
2 by your organization so okay we will start with --  
3 maybe we will go around this way.

4 Yes, right, introduce yourself for the  
5 court reporter please, okay.

6 MR. BROWN: Omer Brown for Contractors  
7 International Group of Nuclear Liability. My  
8 question has to do with the section of the NOPR that  
9 refers to the Paperwork Reduction Act which says that  
10 the Department calculated that this rule would only  
11 apply to about 25 companies and I would like to get  
12 some further information as to how you came up with  
13 the number 25 when in the comments we submitted on  
14 the Notice of Inquiry we pointed out that hundreds if  
15 not thousands of companies supplied to foreign  
16 nuclear installations.

17 MS. CAPOFERRI: Well I'll try and address  
18 that. We think -- what we were looking at was with  
19 the way we have formulated the rule and narrowing of  
20 the scope of nuclear suppliers that would be subject  
21 to the rule we felt that it wouldn't encompass the  
22 large volume of hundreds, thousands of nuclear

1 suppliers that might fit into a very broad scope  
2 definition of nuclear suppliers.

3 So when we looked at what we were zeroing  
4 in on and who we thought about that number was less  
5 was than the totality of all potential nuclear  
6 suppliers in the U.S. I would suggest as we have done  
7 in the rule that you folks who are knowledgeable of  
8 the industry and the players in the industry provide  
9 us comments on that.

10 Any information you can provide,  
11 particularly any back up to that would be most  
12 helpful. We put in the rule, in our summary of  
13 comments, that this is certainly an area which we are  
14 soliciting views of the industry on. Okay next  
15 question?

16 MR. WILLIAMS: Richard Williams from GE  
17 HITACHI Nuclear Energy. One concern that I have in  
18 looking at Section 951.4 when it talks about the  
19 Department's calculating the retrospective premium  
20 payment for each supplier and this I gather would  
21 come with the notice right, that would be sent?

22 MS. CAPOFERRI: Um hmm.

1 MR. WILLIAMS: Is that there -- and then  
2 there's the 60 day period within which to pay, to me  
3 there's a large gap here in that there is no -- the  
4 strict resolution process or process that's built in  
5 for the ability of the supplier to question or  
6 otherwise receive an explanation for the calculation.  
7 Given the enormity of this and the complexity I would  
8 assume that almost -- you know reasonable minds can  
9 disagree on the calculation based on any number of  
10 factors.

11 MS. CAPOFERRI: Um hmm.

12 MR. WILLIAMS: From the categorization of  
13 the supplier to you know, to the way in which you  
14 view the risk exposure, for example, if it's just  
15 under the second alternative. So I don't see  
16 anything here you know, a' la the Internal Revenue  
17 Service for a period for you to come together and  
18 discuss and receive an explanation and provide  
19 opposing views and all of that. It just says you are  
20 paying in 60 days and then if you don't pay the  
21 result.

22 MS. CAPOFERRI: You are correct, that's

1 what is in the rule as it is proposed. Good  
2 comment, I would encourage you to if you want to  
3 write that out and discuss it further. You are  
4 correct there is nothing in there at the moment.

5 MS. HAYWARD: Hi, Mary Alice Hayward with  
6 AREVA. Did I jump the queue?

7 MS. CAPOFERRI: We will get to folks in  
8 the back.

9 MS. HAYWARD: Okay this is a question for  
10 actually processing this rule and how the DOE has  
11 made arrangements, which office is going to be  
12 responsible for executing, processing, handling the  
13 reporting requirements, automating the system? I  
14 know that we have had some rocky experiences already  
15 with the part 810 and trying to automate that and  
16 make that user friendly. I'm very concerned with  
17 the DOE not being able to actually execute on this  
18 rule effectively in such a way that it penalizes the  
19 supplier even further so can you talk about that?

20 MS. CAPOFERRI: I can talk about that a  
21 little bit and that would be a comment that you could  
22 reiterate in the printed comments. At the moment as

1 you can tell the rule has been published and signed  
2 off by the Office of General Counsel. We have  
3 certainly obtained support from the Office of Nuclear  
4 Energy here at DOE who has helped us in preparing the  
5 rule and the mechanism for collecting the information  
6 within the Department and that mechanism is something  
7 that we haven't yet settled upon so if there are  
8 comments that you want to make on that in that regard  
9 you should feel free to make them.

10 MR. CATES: Dwight Cates with FLUOR.

11 Based on the Fukushima incident and based on the  
12 framework that you have proposed in its definitions,  
13 how many nuclear incidents -- covered nuclear  
14 incidents occurred at Fukushima?

15 MS. CAPOFERRI: I honestly cannot answer  
16 that question. We will have to take that one in  
17 consideration.

18 MR. CATES: Okay the second question is  
19 your retrospective risk pooling methodologies rely on  
20 you obtaining information and identifying covered  
21 entities and identifying the revenue streams that are  
22 allocated based on a maze of factors in your

1 calculation. As a public company we need to be able  
2 to estimate that exposure to our shareholders and to  
3 ourselves and for several purposes, reporting  
4 requirements and also if we want to buy insurance to  
5 cover that exposure we need to know what that number  
6 is.

7 At what point, obviously you can't do that  
8 now, but at what point will we be able to quantify  
9 our financial exposure under this rule? Will we  
10 have to wait until a nuclear incident occurs and you  
11 tell us what our exposure is or are you going to have  
12 a model at some point that can quantify this number  
13 for us?

14 MS. CAPOFERRI: Let me try and approach  
15 it this way. We put out in the rule what we think,  
16 estimating of course, what we think would be the  
17 range of the U.S. contribution under the CSC.

18 MR. CATES: Right.

19 MS. CAPOFERRI: And of course any  
20 particular nuclear suppliers would have a relative  
21 part of that but I think that the range that we put  
22 in the NOPR was between 70 million and 150 million.



1 MR. CATES: Right.

2 MS. CAPOFERRI: 150 million would be  
3 obviously at the larger end of what the U.S. may be  
4 obligated to contribute under the CSC when it's more  
5 fully subscribed by roughly 30 countries or more  
6 countries who are members of it. So I think that at  
7 least provides some kind of an outline of where the  
8 potential is and it is not limitless, there is at  
9 least some range within the convention on the  
10 contributions of members under the International  
11 Supplementary Fund where in particular the U.S.  
12 nuclear suppliers would fit in terms of their  
13 exposure and their share of that, that is something  
14 that we would -- I obviously cannot now estimate that  
15 -- it would depend on the information that we get  
16 back and understanding the totality of nuclear  
17 suppliers that are affected by it.

18 So at the moment it's not something that I  
19 can provide any specificity with -- in regard to any  
20 particular nuclear supplier.

21 MR. CATES: Okay but what about -- I know  
22 you can't answer that question now, I'm asking you

1 when will you be able to answer that question? Is  
2 it going to take an incident to occur before you can  
3 answer that question or will we have a model, a  
4 reliable model that can be used to estimate exposure  
5 on an annual basis for our annual reporting, our  
6 quarterly reporting requirements?

7 MS. CAPOFERRI: Well any premium wouldn't  
8 be due until a nuclear incident occurred in any case  
9 which is not something that, I don't know that any of  
10 us can forecast.

11 MR. CATES: I know, what I'm asking is --  
12 maybe let me ask it -- give it to you this way. When  
13 we define the cap, if you have a cap when will you  
14 define the cap? When will you quantify the number,  
15 the amount for a cap?

16 MS. CAPOFERRI: Well I guess that's  
17 something that we will be working on as we go through  
18 the proposed rule.

19 MR. CATES: Will you answer that question  
20 before the rule is finalized?  
21 And provide that information before the rule is  
22 finalized?

1 MS. CAPOFERRI: I'll have to take that  
2 into consideration. I can't answer your question  
3 not today.

4 MR. CATES: Will it be finalized before  
5 an incident occurs after the -- I mean just give me  
6 some framework here to understand when that could be  
7 done?

8 MS. CAPOFERRI: You have raised a good  
9 comment. I would expect that when we have a  
10 workshop we will try and answer some of these  
11 questions as we go through a little bit more of the  
12 rule and get more feedback on things like questions  
13 that have already been asked, you know whether we  
14 have got the right amount or estimate of the nuclear  
15 suppliers that would be subject to the rule.

16 So I think some of this we might be able  
17 to do a little bit better as we go through the  
18 process but I am not sure I can answer that question  
19 and I understand you are asking for an estimate, but  
20 I don't know that I can do that.

21 MR. CATES: I'm not asking for the  
22 estimate right now. What I am trying to understand

1 is by the time you finalize the rule, let's just say  
2 -- let's make it as clear as possible. When you  
3 finalize the rule and the rule is promulgated on the  
4 day after it is promulgated, based on the -- if it is  
5 still 69 million dollars if we are at 69 million  
6 total U.S. exposure for domestic suppliers, okay, no  
7 other additional countries have come in and you  
8 promulgate the rule at that point, and then you've --  
9 will I be able to go in there and plug in the  
10 information that I have on my company and get an  
11 answer or will you have a cap at that point?

12 At that point when you know the limit of  
13 your exposure is 69 million will you have a cap at  
14 that point? After you have promulgated the rule will  
15 you be a point where you can have a cap?

16 MS. CAPOFERRI: I would think by the time  
17 we got to promulgate the rule again we would have a  
18 better idea of the nuclear suppliers that are  
19 involved. Some of what you are asking requires the  
20 information under the information collection  
21 requirement to know, so that's why I am having  
22 difficulty saying whether the day after the rule is

1 promulgated we would know with a degree of certainty  
2 or even estimated certainty what you are asking for  
3 so that this is something that we will need to take  
4 into consideration.

5 Yes, let me go to the back if you don't  
6 mind.

7 MR. CUEVAS: Steve Cuevas, counsel for  
8 AREVA. I have one question and one comment to talk,  
9 maybe take up in the workshop. First the question is  
10 under Alternative 2 when you have broken into  
11 different categories as many of the firms in this  
12 room are vertically integrated, are multiple -- found  
13 in multiple categories. Are you going to be  
14 allocated a percentage within each category or the  
15 category in which the risk associated with the  
16 incident is caused by or how is that going to work?

17 MS. CAPOFERRI: I think we said in the  
18 rule it would be that if you were a nuclear supplier  
19 that contributed to multiple -- to more than one of  
20 the nuclear sector then you would be allocated risk  
21 to share within each of the sectors to which you  
22 contribute.

1 MR. CUEVAS: Okay the second is it kind  
2 of falls under a couple of the other comments is how  
3 are we going to -- when you go back to 1959 or 1960  
4 with reporting requirements. First is do you have  
5 any estimate on what you think that cost to the  
6 industry is going to be to pull that information  
7 together? The second question I have is based on the  
8 myriad of bankruptcies, mergers, subsidiary  
9 acquisitions, et cetera, how are folks supposed to  
10 allocate whether or not they are responsible for  
11 something that was sold in 1970 if let's say they  
12 bought part of a business of another nuclear  
13 supplier, they didn't sell that business in 1970 but  
14 in 1985 they bought that part of the business. So do  
15 I count that or does the company who is still around  
16 count that from their 1970 sales?

17 How do we avoid double counting? What  
18 thought has been given, that's not something that you  
19 need to answer today but what thought has been given?  
20 How exactly are you going to assess that back to --  
21 and how much, I'll leave it at that, but that's the  
22 comment.

1 MS. CAPOFERRI: Right and I would -- I  
2 understand your comment. We have tried to address at  
3 least some of that and ask for more comment in the  
4 rule we have addressed, you know covered persons and  
5 their successors in interest and we have estimated  
6 reporting requirements and some of the expenses of  
7 such and we have acknowledged that going back to 1960  
8 is a long time back.

9 So I would encourage all of you to provide  
10 comments on the feasibility of that and the  
11 difficulties and any other issues that you perceive  
12 in that kind of endeavor.

13 MR. BLEE: Sure, David Blee, U.S. Nuclear  
14 Infrastructure Council. Happy New Year thanks for  
15 pulling this meeting together on short notice. I  
16 want to start with a soft ball and that was in terms  
17 of this public meeting, is that going to be in  
18 Washington, D.C.? Is that in the next several  
19 weeks? Is it -- I know maybe you can't give us a  
20 date today but what sort of time frame? Soon in DOE?

21 MS. CAPOFERRI: I can give you a month  
22 February.

1 MR. BLEE: Okay that's helpful.

2 MS. CAPOFERRI: When in February we are  
3 still working out, some of that of course depends  
4 upon what we perceive as the interest and the need  
5 for one or two public workshops and of course we want  
6 to get the workshops in before the close of the  
7 comment period in mid-March. I would also say it's  
8 most likely to be here in D.C., we will hopefully  
9 have more of a facilitator the next time around and  
10 you know we will certainly consider things like  
11 webinars to offer folks out of town, so it will be a  
12 bit more robust meeting than this one is and  
13 hopefully can then provide the opportunity for  
14 participation by multiple parties.

15 MR. BLEE: I agree.

16 MS. CAPOFERRI: Setting up a face to face,  
17 I think you are looking at the place where it will  
18 be.

19 MR. BLEE: Thank you. Just to comment  
20 and then a question. Obviously it's immediately  
21 clear that the forensics of this in terms of the  
22 retroactive reporting is going to be a nightmare. I



1 would say that the reporting requirements of the  
2 annual report and comments could be, when you start  
3 to accumulate over the years if there is not an  
4 incident, I think it may actually exceed the amount  
5 when there is an incident based on you just add up  
6 the amount of companies and I come back to the  
7 question that Omer posed with respect to the  
8 threshold, you've got 25 companies and you said you  
9 thought it would be about that, he's saying hundreds  
10 to thousands.

11 Presumably yours is based on some kind of  
12 economic analysis that says it's going to be around  
13 25 is that correct?

14 MS. CAPOFERRI: Well I can't cite to any  
15 economic analysis. I would repeat again that now we  
16 have put the rule out and you can see the contours of  
17 the rule and those entities that would be covered  
18 nuclear suppliers and final nuclear suppliers and you  
19 can then assess and provide comment to us on whether  
20 our estimate is off by some or lots, that would be  
21 helpful.

22 MR. BLEE: Yeah a mixed bit of a chicken

1 and egg game because how do you really know what the  
2 cap is or have your amount unless you know what  
3 everyone is reporting it on in terms of but okay  
4 that's fair enough but there is no economic analysis  
5 report that we could have a look out?

6 MS. CAPOFERRI: I can't cite to any  
7 economic analysis.

8 MR. BLEE: Okay thanks.

9 MR. MCGARVEY: Dan McGarvey with Marsh  
10 just one quick question. If you operate a nuclear  
11 plant in our country and you cease operating it,  
12 start to decommission it, there's a process to get  
13 out of pricing, is there any process to get out of  
14 this club?

15 MS. CAPOFERRI: Unless you fit into the  
16 exclusion, or you otherwise don't fall within the  
17 definitions of a covered nuclear supplier or final  
18 nuclear supplier I don't know the statute has a way  
19 out of this particular club.

20 MS. MANN: Melissa Mann with URENCO.  
21 Anita, first of all let me just state our desire for  
22 at least one public workshop.

1 MS. CAPOFERRI: Okay.

2 MS. MANN: Thank you. Can you help me  
3 understand in a bit more detail the applicability of  
4 the NOPR to transportation activities? Particularly  
5 how it may interface with some of the definitions  
6 about covered persons, et cetera? So if you were  
7 part of the transportation exporting outside of the  
8 United States but ostensibly you have an export from  
9 the United States to a covered installation.

10 MS. CAPOFERRI: Right the nuclear  
11 transportation sector side would be U.S. entities  
12 that are providing or supplying transportation  
13 services to or from nuclear installations abroad so  
14 that is in essence the export of the service  
15 equivalent that would be covered by the  
16 transportation side.

17 MS. MANN: It would not be the physical  
18 act of the transportation itself?

19 MS. CAPOFERRI: Well it would be the  
20 physical act of transportation, that service or that  
21 good or service is provided by a U.S. nuclear  
22 supplier.

1 MS. MANN: Okay and in that case though if  
2 it's really the person causing it to be transported  
3 not the ocean carrier for example?

4 MS. CAPOFERRI: The to or from nuclear  
5 installations abroad where there is a nuclear  
6 incident, so outside the U.S. would be ocean  
7 transport.

8 MS. MANN: But it might not fall under  
9 the definition of a covered person? It might be de  
10 minimis.

11 MS. CAPOFERRI: Or if it otherwise fits  
12 the definition of a covered person.

13 MS. MANN: Okay and related to that  
14 because you know there are certain functions that do  
15 rely on agents so for example if an agent, rather  
16 than an NRC licensee were to obtain an export license  
17 who would have the liability under the NOPR? Is it  
18 the facility from which the material is physically  
19 leaving or is it the export licensee?

20 MS. CAPOFERRI: The export licensee.

21 MR. TEMPLE: Bob Temple from Babcock &  
22 Wilcox. Just to continue picking on the Paperwork

1 Reduction Act, how if you are asking for records back  
2 to 1960 could you imagine that it would only take 100  
3 hundred hours to pull it together?

4 MS. CAPOFERRI: Estimate. You can provide  
5 comment to us about that estimate. I'm certainly not  
6 privy to the internal workings of companies so if  
7 that's why if you can provide us the information  
8 that would form the basis for what you think would be  
9 time and effort required for that that would be  
10 helpful.

11 MS. MANN: Melissa Mann with URENCO  
12 again. Going back to definitions there's no  
13 definition for either services or technology but I  
14 could foresee an area where there is a bit of gray in  
15 between, is that something that you explicitly  
16 decided not to include or are you relying on some  
17 other definition?

18 MS. CAPOFERRI: Yeah I wouldn't say it's  
19 something we decided to specifically exclude. I  
20 think we've tried to at least get at that in terms of  
21 going to Alternative 1 in terms of the articulation  
22 and identification of goods or services in the

1 appendices and definitions. And in, alternative two  
2 as well, in terms of the sectors and services. If  
3 folks have comments about a better way or the need to  
4 further define those terms we could consider them as  
5 well.

6 MR. MCGARVEY: Dan McGarvey with Marsh.  
7 Anywhere in our country, low level waste sites are  
8 not covered under Price-Anderson and really don't  
9 even have minimum insurance requirements in some  
10 cases and yet providing services to low level waste  
11 sites overseas is counted as a risk factor here  
12 potentially so I would just raise that issue as a  
13 potential one for more discussions as to you know  
14 what kind of facilities overseas have a logical  
15 potential to cause a catastrophic loss that might  
16 trigger the CSC and is a low-level waste site among  
17 them.

18 MS. CAPOFERRI: Yeah I think we've -- as  
19 we've said in the nuclear installation section we try  
20 to identify those installations that we felt would be  
21 covered by the rule and those that would not so let  
22 me get back to my own notes, but I want to say some

1 of the disposal facilities would not be covered as a  
2 nuclear installation.

3 MR. GARRISH: Ted Garrish, CH2M HILL.

4 I'm curious about your overall schedule. You've got  
5 the 17th set up for submission of the first round of  
6 comments on the NOPR, you are going to have a  
7 workshop -- what do you anticipate as when this is  
8 going to come out the other side and you are going to  
9 have the proposed rule and then when do you think  
10 that this ultimately is going to go into effect?

11 I know that's always tricky asking DOE  
12 that question but I think a lot of us would like to  
13 have an idea what the schedule -- what you think it  
14 looks like?

15 MS. CAPOFERRI: Well I can tell you what  
16 the intention is, the timing we will see but  
17 certainly we have got the proposed rule out now, hold  
18 the public workshops, we have got the end of the  
19 comment period March 17th I believe it is and of  
20 course it will take us a bit of time to go through  
21 all the comments, make appropriate adjustments and go  
22 through the interagency and other processes. We

1 would certainly like to get it done in a very timely  
2 manner and in you know I'm just ball-parking here  
3 within this year but we will see what comes in and  
4 how quickly we can act.

5 MS. MANN: Melissa Mann, URENCO. Going  
6 back to some of Dwight's comments on the  
7 documentation collection and a little bit of what  
8 Omer said about I'm having some opportunity to  
9 understand who else's transactions are being included  
10 in the calculations? Have you thought about having  
11 some form of public information that at least reveals  
12 the number of transactions in each category of the  
13 formula so that you know an individual supplier would  
14 again have some sense of how to estimate how they fit  
15 into that particular risk level?

16 MS. CAPOFERRI: Good comment. I can't say  
17 expressly now but it's certainly a good comment to  
18 make, anything else?

19 MR. MCGARVEY: Dan McGarvey with Marsh.  
20 I would just like to say I appreciate the effort put  
21 into this. I mean when this was first published we  
22 had a group come together and try to come up with a



1 scheme and we determined quickly that there's really  
2 no right answer that there is no answer that is fair  
3 to everybody, there's no best scientific answer but I  
4 think there has been a tremendous good faith effort  
5 made here and a lot of good, great work put into it  
6 so I appreciate it.

7 MS. CAPOFERRI: Thank you very much and  
8 as I said I do expect that folks will give us many  
9 comments, many good comments and provide a lot of  
10 feedback that will be important to actually come to  
11 closure on a rule and we certainly do welcome those  
12 comments and look forward to getting them and being  
13 able to maybe address some of the questions that have  
14 been raised here in a better fashion than I have  
15 certainly been able to do this morning but some of  
16 that will be greatly aided by having that kind of  
17 feedback from those of you in the room and anybody  
18 else in the industry that can provide information  
19 that will really help in making and finalizing the  
20 rule so I would encourage folks to provide some  
21 comments as well as suggestions again on any aspect  
22 of the rule.

1                   We will take those in. Well if nobody  
2 else has any questions for now again you can visit  
3 the website, we will be putting the presentation on  
4 there shortly and the transcript will be on it in  
5 about two weeks and of course we will also be  
6 noticing the public workshop shortly so -- and when  
7 we do so we will probably also post that on the  
8 website and that will come out a few days before the  
9 actual federal register notice so if you check the  
10 site you might see updates on the proceeding.

11                   Again thank you all very much for coming.

12                   (Whereupon the meeting was adjourned at  
13 11:32 a.m.)

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