

U. S. ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF AIR QUALITY PLANNING AND STANDARDS  
INFORMATION TRANSFER AND PROGRAM INTEGRATION DIVISION

TRANSCRIPT  
OF  
NSR REFORM SUBCOMMITTEE MEETING  
AS TO  
NEW SOURCE REVIEW REFORM RULEMAKING

SHERATON IMPERIAL HOTEL AND CONVENTION CENTER  
RESEARCH TRIANGLE PARK, NORTH CAROLINA  
SEPTEMBER 17, 1996  
9:00 A.M.

REPORTED BY: SHARON ANDREWS, CCR, CVR, CLVS

P R O C E E D I N G S

1  
2           **MS. WEGMAN:** WE WERE WAITING, HOPING MORE  
3 PEOPLE WOULD SHOW, BUT I GUESS THAT I'M WONDERING IF  
4 MAYBE THEY WERE DELAYED BY THE WEATHER. WELL, I'D LIKE  
5 TO GO AHEAD. I THINK WE STILL OUGHT TO TRY AND GET  
6 STARTED, BECAUSE WE WANTED TO WIND UP NO LATER THAN FOUR  
7 O'CLOCK TODAY SO PEOPLE COULD GET OUT OF HERE AND CATCH  
8 THEIR FLIGHTS, AND THERE ARE, I KNOW, SEVERAL THINGS  
9 THAT WE WANT TO TALK ABOUT.

10           I'M LYDIA WEGMAN, AND I'M GLAD TO SEE ALL OF  
11 YOU HERE AGAIN. I REALLY APPRECIATE EVERYONE TAKING THE  
12 TIME. I KNOW SEVERAL OF YOU WERE HERE YESTERDAY. I  
13 COULDN'T BE HERE, AND I KNOW THAT PAT WILL TRY TO DO A  
14 LITTLE BIT OF THE SUMMARY OF THE COMMENTS FOR THOSE WHO  
15 WEREN'T HERE SO WE CAN ALL BENEFIT FROM WHAT WAS SAID  
16 YESTERDAY.

17           I JUST WANTED TO NOTE A COUPLE OF THINGS  
18 BEFORE WE GET STARTED AND REMIND EVERYBODY HERE THAT  
19 WHEN WE STARTED NEW SOURCE REVIEW, OUR NEW SOURCE REVIEW  
20 REFORM EFFORT, EPA HAD SEVERAL GOALS IN MIND. AND I  
21 DON'T KNOW, DENNIS, IF YOU HAVE YOUR CHART WITH THOSE  
22 GOALS JUST TO REMIND US ALL OF THEM.

23           AND ONE REASON I WANT TO DO THIS IS THAT I

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1 THINK IN THE RUSH OF THE DETAIL -- AND I KNOW THE  
2 FRUSTRATION SOME OF YOU FEEL ABOUT THE PACKAGE -- THAT  
3 WE FORGET THAT WE DID HAVE SOME GOALS IN MIND, AND WE  
4 OUGHT TO TRY TO KEEP THEM IN MIND AS WE GO THROUGH THE  
5 DISCUSSION.

6 WE WERE, IN FACT, TRYING TO RESPOND TO  
7 CONCERNS ABOUT PROGRAM COMPLEXITY AND ALL THE THINGS  
8 THAT YOU SEE UP THERE AND -- BUT, AT THE SAME TIME,  
9 MAINTAIN THE CURRENT LEVEL OF ENVIRONMENTAL PROTECTION.  
10 AND I KNOW THAT SOME PEOPLE MAY FEEL THE PACKAGE IS MORE  
11 COMPLEX THAN IT NEEDS TO BE AND THAT WE HAVE NOT  
12 ACHIEVED THE GOAL OF REDUCING THE COMPLEXITY, AND  
13 PERHAPS YOU FEEL THAT THERE IS STILL MORE UNCERTAINTY  
14 THAN YOU WOULD WANT.

15 WHEN IT COMES TO THE ISSUE OF COMPLEXITY, I  
16 WOULD APPRECIATE IT, AS WE GO THROUGH THIS, IF THERE ARE  
17 AREAS WHERE YOU FEEL WE CAN STILL ACHIEVE THE LEVEL OF  
18 ENVIRONMENTAL PROTECTION WE HAVE TODAY, BUT REDUCE THE  
19 COMPLEXITY -- AND I KNOW IN THE APPLICABILITY AREA WE'VE  
20 GOT A LOT OF DIFFERENT APPROACHES, AND IT DOES SEEM VERY  
21 COMPLEX.

22 I'D APPRECIATE HEARING FROM YOU HOW YOU  
23 THINK WE MIGHT BE ABLE TO STREAMLINE IT WHILE STILL

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1 PROVIDING THE FLEXIBILITY WE WERE TRYING TO BY PROVIDING  
2 THE DIFFERENT OPTIONS, AND MAINTAINING OUR CURRENT LEVEL  
3 OF PROTECTION.

4 IT WOULD BE VERY HELPFUL TO ME IF YOU HAVE  
5 SOME SPECIFIC SUGGESTIONS. I KNOW YOU MAY NOT HAVE THEM  
6 TODAY, BUT IF YOU COULD AT LEAST PUT YOUR MINDS TO IT,  
7 IT WOULD BE USEFUL TO US BECAUSE WE'RE NOT TRYING TO  
8 INCREASE THE COMPLEXITY, BUT WE WERE TRYING TO INCREASE  
9 FLEXIBILITY. AND I KNOW THERE ARE CONCERNS ABOUT THE  
10 MULTI-LAYERED NATURE OF THIS PACKAGE. SO, IN GENERAL,  
11 WE'D LIKE TO HEAR ABOUT WAYS TO IMPROVE WHAT WE HAVE IN  
12 THE PACKAGE.

13 ONE OTHER THING I WANT TO MENTION, I HEAR  
14 THAT THERE'S SOME TALK OF, GEE, WE REALLY DON'T WANT  
15 THIS PACKAGE AT ALL NOW THAT WE'VE SEEN IT. WE REALLY  
16 DON'T LIKE WHAT'S IN CLASS I, AND APPLICABILITY IS  
17 REALLY AWFULLY DIFFICULT TO DEAL WITH, AND MAYBE THE OLD  
18 SYSTEM WASN'T SO BAD AFTER ALL. AND WE COULD PERHAPS  
19 TAKE SOME OF THE PIECES OF THIS CURRENT PACKAGE AND TURN  
20 IT INTO GUIDANCE RATHER THAN HAVING A COMPLETE NEW SET  
21 OF RULES.

22 LET ME JUST SAY, FROM MY STANDPOINT, THAT  
23 ISN'T WHAT THE AGENCY'S GOAL IS. WE REALLY WERE OUT AND

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1 ARE OUT TO TRY TO REFORM THE REGULATORY STRUCTURE FOR  
2 THIS SYSTEM. I THINK THAT IT WOULD BE VERY DIFFICULT TO  
3 DO MUCH WITH GUIDANCE. WE WOULD HAVE OUR LEGAL  
4 CONSTRAINTS, AS WELL AS POLICY DIFFICULTIES, AND I THINK  
5 THERE WOULD BE NO GUARANTEE THAT THE STATES WOULD FEEL  
6 OBLIGED TO FOLLOW GUIDANCE. THERE ARE ALWAYS ISSUES  
7 ABOUT LAWSUITS ON GUIDANCE.

8 AND FROM OUR STANDPOINT, MY PERSONAL  
9 STANDPOINT, I WOULD MUCH RATHER TRY TO GET THIS RULE IN  
10 SHAPE TO GO FINAL RATHER THAN TRYING TO LOOK AT  
11 GUIDANCE. I DON'T SEE GUIDANCE AS AN OPTION. IF THERE  
12 ARE SOME -- VERY FEW, LIKE ONE OR TWO SPECIFIC  
13 ELEMENTS -- WHERE YOU, AS YOU READ THROUGH THE PACKAGE,  
14 THINK THAT GUIDANCE WOULD BE MORE EFFECTIVE THAN THE  
15 RULE, I WOULD BE INTERESTED IN HEARING THAT.

16 BUT I DON'T WANT THERE TO BE ANY FALSE  
17 EXPECTATION THAT WE COULD TURN THIS ENTIRE PACKAGE INTO  
18 GUIDANCE OR PICK AND CHOOSE THE PIECES THAT INDIVIDUALS  
19 LIKE AND ISSUE THAT AS GUIDANCE. SO I JUST WANTED TO  
20 LAY THAT ONE OUT THERE.

21 I THINK WITH THAT, I'M GOING TO TURN IT OVER  
22 TO PAT, AND MAYBE YOU'LL GIVE US AN OUTLINE OF WHAT YOU  
23 HEARD YESTERDAY AT THE HEARING.

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1                   **MR. RAHER:** OKAY. THANK YOU, LYDIA.

2                   I WANT TO START OUT AFTER YESTERDAY'S  
3 HEARING AND TODAY'S WORKSHOP AND ASSURE ALL OF YOU THAT  
4 THE FACT THAT THE FEDERAL EMERGENCY MANAGEMENT  
5 ADMINISTRATION IS JUST DOWN THE HALL HAS NOTHING TO DO  
6 WITH THE STATE OF THIS PACKAGE. THERE REALLY WAS A  
7 NATURAL DISASTER DOWN HERE, AND THAT'S THE REASON  
8 THEY'RE HERE.

9                   AS LYDIA SAID, A LOT OF THE DISCUSSION  
10 YESTERDAY CENTERED AROUND -- I THINK IF YOU WERE GOING  
11 TO CAPSULIZE IT -- THE FACT THAT MANY OR MOST OF THE  
12 CONCEPTS THAT WE AS A GROUP LABORED OVER IN MANY  
13 SUBGROUPS AND MANY HOURS AS A FULL COMMITTEE HAVE BEEN  
14 DEVELOPED BY THE AGENCY IN THEIR ATTEMPT TO PRESENT AN  
15 OVERALL REFORM PACKAGE.

16                  BUT IF YOU LOOK AT MANY OF THE COMMENTS,  
17 THEY IDENTIFIED EITHER COMPLEXITIES WHICH PEOPLE  
18 BELIEVED WERE NOT NECESSARY OR INTERPRETED AS NOT  
19 NECESSARY; STATES BELIEVED THAT THE PACKAGE PLACED TOO  
20 MUCH OF A BURDEN ON THEIR ADMINISTRATION COMPARED TO  
21 EXISTING PROGRAMS AND EXISTING NEW SOURCE REVIEW; AND  
22 THERE WERE QUESTIONS AS TO WHETHER THE PROGRAM'S AREAS,  
23 PARTICULARLY WITH RESPECT TO APPLICABILITY, MIGHT

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1 ACTUALLY INCREASE IMPACTS ON AIR QUALITY.

2 SO WHAT I WOULD LIKE TO DO, IF WE'RE GOING  
3 TO -- I WOULD PROPOSE IF WE'RE GOING TO TRY TO GET  
4 THROUGH THESE ISSUES TODAY IN THE TIMELY MANNER THAT WE  
5 HAVE SET FORTH BEFORE US ON OUR SCHEDULE, THAT WE  
6 PROCEED AS FOLLOWS:

7 I'D LIKE TO IDENTIFY EACH OF THE ISSUES THAT  
8 WERE PRESENTED IN THE PACKAGE TO WHICH COMMENT WAS MADE  
9 YESTERDAY IN THE PUBLIC PROCEEDING AND THEN TRY TO  
10 SUMMARIZE THE CONCERNS THAT WERE HEARD AND THEN HAVE  
11 LYDIA IDENTIFY, OR DAVID SOLOMON OR SOMEONE, IDENTIFY A  
12 PERSON WITHIN THE AGENCY TO ADDRESS NOT A RESPONSE TO  
13 THOSE, BUT RATHER AN INDICATION OF WHAT THE AGENCY WAS  
14 ATTEMPTING TO ACHIEVE THROUGH THE LANGUAGE THAT THEY  
15 PRESENTED TO US IN THIS PROPOSAL.

16 THEN ON EACH OF THOSE ISSUES, I'D LIKE TO  
17 OPEN IT UP TO COMMITTEE MEMBERS TO EITHER RAISE  
18 QUESTIONS, HOPEFULLY RAISE -- BECAUSE WE ARE AN ADVISORY  
19 COMMITTEE -- POTENTIAL RESOLUTION OF ISSUES, AND TO SEE  
20 WHETHER WE AGREE WITH THE AGENCY IN TERMS OF WHAT THEY  
21 WERE ATTEMPTING TO ACCOMPLISH AND WHETHER THE LANGUAGE  
22 DOES THAT.

23 BUT WE WILL MOVE THROUGH EACH ONE OF THOSE,

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1 AND THEN AT THE END ANY ISSUES THAT WERE NOT ADDRESSED  
2 AT YESTERDAY'S HEARING, BUT THAT INDIVIDUAL MEMBERS  
3 BELIEVE WITH RESPECT TO APPLICABILITY OR ANY OF THE  
4 OTHER ISSUES ARE IMPORTANT AND SHOULD BE BROUGHT UP FOR  
5 DISCUSSION, BECAUSE OF YOUR OWN INDIVIDUAL REVIEW OF THE  
6 PACKAGE, WE CAN GO AHEAD AND BRING THOSE UP AT THE  
7 APPROPRIATE TIME.

8 THAT SHOULD AT LEAST GIVE US THE ABILITY TO  
9 PRESENT TO THE AGENCY SOME INPUT THAT IS NECESSARY FOR  
10 THEM TO GET ANY BENEFIT FROM THE FACA PROCESS; AND AT A  
11 COUPLE OF PLACES IN THE PROCEEDING, WE WILL ALSO BE  
12 OPENING IT UP FOR ANY COMMENT FROM THE PUBLIC AS WELL.

13 SO IF THERE'S NO OBJECTION TO THAT PROCESS,  
14 LET ME START BY ADDRESSING OR RAISING FOR YOU SOME OF  
15 THE CONCERNS AND ISSUES AND QUESTIONS THAT WERE  
16 IDENTIFIED WITH RESPECT, UNDER APPLICABILITY, TO WHAT  
17 HAS BEEN IDENTIFIED AS THE CLEAN UNIT EXCLUSION AND  
18 UNLESS THEY -- PROBABLY THE CLEAN FACILITY EXCLUSION AS  
19 WELL, BECAUSE THERE WASN'T A LOT OF DIFFERENTIATION WITH  
20 RESPECT TO THESE ISSUES YESTERDAY.

21 BASICALLY, THERE WERE FIVE ISSUES THAT  
22 APPEARED TO COME UP IN MOST OF THE TESTIMONY. FIRST OF  
23 ALL, THERE WAS BOTH A CONCERN ON INDUSTRY, STATES, AND

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1 ENVIRONMENTAL INTERESTS THAT THE LIMITATION ON THE CLEAN  
2 UNIT EXCLUSION WOULD BE TIED TO A BACT AND LAER  
3 DETERMINATION. THERE WERE, FROM INDUSTRY'S STANDPOINT,  
4 QUESTIONS AS TO WHY IT WAS LIMITED TO BACT AND LAER.  
5 WHY WASN'T MACT OR RACT OR EVEN NETTING OUT ALLOWED TO  
6 PARTICIPATE IN THE CLEAN UNIT EXCLUSION?

7 SECOND, THERE WAS A QUESTION ABOUT THE  
8 TEN-YEAR WINDOW OF APPLICABILITY FOR REVIEW AS TO  
9 WHETHER OR NOT INDIVIDUAL PIECES OF EQUIPMENT, OR THE  
10 FACILITY ITSELF, HAD GONE THROUGH A BACT OR LAER  
11 ANALYSIS. AND THE CONCERNS THERE WERE, YOU KNOW, IS  
12 THIS TOO LONG? FOR INSTANCE, IF YOU LOOK AT A TEN-YEAR  
13 WINDOW NOW, THAT MAY NOT HAVE BEEN A BACT DETERMINATION  
14 THAT WAS DONE THROUGH TOP-DOWN BACT. AND IS THAT A  
15 PROBLEM?

16 HAS TECHNOLOGY CHANGED SO MUCH THAT THAT  
17 TEN-YEAR PERIOD -- WE WILL LOSE A TECHNOLOGY BENEFIT IN  
18 TERMS OF NEW TECHNOLOGY? AND SO THERE WAS A QUESTION AS  
19 TO WHETHER OR NOT THERE IS AN ADVERSE -- POTENTIAL FOR  
20 AN ADVERSE IMPACT ON ACTUAL ADMISSIONS. AND I THINK  
21 UNSAID, BUT SOMETHING THAT WE AS A COMMITTEE SHOULD  
22 DISCUSS IS, YOU KNOW, DOES NETTING UNDER THE CURRENT  
23 PROGRAM BASICALLY ACCOMPLISH THE SAME PROCESS SO THAT,

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1       ALTHOUGH THESE MAY BE VERY, VERY VALID CONCERNS, ARE  
2       THEY CONCERNS UNDER THE PRESENT PROGRAM AS WELL?  AND IS  
3       THERE ANY DIFFERENCE BETWEEN THE PROPOSED PROGRAM AND  
4       THIS PROGRAM?

5                       THIRD, THERE WAS A -- THERE IS A PROPOSED  
6       PROVISION OF TREATING STATE PROGRAMS THAT ARE EQUIVALENT  
7       TO BACT OR LAER AS EQUAL TO BACT AND LAER FOR THIS  
8       PURPOSES OF THIS EXCLUSION, AND THERE WAS A QUESTION  
9       THAT THERE DIDN'T APPEAR TO BE ANY STANDARDS OR  
10      PROCEDURES, ET CETERA, FOR MAKING THAT EQUIVALENCY  
11      DETERMINATION AND THAT THAT OPENED UP MORE COMPLEXITY  
12      FOR THE STATES, MORE BURDEN FOR THE STATES, AND POSSIBLY  
13      BE A LESS PROTECTIVE ATMOSPHERE.

14                      FOURTH, THE TITLE V PROCESS COULD BE USED TO  
15      APPROVE CLEAN UNITS, PROBABLY THROUGH THE MACT AND RACT  
16      ANALYSIS-TYPE ISSUES THAT SOME PEOPLE HAD RAISED, AND  
17      THERE WAS A SUGGESTION THAT THIS EXTREMELY COMPLEX  
18      TITLE V PROCESS COULD, IN EFFECT, OVERLOOK A CAREFUL  
19      REVIEW OF THESE INDIVIDUAL UNITS AND LEAD TO BAD  
20      DECISIONS.

21                      AND THEN FINALLY THE STATES, I THINK, HAD A  
22      UNIVERSAL CONCERN THAT THIS ENTIRE CLEAN UNIT EXCLUSION,  
23      AND EVEN A CLEAN FACILITY EXCLUSION, WAS A VERY

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1 COMPLICATED, CASE-BY-CASE ANALYSIS THAT STATES FELT  
2 PLACED GREATER BURDEN ON THEM UNDER THIS NEW PROGRAM  
3 THAN, IN FACT, THERE WOULD BE UNDER THE EXISTING  
4 PROGRAM. AND I THINK THEY HAD BUDGETARY AND PERSONNEL  
5 CONSTRAINTS IN MIND, AND WE SHOULD TRY TO ADDRESS  
6 WHETHER OR NOT THAT TYPE OF INCREASED COMPLEXITY IS  
7 REALLY THE CASE.

8 THOSE WERE, TRYING TO BOIL IT DOWN, THE FIVE  
9 BASIC, I THINK, SIGNIFICANT ISSUES THAT WERE RAISED.  
10 AND I'D LIKE TO ASK, I GUESS, DAVID SOLOMON TO ADDRESS  
11 TO US, AS A FACA, UNDER THE CLEAN EXCLUSION AND CLEAN  
12 UNIT AND CLEAN FACILITY EXCLUSIONS WHAT THE AGENCY WAS  
13 ATTEMPTING TO PRESENT TO US, WHAT CONCEPTS THEY WERE  
14 ATTEMPTING TO ADDRESS, AND POSSIBLY TOUCHING ON SOME OF  
15 THESE, ALTHOUGH WE'RE NOT ASKING HIM FOR A DEFENSE OF  
16 THESE KIND OF ISSUES.

17 DAVID?

18 **MR. SOLOMON:** THANKS, PAT.

19 ESSENTIALLY, WHAT THE AGENCY WAS TRYING TO  
20 ACCOMPLISH IN THE CLEAN UNIT TEST WAS TO RECOGNIZE THAT  
21 THERE ARE MANY UNITS OUT THERE THAT DO HAVE  
22 STATE-OF-THE-ART TECHNOLOGY AND TO QUESTION THE VALUE  
23 ADDED IN TERMS OF PUTTING THOSE UNITS THROUGH REVIEW

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1 WHEN THEY MAKE PHYSICAL CHANGES OR CHANGES IN THE METHOD  
2 OF OPERATION.

3 IF YOU LOOK AT THE PSD PROCESS, YOU CAN  
4 TRIGGER PSD REVIEW. RIGHT NOW WE HAVE THE  
5 ACTUAL-TO-POTENTIAL TEST. SO IT'S QUITE POSSIBLE TO  
6 HAVE A UNIT -- EVEN A FAIRLY NEW UNIT, IF IT DOESN'T  
7 HAVE A HIGH ENOUGH BASELINE AND UNDERGOES A  
8 MODIFICATION -- TO TRIGGER REVIEW. THE REVIEW WOULD  
9 INCLUDE A TECHNOLOGY REVIEW, ESSENTIALLY DETERMINING IF  
10 ANOTHER TECHNOLOGY OTHER THAN WHAT IS APPLIED TO THE  
11 UNIT CURRENTLY WOULD BE NECESSARY IN AN AIR QUALITY  
12 REVIEW.

13 THE AGENCY FELT THAT IF THE UNIT HAD  
14 STATE-OF-THE-ART TECHNOLOGY THE ODDS ARE/WERE -- THE  
15 ODDS WOULD BE THAT THE NEW SOURCE REVIEW PROCESS WOULD  
16 NOT REQUIRE A DIFFERENT TYPE OF TECHNOLOGY. AND MORE  
17 LIKELY THAN NOT IF IT WAS A FAIRLY NEW UNIT, IF IT HAD  
18 BEEN PERMITTED WITHIN THE LAST TEN YEARS UNDER BACT OR  
19 LAER, THERE WOULD HAVE BEEN AN AIR QUALITY ASSESSMENT  
20 DONE SO THAT THE SOURCE'S EMISSIONS WOULD HAVE BEEN  
21 DEMONSTRATED NOT TO CAUSE OR CONTRIBUTE TO VIOLATIONS OF  
22 AMBIENT AIR QUALITY STANDARDS.

23 WE FELT UNDER THOSE CIRCUMSTANCES IT MADE

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1 SENSE TO AFFORD THESE UNITS MAXIMUM FLEXIBILITY IN TERMS  
2 OF MAKING PHYSICAL CHANGES OR CHANGES IN METHOD OF  
3 OPERATION TO THE EXTENT THAT THEY WOULD NOT BE A  
4 RECONSTRUCTION. A RECONSTRUCTION WOULD STILL BE TREATED  
5 AS A NEW UNIT.

6 IN LOOKING AT THE VARIOUS APPLICABILITY  
7 SCENARIOS AVAILABLE, WE FOUND THAT ESSENTIALLY A NEW  
8 SOURCE PERFORMANCE STANDARD -- THAT IS, AN HOURLY  
9 POTENTIAL TO HOURLY POTENTIAL -- WAS A TEST THAT  
10 PROVIDED THE MOST FLEXIBILITY TO THESE TYPE OF UNITS  
11 AND, THEREFORE, CAME UP WITH THE CLEAN UNIT TEST.

12 IN TERMS OF RESPONDING TO SOME OF THE  
13 CONCERNS, WE FELT THAT, ONE, IF A BACT OR LAER DECISION  
14 HAS BEEN MADE WITHIN A CERTAIN TIME PERIOD -- THE TIME  
15 PERIOD WE PROPOSED WAS TEN YEARS, AS PAT INDICATED;  
16 THERE ARE COMMENTERS THAT FEEL THAT THIS MAY BE TOO  
17 LONG, BUT ESSENTIALLY THAT WAS THE PERIOD WE INITIALLY  
18 CHOSE -- THAT A BACT OR LAER DECISION MADE WITHIN RECENT  
19 HISTORY WOULD PROBABLY STILL BE CURRENT IF THAT UNIT  
20 WERE TO BE PUT THROUGH A BACT OR LAER DECISION PROCESS  
21 TODAY, AGAIN CONSIDERING THE EXISTING CONTROLS.

22 WE WOULD NOT BE LOOKING AT THAT UNIT AS IF  
23 NO CONTROLS APPLIED AND THEN MAKING AN ASSESSMENT.

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1 THE BACT DECISION-MAKING PROCESS, AS IT STANDS  
2 TODAY, WOULD BE LOOKING AT THE EXISTING SOURCE, ITS  
3 EXISTING CONTROL CONFIGURATION, IN DETERMINING THE  
4 COST-EFFECTIVENESS OF ESSENTIALLY RIPPING THOSE CONTROLS  
5 OUT, PUTTING IN BRAND NEW CONTROLS; OR OVERLAYING AN  
6 ADDITIONAL LEVEL OF CONTROLS.

7 AND, AGAIN, THE AGENCY'S EXPERIENCE WAS IN  
8 THOSE CASES, ALMOST TO THE CASE, YOU WOULD NOT SEE THOSE  
9 EXISTING CONTROLS BE TAKEN OUT OR ENHANCED.  
10 ESSENTIALLY, THE BACT PROCESS WOULD DEFAULT TO THOSE  
11 CONTROLS, AND, THEREFORE, WE SHOULD RECOGNIZE THAT.

12 SO WHAT WE WERE TRYING TO DO IS, ONE,  
13 RECOGNIZE THAT A RECENT BACT OR LAER DECISION THAT  
14 RESULTED IN CONTROLS IF IT WAS DONE TODAY, REALIZING OR  
15 ACCEPTING THOSE CONTROLS ON THE UNIT TODAY WOULD NOT  
16 REQUIRE ANY TYPE OF ADDITIONAL CONTROLS. WHAT WE ALSO  
17 WANTED TO DO WAS ALLOW FOR CONTROLS THAT WERE NOT  
18 APPLIED THROUGH A BACT OR LAER PROCESS, BUT REALIZING  
19 THAT IN MANY INSTANCES THOSE CONTROLS MAY HAVE BEEN OR  
20 MAY ARE -- MAY BE EQUIVALENT TO BACT OR LAER.

21 FOR EXAMPLE, UNDER TITLE III A SOURCE MAY  
22 NOW BE APPLYING MACT. IT'S QUITE POSSIBLE THAT THAT  
23 MACT STANDARD MAY BE EQUIVALENT TO WHAT OTHERWISE WOULD

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1 HAVE BEEN ASSESSED UNDER A BACT OR LAER ANALYSIS.

2 SOURCES WITH RACT. IN SOME CASES IT MAY BE  
3 POSSIBLE THAT A RACT LIMIT COULD EQUAL WHAT OTHERWISE  
4 WOULD BE APPLIED AS LAER, FOR EXAMPLE; OR IF THE SOURCE  
5 WENT BEYOND RACT IN COMPLYING WITH RACT, THAT THAT  
6 SHOULD BE RECOGNIZED.

7 SO, AGAIN, THE INTENT HERE WAS TO GIVE  
8 MAXIMUM FLEXIBILITY TO THOSE UNITS WHERE IF WE LOOK AT  
9 WHAT WOULD BE THE RESULT OF A NEW SOURCE REVIEW PROCESS  
10 WE WOULD SEE VERY LITTLE, IF ANY, VALUE ADDED IN TERMS  
11 OF ENVIRONMENTAL EFFECT OR EMISSION REDUCTIONS.

12 **MR. RAHER:** THANK YOU, DAVID. AND I GUESS  
13 YOU WOULD BE -- MANY OF THE SAME COMMENTS YOU WERE JUST  
14 MAKING IN TERMS OF THE AGENCY'S INTENT APPLY TO THE  
15 CLEAN FACILITY ANALYSIS AS WELL?

16 **MR. SOLOMON:** YES.

17 **MR. RAHER:** OKAY.

18 **MR. SOLOMON:** PROBABLY EVEN MORE SO BECAUSE  
19 YOU'RE LOOKING AT A FACILITY THAT WITHIN THE LAST TEN  
20 YEARS YOU'VE DONE A PSD AIR QUALITY ANALYSIS AT THE  
21 SOURCE'S FULL ALLOWABLE EMISSION LEVEL, AND IT'S BEEN  
22 DEMONSTRATED TO BE ACCEPTABLE. THE WHOLE FACILITY HAS  
23 BACT OR LAER ON IT. BASICALLY, WHAT THE PROPOSAL SAYS

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1       **IS THAT AS LONG AS THE SOURCE COMPLIES** WITH THE TERMS OF  
2       THE PERMIT, IT CAN MAKE ANY PHYSICAL CHANGE OR CHANGE IN  
3       THE METHOD OF OPERATION.

4               **MR. RAHER:** ALL RIGHT. OKAY.

5               BEFORE WE GO TO OUR TRADITIONAL CONCEPT OF  
6       PUTTING UP YOUR CARD ON END FOR COMMENTS ON THIS, MAYBE  
7       IT WOULD BE A GOOD IDEA -- LYDIA SUGGESTED THAT IT  
8       APPEARS THAT THE PLANES HAVE ARRIVED AND, IN ADDITION,  
9       SOME OF THE TRAFFIC JAM MAYBE IS BREAKING UP, AND MORE  
10      PEOPLE ARE SHOWING UP. SO MAYBE WE COULD GO AROUND AND  
11      INTRODUCE OURSELVES, AND THAT WAY EVERYBODY WILL  
12      REACQUAINT THEMSELVES WITH MEMBERS OF THE COMMITTEE.

13              MIKE?

14              **MR. SEWELL:** MY NAME IS MIKE SEWELL, AND I'M  
15      WITH THE EPA. I WORK ON NEW SOURCE REVIEW ISSUES.

16              **MR. KATAOKA:** MARK KATAOKA, EPA OFFICE OF  
17      GENERAL COUNSEL.

18              **MR. DRESDNER:** I'M ROBERT DRESDNER, WITH  
19      OECA.

20              **MS. PATTON:** VICKIE PATTON, WITH THE EPA'S  
21      OFFICE OF GENERAL COUNSEL.

22              **MR. HAWKINS:** DAVE HAWKINS, NATURAL  
23      RESOURCES DEFENSE COUNCIL.

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40 C.F.R. PARTS 51 AND 52

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1                   **MR. BECKER:** I'M BILL BECKER, WITH STAPPA  
2 AND ALAPCO.

3                   **MR. JOHN PAUL:** I'M JOHN PAUL, WITH THE  
4 REGIONAL AIR POLLUTION CONTROL AGENCY IN DAYTON, OHIO,  
5 AND ALSO REPRESENTING STAPPA AND ALAPCO.

6                   **MR. TROUT:** JOHN TROUT, LOUISVILLE,  
7 KENTUCKY, AND ALAPCO'S PERMITTING CHAIR.

8                   **MR. BATES:** CHRIS BATES, GENERAL MOTORS.

9                   **MR. KNAUSS:** CHUCK KNAUSS, WITH SWIDLER AND  
10 BERLIN.

11                   **MR. PEDERSEN:** BILL PEDERSEN. SHAW PITTMAN.

12                   **MR. NICKEL:** HENRY NICKEL. HUNTON &  
13 WILLIAMS.

14                   **MR. BUMPERS:** BILL BUMPERS, WITH BAKER AND  
15 BOTTS.

16                   **MS. ODOULAMY:** JUDY ODOULAMY, DEPARTMENT OF  
17 ENERGY.

18                   **MR. BERNIE PAUL:** BERNIE PAUL, WITH ELI  
19 LILLY & COMPANY.

20                   **MR. RUSCIGNO:** JOHN RUSCIGNO, OREGON  
21 DEPARTMENT OF ENVIRONMENTAL QUALITY.

22                   **MR. BUNYAK:** JOHN BUNYAK, NATIONAL PARK  
23 SERVICE.

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1                   **MS. MALKIN:** KAREN MALKIN, DEPARTMENT OF THE  
2 INTERIOR, NATIONAL PARK SERVICE.

3                   **MS. ATAY:** ICLAL ATAY, NEW JERSEY DEPARTMENT  
4 OF ENVIRONMENTAL PROTECTION.

5                   **MR. AMAR:** PRAVEEN AMAR, WITH THE NORTHEAST  
6 STATES FOR COORDINATED AIR USE MANAGEMENT. THAT'S  
7 NSCAUM.

8                   **MR. BEASLEY:** BOB BEASLEY, VIRGINIA  
9 DEPARTMENT OF ENVIRONMENTAL QUALITY.

10                  **MR. DANIEL:** I'M JOHN DANIEL, VIRGINIA  
11 DEPARTMENT OF ENVIRONMENTAL QUALITY.

12                  **MR. ROSENBERG:** ERNIE ROSENBERG, OCCIDENTAL.

13                  **MS. BANKOFF:** BARBARA BANKOFF FOR SIEMENS.

14                  **MR. BARR:** MIKE BARR, NATIONAL ASSOCIATION  
15 OF MANUFACTURERS.

16                  **MR. FOTIS:** STEVEN FOTIS, VAN NESS FELDMAN.  
17 FILLING IN FOR MARK CARNEY, OF U.S. GENERATING.

18                  **MR. DEROECK:** DAN DEROECK, EPA-OAQPS.

19                  **MR. SOLOMON:** DAVID SOLOMON, EPA-OAQPS.

20                  **MR. RAHER:** IS THERE ANYBODY ELSE THAT  
21 HASN'T --

22                  **MS. RITTS:** LESLIE RITTS, WITH NEDA.

23                  **MR. RAHER:** OKAY. I THINK WE HAVE

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1 IDENTIFIED THE CONCERNS THAT WERE RAISED. THE QUESTIONS  
2 WERE RAISED ON CLEAN UNITS AND CLEAN FACILITIES. I  
3 THINK STILL -- WE WOULD ASSUME THAT THE AGENCY BELIEVES  
4 THAT THIS IS NOT CREATING A SIGNIFICANT BURDEN ON THE  
5 STATES. THAT WAS THE ONLY ISSUE THAT WAS LEFT  
6 UNADDRESSED, AND I THINK, JOHN PAUL, YOU MAY WANT TO TRY  
7 TO ADDRESS THAT SO THAT THE COMMITTEE AND THE AGENCY CAN  
8 BETTER UNDERSTAND WHY THIS IS A GREATER BURDEN THAN THE  
9 CURRENT PROGRAM.

10 BUT ARE THERE ANY COMMENTS BY MEMBERS OF THE  
11 COMMITTEE WITH RESPECT TO EITHER THE CONCERNS OF THE  
12 AGENCY'S LANGUAGE IN ATTEMPTING TO PRESENT A METHOD FOR  
13 MAKING AN APPLICABILITY EXCLUSION WORKABLE OR THE WAY  
14 THAT THE PACKAGE LANGUAGE THAT'S IN THE PACKAGE WITH  
15 RESPECT TO THESE TWO ISSUES?

16 DAVID?

17 **MR. HAWKINS:** I HAVE A COUPLE OF QUESTIONS  
18 ABOUT THE PROCEDURES THAT THE AGENCY ENVISAGES FOR THE  
19 EVALUATION OF THIS CLEAN UNIT APPROACH, AND I'LL JUST  
20 STATE THEM, AND THEN MAYBE WE CAN DISCUSS THEM. ONE IS  
21 SOME CLARIFICATION ON WHO IT IS THAT WOULD EVALUATE  
22 WHETHER THE UNIT WAS OR WAS NOT A CLEAN UNIT.

23 WOULD THIS BE DONE BY THE POTENTIAL

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1 APPLICANT? WOULD IT BE REVIEWED BY ANYONE? WOULD IT BE  
2 IN THE FORM OF A SUBMISSION FROM THE APPLICANT WITH SOME  
3 SORT OF DOCUMENTATION TO A PERMITTING AUTHORITY THAT THE  
4 UNIT WAS ELIGIBLE UNDER ONE OF THESE TESTSEVIN? AND  
5 THEN WOULD THERE BE A RECORD THAT WOULD REFLECT A  
6 PERMITTING AUTHORITY'S REVIEW AND CONCLUSIONS WITH  
7 RESPECT TO THAT? WOULD THERE BE ANY NOTICE OR COMMENT  
8 FOR THE PUBLIC TO BE ABLE TO PARTICIPATE IN THAT OR ANY  
9 KIND OF AN EVEN FILE THAT WOULD ALLOW THE PUBLIC LATER  
10 ON TO FIND OUT THAT THESE DETERMINATIONS HAD BEEN MADE?

11 AND I GUESS NOT JUST THE PUBLIC, BUT THERE  
12 HAS BEEN ENFORCEMENT ACTION IN THE PAST TAKEN AGAINST  
13 SOURCES THAT HAVE BEEN ALLEGED TO CONSTRUCT WITHOUT A  
14 PERMIT, AND WHAT WOULD BE THE RECORD THAT ANY INTERESTED  
15 ENTITIES WOULD BE ABLE TO LOOK AT? IF AN ISSUE AROSE  
16 THAT A SOURCE HAD CONSTRUCTED WITHOUT A REQUIRED PERMIT,  
17 AND THE SOURCE CLAIMED ELIGIBILITY UNDER THIS TEST, WHAT  
18 WOULD BE THE PROCEDURE FOR SORTING OUT THAT DISPUTE?

19 **MR. RAHER:** SO, DAVID, WHAT YOU'RE LOOKING  
20 FOR IS BOTH THE PROCEDURES AND WHO WOULD BE MAKING  
21 DETERMINATIONS FOR QUALIFICATIONS OF THIS AND IF THERE  
22 IS A DIFFERENCE BETWEEN THE CURRENT PROGRAM WHERE  
23 SOMEBODY CERTAINLY COULD CONSTRUCT, AND THEN THERE WOULD

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1 HAVE TO BE SOME KIND OF REVIEW AND ENFORCEMENT, AND  
2 UNDER THE NEW PROGRAM IF YOU COULD SAY, OH, BY THE WAY,  
3 THIS WOULD HAVE BEEN COVERED IF I HAD DONE A CLEAN UNIT  
4 EXCLUSION, ASSUMING THAT IT DOESN'T HAVE TO BE  
5 PREAPPROVED?

6 **MR. HAWKINS:** YEAH. AS I UNDERSTAND IT  
7 UNDER THE CURRENT PROGRAM, THE NETTING TRANSACTIONS  
8 AREN'T NECESSARILY REVIEWED. ALTHOUGH, TYPICALLY, THEY  
9 MAY BE, BUT THEY AREN'T NECESSARILY REVIEWED. BUT IF  
10 THERE WERE A SUBSEQUENT -- SUBSEQUENT INQUIRY INTO THE  
11 CORRECTNESS OF A SOURCE'S DETERMINATION, --

12 **MR. RAHER:** RIGHT.

13 **MR. HAWKINS:** -- IT WOULD BE ESSENTIALLY A  
14 MATTER OF MATHEMATICS FOR LOOKING AT WHAT WENT UP, WHAT  
15 WENT DOWN, AND WHEN IT WENT UP AND WHEN IT WENT DOWN AND  
16 WHETHER THAT FIT WITHIN THE WINDOW THAT WAS ALLOWED.

17 HERE, I THINK, THERE ARE JUDGMENTS THAT ARE  
18 BEING CALLED FOR IN THE SENSE OF COMPARING THE -- EITHER  
19 THE PROGRAM OR THE DETERMINATION, OR IS THIS JUST AN  
20 ABSOLUTE TEST THAT IF THERE WAS SOMETHING THAT WAS  
21 CALLED A BACT DETERMINATION, THAT'S THE END OF THE  
22 INQUIRY? AND THOSE ARE SORT OF THE CLARIFYING QUESTIONS  
23 I'M SEEKING ANSWERS TO.

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1                   **MR. SOLOMON:**   ESSENTIALLY, WE PROPOSED THREE  
2                   WAYS BY WHICH A SOURCE WOULD ACHIEVE THE CLEAN UNIT  
3                   LABEL.   THE FIRST METHOD IS THROUGH ACTUALLY GOING  
4                   THROUGH A NEW SOURCE REVIEW DETERMINATION; THAT IS,  
5                   HAVING BEEN ISSUED A PERMIT UNDER THE PSD OR THE  
6                   NONATTAINMENT MAJOR NEW SOURCE PROVISIONS.

7                   THE SECOND TEST IS WHERE A STATE HAS A MINOR  
8                   NEW SOURCE REVIEW PROGRAM THAT EPA HAS CERTIFIED AS  
9                   RESULTING IN BACT- OR LAER-EQUIVALENT DETERMINATIONS,  
10                  THERE ARE CERTAIN STATES THAT WILL SUBJECT ANY EMISSIONS  
11                  INCREASE, NOTWITHSTANDING THE FACT THAT THEY ARE NOT  
12                  GOING THROUGH MAJOR NSR TO BACT.   AND IN MANY CASES THAT  
13                  BACT IS EQUIVALENT TO WHAT OTHERWISE WOULD COME OUT OF A  
14                  MAJOR NSR, AND WE WANTED TO RECOGNIZE THAT, AND EPA  
15                  WOULD HAVE TO CERTIFY THAT AS COMING OUT OF THE STATE  
16                  PROGRAM.

17                  AND THE THIRD IS WHERE THE STATE THROUGH ITS  
18                  TITLE V PROCESS, WHEN THE TITLE V PERMIT IS UP FOR  
19                  RENEWAL, WOULD AT THE REQUEST OF THE APPLICANT -- THE  
20                  APPLICANT WOULD COME IN AND STATE THAT UNITS A, B, AND C  
21                  THEY BELIEVE TO HAVE BACT-EQUIVALENT LEVELS OF CONTROL.  
22                  THE STATE WOULD REVIEW THAT.   IF THE STATE FELT THAT,  
23                  YES, INDEED, THAT TECHNOLOGY THAT WAS JUST APPLIED AS

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1 MACT WOULD HAVE MET BACT, WOULD THEN PROPOSE TO THE  
2 PUBLIC, WHEN THAT TITLE V PERMIT IS OPENED, THAT THESE  
3 UNITS AS LISTED WOULD RECEIVE A LABEL AS CLEAN UNIT AND,  
4 THEREFORE, ELIGIBLE FOR A CLEAN UNIT TEST FOR THE NEXT  
5 FIVE YEARS. THAT IS THE DURATION OF THAT TITLE V  
6 PERMIT.

7 **MR. RAHER:** DAVID, COULD I -- JUST A  
8 CLARIFICATION HERE. YOU SAID IN THE TITLE V PROCESS YOU  
9 ACTUALLY WOULD "LABEL" A UNIT A CLEAN UNIT. LET'S  
10 ASSUME UNDER A BACT OR LAER DETERMINATION THAT HAS BEEN  
11 MADE IN THE LAST TEN YEARS.

12 DO YOU ENVISION SOME TYPE OF ACTIVITY BY  
13 EITHER THE STATE REGULATORY AGENCY OR THE PERMIT-HOLDER  
14 OF LABELING THAT PIECE OF EQUIPMENT AS A CLEAN UNIT, OR  
15 IS IT JUST THE EXISTENCE THAT WE DID, IN FACT, AND CAN  
16 PROVE THAT THIS UNIT WENT THROUGH A BACT OR LAER  
17 DETERMINATION IN THE LAST TEN YEARS?

18 **MR. SOLOMON:** I WOULD PROBABLY SAY THAT THE  
19 LATTER. I DON'T NECESSARILY NEED -- SEE THE NEED FOR  
20 ANY ADDITIONAL ADMINISTRATIVE PROCESS. IF THE STATE AND  
21 SOURCE IS DOCUMENTED THAT A PSD PERMIT WAS RECEIVED, IT  
22 WOULD BE TEN YEARS FROM THE DATE OF ISSUANCE OF THAT  
23 PERMIT.

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1                   **MR. RAHER:**   OKAY.   DAVID, DO YOU WANT TO  
2 JUST, WELL, JUST CLARIFY IT?  WE'VE GOT ANOTHER  
3 QUESTION, BUT IF WE CAN STATE --

4                   **MR. HAWKINS:**   WHY DON'T I WAIT?

5                   **MR. RAHER:**   OKAY.

6                   **MR. SOLOMON:**   **I JUST WANT TO CLARIFY ANOTHER**  
7 **POINT, TOO, IN TERMS OF WHAT WE'RE TRYING TO ACHIEVE**  
8 **WITH THE CLEAN UNIT.  MANY OR PROBABLY THE BULK OF THE**  
9 **ISSUES THAT ARISE IN APPLICABILITY DEAL WITH**  
10 **MODIFICATIONS TO EXISTING UNITS.  WHAT IS A PHYSICAL**  
11 **CHANGE OR CHANGE IN THE METHOD OF OPERATION?  WHAT IS**  
12 **ROUTINE?  WHAT IS NOT ROUTINE?**

13                               AND THE PURPOSE OF THIS PROVISION WAS TO, AT  
14 LEAST WITHIN THE SCOPE OF CHANGES TO EXISTING UNITS,  
15 PROVIDE A MUCH MORE SIMPLIFIED AND STRAIGHTFORWARD TEST  
16 FOR THOSE UNITS THAT HAVE STATE-OF-THE-ART TECHNOLOGY  
17 FOR WHICH A PSD REVIEW WOULD REALLY NOT RESULT IN ANY  
18 ADDITIONAL EMISSION REDUCTIONS, BUT PROVIDE A LONG AND  
19 LENGTHY PERMITTING PROCESS FOR THE APPLICANT.

20                   **MR. RAHER:**   OKAY.

21                   **MS. ATAY:**    I UNDERSTAND THAT --

22                   **MR. RAHER:**    COULD EACH PERSON PLEASE  
23 IDENTIFY THEMSELVES FOR THE RECORD?  IT WILL MAKE IT A

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1 LITTLE EASIER ON THE TRANSCRIPT -- IN THE TRANSCRIPT.

2 **MS. ATAY:** I'M ICLAL ATAY, FROM NEW JERSEY  
3 DEPARTMENT OF ENVIRONMENTAL PROTECTION.

4 I UNDERSTAND THE FACT THAT IF SOMEBODY HAS  
5 UNDERGONE A BEST AVAILABLE CONTROL TECHNOLOGY REVIEW AND  
6 HAVE ALREADY INSTALLED BEST AVAILABLE CONTROL  
7 TECHNOLOGY, AND THE FACT THAT SUBJECTING THAT FACILITY  
8 TO REVIEW AGAIN WOULD NOT CHANGE THE TECHNOLOGY THAT  
9 WOULD HAVE REQUIRED, THEREFORE WOULD NOT HAVE ANY IMPACT  
10 ON THE RESULTING EMISSIONS, WOULD BE RIGHT.

11 BUT ONE OF THE VERY IMPORTANT REVIEWS IN THE  
12 PSD PROCESS IS THE FACT THAT AIR QUALITY IMPACTS ON  
13 INCREMENT ANALYSIS. I MEAN, IF YOU HAD DONE THE REVIEW  
14 YOU MAY NOT EVEN PERMIT, EVEN WITH WHATEVER TECHNOLOGY,  
15 THE EMISSION INCREASE BECAUSE THERE IS NO INCREMENT  
16 AVAILABLE IN THE AREA; OR THERE MAY BE SIGNIFICANT  
17 EMISSION INCREASES, AND OFFSETS MAY BE REQUIRED. AND  
18 THERE MAY BE OTHER ILLUSTRATIONS.

19 COMPLETE EXEMPTION FROM PERMIT REVIEW BASED  
20 SIMPLY ON TECHNOLOGY CONSIDERATIONS MAY NOT BE  
21 APPROPRIATE. DO YOU HAVE ANY COMMENT ON THAT?

22 **MR. RAHER:** IS THERE ANYBODY IN THE AGENCY  
23 WHO HAS THOUGHT ABOUT THAT ISSUE, OR YOU CAN THINK ABOUT

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1 **IT?**

2 MR. SOLOMON: **IT IS A FAIR QUESTION TO THE**  
3 **EXTENT THAT IF A SOURCE WAS PERMITTED** EIGHT OR NINE  
4 YEARS AGO, AND SUBSEQUENT TO THAT THERE HAS BEEN  
5 ADDITIONAL GROWTH WITHIN THE AREA, BE IT MAJOR OR MINOR,  
6 THAT IF THE SOURCE WOULD UNDERGO THE SAME REVIEW TODAY,  
7 THE DIFFERENCE BETWEEN THEIR ACTUAL EMISSIONS AND WHAT  
8 THE POTENTIAL OR ALLOWABLE WOULD BE COULD DEMONSTRATE AN  
9 INCREMENT VIOLATION. BUT THAT IS ALSO APPLICABLE TO A  
10 LOT OF SOURCES OUT THERE, EVEN MINOR SOURCES.

11 UNFORTUNATELY, MOST OF THE STATES DO NOT  
12 TRACK INCREMENT AT MINOR SOURCES UNTIL SUCH TIME AS A  
13 PERMIT EXISTS, AND I WOULD THROW IT BACK OUT TO THE  
14 STATES TO ASK IF THIS IS THE TOOL THAT THEY WANT IN  
15 TERMS OF TRACKING INCREMENT.

16 **MS. ATAY:** IN THE CASE OF NEW JERSEY, I  
17 WOULD SAY "YES."

18 **MR. RAHER:** THANK YOU.

19 **MR. SOLOMON:** JUST TO RESPOND TO NEW  
20 JERSEY'S CONCERN, I MEAN ONE THING WE DO IN THIS PACKAGE  
21 IS WE PUT A SORT OF A LAUNDRY LIST OF APPLICABILITY  
22 APPROACHES FROM WHICH THE STATE CAN PICK AND CHOOSE. IF  
23 IN NEW JERSEY THEIR CONCERN IS THAT THIS TYPE OF TEST

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1 WOULD ALLOW FOR POTENTIAL INCREMENT VIOLATIONS, THEN IT  
2 WOULD BE UP TO NEW JERSEY TO DECIDE IF THEY WANTED TO  
3 USE THIS TEST FOR THEIR UNITS OR DEFAULT TO A DIFFERENT  
4 TEST THAT WOULD ALLOW YOU TO KEEP A BETTER TRACK OF  
5 INCREMENTS.

6 **MS. ATAY:** THAT'S ALL RIGHT, BUT IF INEQUITY  
7 BETWEEN STATES IS NOT GOOD, STATES SHOULD BE SUBJECT TO  
8 SIMILAR STANDARDS. IF NEW JERSEY EMPLOYS SOMETHING LIKE  
9 THIS, AND OTHER STATES DO NOT, WE ARE SUBJECT TO  
10 EMISSIONS FROM THEIR STATES BECAUSE AIR POLLUTIONS DO  
11 NOT KNOW BORDERS IN THE FIRST PLACE. AND, ALSO, IT  
12 CREATES AN ECONOMIC IMBALANCE BECAUSE NEW JERSEY IS A  
13 MORE STRICTER STATE THAN OTHER STATES. WE DO NOT  
14 PROVIDE AN EXEMPTION, WHERE OTHER STATES DO PROVIDE IT.

15 **MR. RAHER: JOHN PAUL?**

16 **MR. JOHN PAUL:** JUST A COUPLE OF THINGS.  
17 ONE IS THAT -- I MEAN I'M GOING TO TAKE A LOT OF NOTES,  
18 AND WE'LL TRY TO GIVE YOU DETAILS IN OUR WRITTEN  
19 COMMENT. BUT JUST TO GIVE YOU SOME DIRECT FEEDBACK,  
20 WHICH IS A LITTLE BIT MORE DETAILED THAN WHAT WE SAID  
21 YESTERDAY, FIRST OF ALL, WITH REGARD TO PAST BACT/LAER  
22 DETERMINATIONS, I KNOW THAT WE'VE NEVER CONSIDERED IN  
23 DOING A BACT OR LAER DETERMINATION WILL THIS REPRESENT

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1 BACT OR LAER TEN YEARS DOWN THE ROAD.

2 SO THERE ARE GOING TO BE BACT OR LAER  
3 DETERMINATIONS WHICH WERE NOT THE TOP, BUT THEY  
4 WERE -- YOU KNOW, MAYBE THE AGENCY YIELDED TO SOME OF  
5 THE OTHER ARGUMENTS AS TO WHAT WAS BACT. SO, I MEAN,  
6 CLEARLY THERE'S GOING TO BE THOSE THAT ARE IN THERE.

7 **MR. RAHER:** JOHN PAUL, JUST TO HELP TO FOCUS  
8 ON THE ISSUE, DO YOU THINK THAT THAT KIND OF  
9 DETERMINATION IF REDONE SIX OR SEVEN YEARS LATER, AS  
10 DAVID WAS SAYING IN HIS INTRODUCTORY COMMENT,  
11 RECOGNIZING THE CONTROLS ARE NOW ON, AND NOW YOU'RE  
12 DOING THE COST ANALYSIS AND SO FORTH -- DO YOU THINK  
13 THAT THERE ARE SIGNIFICANT ONES THAT WOULD REQUIRE THE  
14 ADDITION OF NEW CONTROLS?

15 **MR. JOHN PAUL:** SURE. I MEAN IT -- WE WOULD  
16 AT LEAST HAVE TO EXAMINE THAT AND -- TO BE ABLE TO  
17 JUSTIFY TO THE PUBLIC THAT, INDEED, WHAT IS ON THERE,  
18 THAT THEY PUT ON PRIOR TO, IS BACT OR LAER, OR DOES IT  
19 NEED TO BE INCREASED? SO I WOULD SAY --

20 **MR. RAHER:** NO, I GUESS -- I THINK WHAT  
21 DAVID WAS SAYING IS NOT THAT YOU WOULDN'T -- NOT UNDER  
22 TODAY'S PROGRAM THAT YOU WOULDN'T DO THAT, WE KNOW YOU  
23 WOULD DO IT. THE QUESTION IS WHEN YOU DO THAT UNDER

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1 TODAY'S PROGRAM, HOW MANY TIMES DO YOU ACTUALLY FIND  
2 THAT YOU'RE CAUSING SOURCES TO HAVE TO UPGRADE AN  
3 EXISTING SOURCE THAT'S ALREADY GONE THROUGH BACT OR  
4 LAER?

5 IF YOUR PEOPLE COULD -- IF MEMBERS OF THE  
6 ASSOCIATION COULD GIVE SOME THOUGHT TO THAT, I THINK IT  
7 WOULD BE HELPFUL BECAUSE I THINK WE HEARD OR THE AGENCY  
8 REALLY SAY THAT, YOU KNOW, IF YOU CONSIDER THE COST OF  
9 THE EQUIPMENT AND THE CONTROLS THAT ARE ON THERE NOW SIX  
10 OR SEVEN OR SO YEARS LATER, THEY, THEY AT LEAST, FELT  
11 THAT IT WAS REASONABLE THAT THERE WOULDN'T BE A CONSTANT  
12 INCREASE IN THAT EQUIPMENT. SO IF YOUR MEMBERS COULD  
13 THINK ABOUT THAT AND LOOK AT THAT IN THE COMMENT, IT  
14 WOULD PROBABLY BE VERY HELPFUL.

15 **MR. JOHN PAUL:** SURE, WE WOULD. AND I THINK  
16 THAT A COMMENT THAT WAS MADE BY DAVID HAWKINS YESTERDAY  
17 IS -- WAS A GOOD ONE IN THAT THE NSPS, THAT THEY'RE  
18 SUPPOSED TO BE LOOKED AT AND REVIEWED ON A PERIODIC  
19 BASIS. SO I THINK THERE'S A RECOGNITION BY CONGRESS  
20 THAT TECHNOLOGIES CHANGE AND THAT WE NEED TO KEEP  
21 UPDATED ON THAT. BUT I DIDN'T WANT TO GET -- I'LL SAVE  
22 THE DETAIL FOR LATER.

23 **MR. RAHER:** RIGHT.

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1                   **MR. JOHN PAUL:** THE OTHER POINT, THE  
2 BACT/LAER EQUIVALENTS UNDER STATE PROGRAMS -- I MEAN, I  
3 THINK STATE PROGRAMS ARE GOING THE OPPOSITE DIRECTION,  
4 MOST OF THEM THAT WE SEE, IN THAT THERE'S A LOT OF  
5 PRESSURE FROM OUR LEGISLATURES TO NOT BE MORE STRINGENT  
6 THAN THE FEDERAL PROGRAM.

7                   AND ONE OF THE THINGS THAT IS A REAL CONCERN  
8 WITH STATES AND LOCALS RIGHT NOW IS THAT WE -- ON THE  
9 NATIONAL SCALE WE HEAR A LOT OF PUSH FOR STATE AND LOCAL  
10 FLEXIBILITY: THAT ON THE STATE AND LOCAL LEVEL, WE GET  
11 THIS PUSH FOR DON'T BE MORE STRINGENT THAN THE FEDERAL  
12 PROGRAM. AND WE'RE WONDERING WHERE THIS IS ALL GOING TO  
13 FALL OUT.

14                   IF YOU -- IF YOU REALLY DO AWAY WITH A LOT  
15 OF THE NATIONAL STRINGENCIES, AND THEN YOU GET LEFT WITH  
16 A STATE AND LOCAL PROGRAM THAT SAYS YOU CAN'T BE MORE  
17 STRINGENT THAN THE NATIONAL PROGRAM, THEN WE'RE REALLY  
18 IN A BIND AS FAR AS GETTING GOOD TECHNOLOGY AND REALLY  
19 CONTROLLING AIR POLLUTION.

20                   **MR. SOLOMON:** LET ME JUST ASK A QUESTION.

21                   **MR. JOHN PAUL:** YES.

22                   **MR. SOLOMON:** IS IT THE CONCEPT ITSELF  
23 THAT'S CONCERNED OR IMPLEMENTING IT? FOR EXAMPLE, IF IT

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1 WAS A FIVE-YEAR LOOK-BACK OR IF IT ONLY WHERE BACT OR  
2 LAER RESULTED IN CONTROLS -- I MEAN IT COULD BE POSSIBLE  
3 THAT EIGHT YEARS AGO THE DECISION WAS NO CONTROLS WERE  
4 BACT, SO YOU HAVE AN UNCONTROLLED UNIT. IT WAS  
5 SATISFACTORY AT THAT POINT IN TIME, AND NOW THERE IS A  
6 TECHNOLOGY THAT CAN CONTROL THAT POLLUTANT AND ITS COSTS  
7 ARE REASONABLE.

8 SO MY QUESTION IS, IS IT THE BASIC TESTS  
9 THAT, REALLY, YOU FIND IT JUST TO BE UNWORKABLE, OR IS  
10 IT THAT IT JUST NEEDS FURTHER REFINEMENT TO ENSURE THAT  
11 IT IS ONLY APPLIED WHERE THE PSD PROCESS WOULD TRULY  
12 PROVIDE NO VALUE ADDED TO THE ENVIRONMENT AND TO THE  
13 STATE?

14 **MR. JOHN PAUL:** WELL, WHENEVER WE LOOK AT  
15 QUESTIONS LIKE THAT, WE GO BACK TO OUR BASIC PRINCIPLES,  
16 AND OUR BASIC PRINCIPLES ARE THE BEST TIME TO PUT ON  
17 CONTROLS IS WHEN A NEW SOURCE IS BUILT OR A SOURCE IS  
18 MODIFIED, AND WE HAVE TO MAKE SURE THAT ANY RESULTANT  
19 AIR QUALITY IMPACT IS ANALYZED AND DEALT WITH.

20 SO I GUESS WHAT SCARES US IS THIS -- YOU  
21 KNOW, SOME KIND OF A PRESUMPTION THAT WHAT A SOURCE HAS  
22 GOT ON THERE IS BACT -- OBVIOUSLY, THE LONGER BACK YOU  
23 GO THE LESS SURE WE ARE OF THAT -- AND THEN THIS SECOND

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1 ASSUMPTION THAT THEY ARE SOMEHOW EXEMPTED FROM THE  
2 PROCESS.

3 IF WE WERE LOOKING AT A MODIFICATION, AND WE  
4 WERE RECONFIRMING THAT IT'S BACT OR LAER, AND THAT WAS  
5 SOME KIND OF A STREAMLINE PROCESS, THAT, I THINK, WE  
6 COULD LIVE WITH. BUT WE NEED SOME KIND OF AN UPDATED  
7 LOOK AT THE TECHNOLOGY AND THE IMPACT.

8 **MR. SOLOMON:** AGAIN, --

9 **MR. RAHER:** GO AHEAD.

10 **MS. WEGMAN:** GO AHEAD, DAVID.

11 **MR. SOLOMON:** THE EXEMPTION ONLY APPLIES IF  
12 ITS ACTUAL OR ITS POTENTIAL HOURLY EMISSIONS DO NOT  
13 INCREASE, SO IT'S NOT JUST THIS UNIT IS EXEMPT  
14 REGARDLESS OF ITS POTENTIAL IN TERMS OF WORST CASE  
15 EMISSIONS. SO IF IN THIS CASE THE NSPS WOULD APPLY  
16 BECAUSE ITS HOURLY EMISSIONS INCREASE, THEN THAT'S AN  
17 APPROPRIATE TIME TO OPEN IT UP FOR PSD AND TECHNOLOGY  
18 REVIEWS.

19 SO I THINK IT'S IMPORTANT TO UNDERSTAND THE  
20 TERMS OF THE EXCLUSION; AND THAT IS, IT'S AN NSPS-TYPE  
21 OF TEST. WHAT IS ITS MAXIMUM HOURLY EMISSIONS? ARE  
22 THEY INCREASING? YES, THE TEST WOULD NOT APPLY. DO  
23 THEY REMAIN THE SAME OR DECREASE? YES. THEN YOU WOULD

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1 BE ELIGIBLE.

2 **MR. JOHN PAUL:** OKAY, AND THEN THAT -- SEE,  
3 THEN THAT GETS US CONFUSED BECAUSE THEN I'M STARTING TO  
4 WONDER WHAT IS IT THAT THEY'RE BEING EXEMPTED FROM IF  
5 THEY'RE MEETING ALL OF THESE TESTS, AND WE HAVE TO  
6 CONFIRM THAT THEY'RE MEETING THESE TESTS.

7 AND THEN I'M FURTHER CONCERNED WITH WHAT ARE  
8 ALL THE SPECIAL TERMS AND CONDITIONS, TO MAKE SURE THAT  
9 THIS IS ENFORCEABLE, THAT WE HAVE TO PUT ON THIS.

10 AND, EVENTUALLY, WE'RE CONCERNED THAT THE  
11 PROCESS TO EXEMPT A SOURCE BECOMES MORE COMPLICATED THAN  
12 THE PROCESS TO REVIEW IT. IF, INDEED, WHAT THEY'VE GOT  
13 ON THERE IS BACT OR LAER, IF, INDEED, THEY HAVE NO AIR  
14 QUALITY IMPACT -- THEN WE SHOULD HAVE A PROCESS WHICH IS  
15 STREAMLINED WHICH GETS THEM THROUGH THE PROCESS REAL  
16 QUICKLY.

17 **MR. RAHER:** DAVID?

18 **MR. HAWKINS:** YEAH. WELL, LET ME JUST  
19 FOLLOW UP WITH THAT LAST COMMENT OF JOHN'S. I THINK ONE  
20 OF THE THINGS THAT HASN'T BEEN EXAMINED IS WHETHER THIS  
21 EXEMPTION IS NEEDED GIVEN IF SOME OF THE OTHER CHANGES  
22 TO NSR WERE ADOPTED.

23 IF THE LIBERALIZATION OF THE NETTING

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1 CALCULUS WAS ADOPTED, IF THERE WERE SOME FORM OF  
2 ACTUAL-TO-FUTURE ACTUALS THAT WAS ADOPTED -- IN OUR VIEW  
3 IT WOULD HAVE TO BE ENFORCEABLE FUTURE ACTUALS -- IS  
4 THERE STILL A BASIS FOR CLAIMING THAT THIS ADDITIONAL  
5 TEST IS AN EXEMPTION, WITH THE ACCOMPANYING  
6 COMPLICATIONS, IS NEEDED? WHAT ARE THE -- WHAT ARE THE  
7 -- ARE THERE REALLY HARDSHIPS AND INAPPROPRIATENESS  
8 FROM, IN EFFECT, FORCING THE FACILITY TO UNDERGO A  
9 NETTING CALCULATION IN THAT CONTEXT, AND THAT -- SO  
10 THAT'S THE FIRST POINT.

11 AND THE SECOND ONE IS CLOSELY RELATED; WHICH  
12 IS, I THINK WE DO HAVE TO BE CLEAR ABOUT WHAT IT IS THAT  
13 WE'RE LOSING BY THIS EXEMPTION, EVEN IF IT WERE  
14 IMPLEMENTED, YOU KNOW, IN A PERFECT MANNER THAT  
15 PRECISELY TRACKED THE REGULATORY LANGUAGE.

16 FIRST, AS MS. ATAY INDICATED, WE'RE LOSING  
17 THE CHECK AGAINST AIR QUALITY TEST. AND I DON'T THINK  
18 IT'S AN ADEQUATE ANSWER TO SAY THAT THERE ARE LOTS OF  
19 OTHER FACILITIES THAT WE LET TAKE PLACE WITHOUT AIR  
20 QUALITY TESTS BEING CONDUCTED BECAUSE HERE WE'RE -- I  
21 MEAN THAT WOULD BE AN ARGUMENT FOR ELIMINATION OF THE  
22 ENTIRE NSR PROGRAM THAT -- WHICH I'M SURE PEOPLE ARE  
23 READY TO APPLAUD.

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1                   BUT THE, YOU KNOW, THE FACT THAT -- THE FACT  
2                   THAT THERE WAS A DECISION MADE TO HAVE A THRESHOLD ABOVE  
3                   WHICH WE WOULD CONDUCT THESE REVIEWS OBVIOUSLY MEANS  
4                   THAT BELOW THAT THRESHOLD THE REVIEWS AREN'T CONDUCTED.  
5                   THAT FACT ALONE CAN'T BE USED AS AN ARGUMENT THAT,  
6                   THEREFORE, THERE SHOULDN'T BE ANY REVIEWS CONDUCTED  
7                   ABOVE THE THRESHOLD EITHER. IT'S KIND OF A BOOTSTRAP  
8                   ARGUMENT.

9                   AND BY DEFINITION WE'RE DEALING -- IF  
10                  SOMEONE IS APPLYING FOR THIS EXEMPTION, IT'S BECAUSE  
11                  THEY AREN'T COMMITTING TO NET OUT OF REVIEWS. SO THERE  
12                  IS GOING TO BE A SIGNIFICANT INCREASE IN EMISSIONS  
13                  ASSOCIATED WITH THIS PROJECT THAT CAN HAVE AN IMPACT,  
14                  EITHER ON THE INCREMENTS OR ON THE AMBIENT STANDARDS.  
15                  AND IN THE CASE OF THE PSD PROGRAM, THERE WOULD BE A  
16                  REVIEW AGAINST THOSE INCREMENTS, EVEN UNDER THE  
17                  HYPOTHETICAL WHERE THERE WOULDN'T BE AN UPGRADING OF THE  
18                  BACT DETERMINATION, AND THAT REVIEW AGAINST THE  
19                  INCREMENTS MIGHT WELL CAUSE THERE TO BE A REQUIREMENT  
20                  FOR ADDITIONAL EMISSION REDUCTIONS.

21                  SECOND, IN THE CASE OF NONATTAINMENT NEW  
22                  SOURCE REVIEW, WHATEVER CALCULATED EMISSION INCREASES  
23                  THERE WERE ASSOCIATED WITH THIS -- AGAIN, EVEN ASSUMING

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1 THAT THE LAER DETERMINATION WERE NOT MODIFIED -- THOSE  
2 EMISSION INCREASES WOULD HAVE TO BE OFFSET. SO WE'RE  
3 LOSING THE BENEFIT OF THE OFFSET REDUCTION REQUIREMENT  
4 IN THE NONATTAINMENT AREA THROUGH THIS EXEMPTION.

5 AND THEN, FINALLY, I DON'T THINK YOU CAN  
6 REASONABLY ARGUE THAT 100 PERCENT OF THESE INSTANCES  
7 THERE NEVER WOULD BE AN UPGRADE IN THE TECHNOLOGY  
8 DETERMINATION. DAVID SOLOMON, YOU KNOW, TO HIS CREDIT,  
9 HAS IDENTIFIED ONE EXTREME SITUATION WHERE THE  
10 TEN-YEAR-OLD DETERMINATION WAS THAT NO CONTROLS WAS  
11 "BACT OR LAER." AND YOU COULD SEE MANY OTHER GRADATIONS  
12 WHERE SOME MODEST OPERATIONAL REQUIREMENT WAS IMPOSED  
13 WHICH WAS NOT AT ALL INCOMPATIBLE WITH A FUNDAMENTAL  
14 RE-ENGINEERING OF THE PIECE OF EQUIPMENT TEN YEARS  
15 LATER.

16 SO I THINK THOSE ARE ALL SIGNIFICANT  
17 ENVIRONMENTAL ADVERSE CONSEQUENCES THAT ARE ASSOCIATED  
18 WITH THIS EXEMPTION AND GIVES RISE TO A MORE THOROUGH  
19 INQUIRY AS TO IS THIS REALLY NEEDED.

20 **MR. RAHER:** LET'S TRY TO FOCUS ON THE  
21 ISSUES, AND WITH THE CARDS UP, SO THAT WE CAN MOVE ON TO  
22 THE NEXT ISSUE. BUT I THINK WE NEED TO, YOU KNOW, SEE  
23 IF THERE ARE ANY OTHER ISSUES WE NEED TO FLAG FOR THE

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1 AGENCY OR POTENTIAL WAYS TO ADDRESS THE CONCERNS THAT  
2 HAVE BEEN RAISED TO THIS DATE.

3 JOHN?

4 **MR. JOHN PAUL:** I WANT TO FOLLOW UP WITH  
5 WHAT DAVE SAID. IT'S VERY IMPORTANT TO RECOGNIZE THAT  
6 INHERENT IN THE SUGGESTION THAT THERE IS AN EXEMPTION IS  
7 THAT THERE IS A SIGNIFICANT NET EMISSIONS INCREASE, AND  
8 EPA IN THE PREAMBLE SAID THAT THESE NEWER SOURCES ARE  
9 MUCH MORE LIKELY TO BE RUNNING AT FULL OPERATIONS SO,  
10 THEREFORE, WERE VERY MUCH LESS LIKELY TO BE RUNNING INTO  
11 THE ACTUAL VERSUS POTENTIAL ISSUE. WHICH CERTAINLY IS  
12 AN ISSUE, BUT NOT AS LIKELY, AS EPA POINTED OUT, FOR  
13 THESE NEW SOURCES.

14 IT'S ALSO IMPORTANT TO NOTE THAT -- BECAUSE  
15 WE'RE NOT TALKING INCREASES IN HOURLY EMISSIONS, WE'RE  
16 TALKING INCREASES IN ANNUAL EMISSIONS -- THAT WHEN WE  
17 LOOK AT BACT AND LAER DETERMINATIONS AND WE LOOK AT  
18 DOLLARS PER TON, THAT IS DONE ON AN ANNUAL BASIS.  
19 THEREFORE, THESE PREVIOUS DECISIONS WERE NOT MADE BASED  
20 UPON THE HIGHER ANNUAL EMISSION RATE. SO THERE MAY HAVE  
21 BEEN A TECHNOLOGY THAT WAS WORKABLE -- IT MIGHT HAVE  
22 BEEN THE TOP OF A TOP-DOWN BACT. HOWEVER, BASED ON THE  
23 ECONOMICS BECAUSE THE NUMBER OF TONS PER YEAR WAS LOWER,

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1 THE DOLLARS PER TON WAS LIKELY TO BE A HIGHER NUMBER AND  
2 COULD HAVE BEEN DISMISSED.

3 THE OTHER THING ABOUT GOING BACK TEN YEARS,  
4 IN 1988 THERE'S A -- SUMMER OF 1988 -- A SITES MEMO THAT  
5 BASICALLY DEALT WITH LAER THE SAME WAY AS LOOKING AT  
6 TOP-DOWN BACT. AND IT SAID, BASICALLY, YOU HAVE TO LOOK  
7 AT A COMBINATION OF CONTROL TECHNOLOGIES, LOOKING NOT  
8 ONLY AT THE HARDWARE -- THE ADD-ON CONTROLS -- BUT ALSO  
9 THE POLLUTION PREVENTION. SO, FOR EXAMPLE, FOR COATING  
10 OPERATIONS YOU LOOK AT THE, YOU KNOW, POUNDS PER GALLON,  
11 THE TRANSFER EFFICIENCY AS WELL AS ADD-ON CONTROL  
12 EQUIPMENT, AND ALL THREE OF THOSE THINGS HAVE TO BE  
13 LOOKED AT.

14 AND WHEN YOU THINK BACK -- SO, THEREFORE,  
15 TEN YEARS AGO THAT WAS BEFORE THE SITES MEMO. SO WE  
16 DON'T BELIEVE THAT A LOT OF DETERMINATIONS  
17 MADE, ESPECIALLY ON THE LAER SITE TEN YEARS AGO, REALLY  
18 MET THAT REQUIREMENT OF LOOKING AT THE COMBINATION OF  
19 NOT ONLY LOW VOC COATINGS, BUT ADD-ONS AS THEY ALSO MADE  
20 SENSE AS WELL AS TRANSFER EFFICIENCY.

21 ANOTHER THING IS THAT WHEN YOU LOOK AT  
22 DETERMINATIONS, SOME OF THEM HAVE TO DO WITH COATING  
23 CONTENT, AND COATINGS CERTAINLY ARE CHANGING AND

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1 CHANGING VERY RAPIDLY. SO A COATING DETERMINATION THAT  
2 MAY HAVE BEEN BACT OR LAER TEN YEARS AGO OR FIVE YEARS  
3 AGO OR TWO YEARS AGO IS PROBABLY NOT A BACT OR LAER  
4 DETERMINATION NOW, AND THERE IS NO CAPITAL EXPENDITURE  
5 FOR COATINGS THAT, YOU KNOW, WOULD BE RENDERED USELESS  
6 IF A LOWER VOC COATING WERE REQUIRED TO BE USED.

7 SO, YOU KNOW, WHERE IS -- YOU LOOK AT THE  
8 EQUIPMENT, AND PERHAPS IT'S REASONABLE TO LOOK AT A  
9 REASONABLE PAYBACK PERIOD ON THE EQUIPMENT WHEN THE BACT  
10 OR LAER DETERMINATION INCLUDED COATINGS. THAT IS NOT  
11 THE CASE. THAT MONEY SPENT LAST YEAR ON COATINGS, WELL,  
12 THAT WAS USED ON LAST YEAR'S COATINGS. AND NEXT YEAR'S  
13 COATINGS, THEY'RE GOING TO BUY SOMETHING. SO THEY DON'T  
14 HAVE THE EXPENDITURE.

15 I WANT TO JUMP JUST A LITTLE BIT ONTO THE  
16 TITLE V ISSUE. TITLE V IS A VERY COMPLEX PROGRAM, AND  
17 WE ALL ANTICIPATE A LONG TIME TO REVIEW AND GO THROUGH  
18 THE PROCESS OF ISSUING PERMITS. TO FURTHER COMPLICATE  
19 THE TITLE V PROCESS BY INDUSTRIES SUGGESTING WE WOULD  
20 LIKE ALL OF THESE EMISSIONS UNITS TO BE EVALUATED AS  
21 CLEAN UNITS WILL SIGNIFICANTLY INCREASE THE AMOUNT OF  
22 EFFORT REQUIRED FOR TITLE V, AND WE'LL SEE COMPLAINTS  
23 THAT TITLE V TAKES TOO LONG. WE'RE GOING TO SEE THAT

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1 ANYWAY, BUT THIS WILL JUST ADD TO THAT.

2 AND THIS IS NOT TITLE V'S FAULT THAT PEOPLE  
3 WOULD WANT TO USE TITLE V AS A MECHANISM FOR REVIEW OF  
4 CLEAN SOURCES. SO WE ARE VERY MUCH AGAINST USING  
5 TITLE V AS THE MECHANISM: JUST BECAUSE IT'S GOING TO  
6 GIVE TITLE V A BLACK EYE.

7 **MR. RAHER:** MORE OF A BLACK EYE.

8 PRAVEEN?

9 **MR. AMAR:** PRAVEEN AMAR, WITH NSCAUM.

10 I JUST HAVE A CLARIFYING QUESTION OF DAVID.  
11 THE SECOND CRITERIA FOR THE CLEAN UNIT WHERE YOU SAY THE  
12 EPA WILL CERTIFY BACT/LAER FROM A STATE MINOR SOURCE  
13 REVIEW PROGRAM, ARE THERE OTHER REQUIREMENTS WITHIN THE  
14 STATE MONITORING NEW SOURCE REVIEW PROGRAM WHICH THE EPA  
15 WOULD ALSO CERTIFY -- I MEAN THERE ARE OTHER THINGS  
16 BESIDES TECHNOLOGY; THAT IS, MONITORING REQUIREMENTS,  
17 THE EFFECTS ON NO<sup>x</sup> -- OR WOULD IT BE SIMPLY THE EMISSION  
18 LIMIT WHICH WILL FIND -- WHICH WILL RESULT IN EPA'S  
19 CERTIFICATION?

20 **MR. SOLOMON:** EPA WILL BE LOOKING TO SEE IF  
21 THE TECHNOLOGY AND PERMIT CONDITIONS THAT ARE APPLIED TO  
22 THAT UNIT ARE EQUIVALENT TO WHAT WOULD OTHERWISE RESULT  
23 FROM A MAJOR NEW SOURCE REVIEW.

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1                   **MR. AMAR:** OKAY, WOULD THE EPA THEN LOOK AT  
2 THE MINOR SOURCE REVIEW PROGRAM ITSELF AS FEDERALLY  
3 ENFORCEABLE OR JUST THE EMISSION LIMITATION PART OF IT?  
4 I MEAN THERE HAVE BEEN QUESTIONS ABOUT STATES MINOR  
5 SOURCE REVIEW PROGRAMS RECENTLY, MORE THAN JUST THE  
6 TECHNOLOGY.

7                   **MR. SOLOMON:** I DON'T THINK THAT'S A  
8 QUESTION WE'VE LOOKED AT IN THAT DETAIL.

9                   **MR. RAHER:** GOOD POINT.  
10 LYDIA?

11                   **MS. WEGMAN:** AS FOLKS SPEAK, I'D BE  
12 INTERESTED IF ANYONE HAS A REACTION TO DAVID HAWKINS'  
13 QUESTION; WHICH IS, IF WE WERE TO DO SOME OF THE OTHER  
14 LIBERALIZATIONS THAT ARE IN THIS PACKAGE --  
15 PARTICULARLY, I'D LIKE TO HEAR FROM THE INDUSTRY  
16 FOLKS -- IF YOU FEEL YOU COULD LIVE WITHOUT THE CLEAN  
17 UNIT CLEAN/CLEAN FACILITY TEST. I'D JUST BE INTERESTED  
18 IN ANY REACTIONS TO THAT POINT.

19                   **MR. RAHER:** JOHN?

20                   **MR. BUNYAK:** JOHN BUNYAK, NATIONAL PARK  
21 SERVICE.

22                   DAVID CARR -- EXCUSE ME. DAVID HAWKINS AND  
23 **ICLAL** IDENTIFIED THE POTENTIAL INCREMENT OR STANDARD

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1 PROBLEMS WITH EXEMPT -- WITH THE CLEAN UNIT EXEMPTION.  
2 THESE EMISSIONS COULD ALSO CAUSE IMPACTS ON AIR QUALITY  
3 RELATED VALUES AT CLASS I AREAS, AND THERE WOULD BE NO  
4 MECHANISM FOR THE FEDERAL LAND MANAGER TO GET IN THE  
5 LOOP ON THAT.

6 ONE WAY TO MINIMIZE THE IMPACTS ON CLASS I  
7 RESOURCES IS TO MINIMIZE THE EMISSIONS. I THINK THAT  
8 THERE SHOULD BE EVERY OPPORTUNITY TO MAKE SURE THAT ANY  
9 INCREASED EMISSIONS ARE GOING TO BE CONTROLLED TO THE  
10 BEST THEY CAN, WHICH LEADS TO ONE GENERAL COMMENT ON THE  
11 APPLICABILITY PROVISIONS.

12 EPA DOES A GOOD JOB WITH IMPROVING THE FLM  
13 COORDINATION/NOTIFICATION PROVISIONS, BUT, ON THE OTHER  
14 HAND, THEY ACKNOWLEDGE THAT THE 50 PERCENT -- 50 PERCENT  
15 OR MORE OF THE SOURCES WILL BE EXEMPT FROM PSD REVIEW  
16 THAT WOULD OTHERWISE UNDERGO REVIEW UNDER THE CURRENT  
17 REGULATIONS, WHICH MEANS THAT, YOU KNOW, WE'RE GETTING  
18 BETTER NOTIFICATION, BUT, ON THE OTHER HAND, A LOT OF  
19 THOSE SOURCES WON'T BE GOING THROUGH THAT PROCESS.

20 **MR. RAHER:** BILL?

21 **MR. BUMPERS:** THANKS. I WANT TO MAKE SURE  
22 THAT WE DON'T GET AWAY FROM THIS WITHOUT SOMEBODY SAYING  
23 "ATTABOY" OR "WAY TO GO" BECAUSE I ACTUALLY THINK THIS

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1 IS A PRETTY GOOD PROVISION, AND I REALLY APPRECIATE  
2 EPA'S ATTEMPT TO RECOGNIZE THE FACT THAT YOU GET VERY  
3 MARGINAL BENEFIT WHEN YOU GO THROUGH THIS REVIEW PRETTY  
4 CLOSE ON THE HEELS OF A PSD DETERMINATION.

5 FROM A UTILITY INDUSTRY PERSPECTIVE OR SOME  
6 OF THE MORE MAJOR COMBUSTIONS FORCE PERSPECTIVES, I'D  
7 SAY THIS IS PROBABLY NOT A HUGE BENEFIT IF YOU'RE  
8 LOOKING AT REALLY BIG SOURCES OR BIG UNDERTAKINGS. BUT  
9 MY EXPERIENCE IS IS THAT A LOT OF THE UTILITY UNITS AND  
10 A LOT OF THE OTHER NON-UTILITY UNITS WOULD GET A LOT OF  
11 BENEFIT FROM THIS BECAUSE THEY ARE CONSTANTLY COMING TO  
12 US AND ASKING QUESTIONS: IS THIS A MODIFICATION? DO I  
13 HAVE TO DO A BEFORE AND AFTER ACTUAL-TO-POTENTIAL OR  
14 ACTUAL-TO-FUTURE ACTUAL ANALYSIS?

15 AND THAT CONSUMES HUGE AMOUNTS OF TIME JUST  
16 TO FIGURE THAT OUT; AND ONCE THEY FIGURE THAT OUT, THEN  
17 THEY HAVE TO GO THROUGH THIS PROCESS, WELL, GEE, NOW WE  
18 HAVE TO GO IN AND SUBMIT AN APPLICATION. AND THE  
19 REALITY IS THAT MAYBE YOU HAVE TO PUT ON SOME DIFFERENT  
20 KIND OF CONTROLS OR MAYBE YOU HAVE TO TAKE SOME KIND OF  
21 A PERMIT LIMITATION THAT'S RELATIVELY PAINLESS, BUT IT  
22 IS A HUMONGOUS AMOUNT OF ADMINISTRATIVE AND RESOURCE  
23 ALLOCATION FOR WHAT I EXPECT TO BE A NEGLIGIBLE OR MINOR

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1 ENVIRONMENTAL BENEFIT.

2 MOST OF THE TYPES OF PROJECTS THAT YOU'RE  
3 TALKING ABOUT ON SOURCES THAT HAVE GONE THROUGH PSD OR  
4 NEW SOURCE REVIEW AND HAVE TECHNOLOGY IN THE LAST TEN  
5 YEARS IS MINOR EFFICIENCY IMPROVEMENTS SO THAT YOU'RE  
6 ACTUALLY GOING TO GET REDUCTIONS IN THE EMISSIONS PER  
7 HOUR OR EMISSIONS PER PRODUCT GENERATED. AND THERE  
8 IS, I THINK -- I COMPLETELY DISPUTE THE CONTENTION THAT  
9 I'VE HEARD THAT IT NECESSARILY THEN -- EXTENSION  
10 NECESSARILY MEANS YOU'RE GOING TO END UP WITH AN  
11 INCREASED UTILIZATION AND INCREASED EMISSIONS.

12 YOU CAN'T DRAW THAT CONCLUSION AT ALL. IT  
13 DOESN'T MEAN, BECAUSE WE'RE NOT GOING TO GO THROUGH NEW  
14 SOURCE REVIEW, THAT WE'RE GOING TO START OPERATING THIS  
15 UNIT AT 20 PERCENT HIGHER CAPACITY UTILIZATION DURING  
16 THE COURSE OF THE YEAR. THAT'S JUST NONSENSE.

17 IT TYPICALLY WILL SIMPLY GO TO EITHER WHAT  
18 YOU CAN'T CLEARLY CHARACTERIZE AS A ROUTINE PROJECT, BUT  
19 YOU STILL DON'T HAVE TO GO THROUGH ALL OF THE HOOPLA OF  
20 FIVE YEARS OF DATA GATHERING AND MODELING, OR IT'S AN  
21 EFFICIENCY IMPROVEMENT WHICH IS GOING TO GET YOU BETTER  
22 ENVIRONMENTAL PERFORMANCE, FOR THE MOST PART.

23 TO RESPOND DIRECTLY TO THE QUESTION YOU

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1 RAISED, OR THAT DAVID RAISED, LYDIA, I THINK THE ANSWER  
2 IS "NO." WE DON'T WANT TO LIVE WITHOUT THIS EVEN IF WE  
3 GET SOME OF THE FLEXIBILITY, AND THE REASON IS IS THAT  
4 IN SOME INDUSTRIES -- AND I CAN THINK OF SORT OF  
5 BATCH-PROCESSING CHEMICAL PHARMACEUTICALS WHERE YOU'RE  
6 GOING TO BE DOING PROJECTS ON A MORE FREQUENT BASIS THAN  
7 EVERY TEN YEARS, WHERE YOU HAVE TO MAKE SOME MINOR  
8 CHANGES TO ACCOMMODATE A NEW PROCESS OR A NEW PRODUCT,  
9 BUT YOU'RE STILL NOT GOING TO CHANGE YOUR EMISSIONS IN  
10 ANY GREAT DEGREE -- THIS PROVIDES A GREAT DEGREE OF  
11 RELIEF.

12 I THINK IT IS A REAL EVEN-HANDED APPROACH  
13 THAT IS BROADER THAN THE MICROMANAGEMENT THAT SOME OF  
14 THE STATES ARE OBLIGATED TO DEAL WITH, BUT IT IS A GOOD  
15 POLICY DECISION WHICH SAYS, BY AND LARGE, THAT YOU DON'T  
16 WANT TO IMPOSE SUCH COSTS ON ALL OF THE INDUSTRY AND ALL  
17 OF THE STATES FOR WHAT IS LIKELY TO BE EXCEPTIONALLY  
18 MINOR ENVIRONMENTAL BENEFITS. AND I THINK IT'S A GOOD,  
19 BALANCED APPROACH, AND I'LL LEAVE IT AT THAT.

20 **MR. RAHER:** ERNIE?

21 **MR. ROSENBERG:** ERNIE ROSENBERG, OCCIDENTAL.

22 I WANT TO START, ALSO, BY SAYING THAT  
23 PROBABLY THE MOST IMPORTANT PART OF THIS PACKAGE, FROM

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1 MY PERSPECTIVE AND THE PERSPECTIVE OF THE GROUPS THAT  
2 I'VE BEEN WORKING WITH, IS THE ACCEPTANCE BY EPA THAT  
3 NSR FOR FACILITIES THAT ARE ALREADY WELL-CONTROLLED IS  
4 SIMPLY A BAD USE OF RESOURCES FOR INDUSTRY AND FOR STATE  
5 REGULATORS AND FOR THE FEDERAL REGULATORS. THAT'S JUST  
6 AN ENORMOUS CHANGE.

7 INSTEAD OF THIS BEING DRIVEN BY A LAWYERLY  
8 ANALYSIS OF WHAT'S REQUIRED BY EVERY COMMA AND PERIOD IN  
9 THE *CLEAN AIR ACT*, IT STARTS FROM, FIRST, PRINCIPLES,  
10 WHICH IS, YOU KNOW, WHAT ARE YOU GETTING FROM THIS FROM  
11 AN AIR QUALITY STANDPOINT? SO FROM THAT PERSPECTIVE I  
12 THINK THE CLEAN UNIT EXEMPTION IS AN EXTRAORDINARILY  
13 IMPORTANT CONCEPTUAL STEP ON THE PART OF THE AGENCY.

14 IN RESPONSE TO -- AND I -- BUT I AGREE THAT  
15 THERE'S TOO MUCH COMPLEXITY HERE, AND I THINK THAT THERE  
16 IS -- THERE IS -- THERE ARE TOO MANY HOOPS TO JUMP  
17 THROUGH.

18 THE REAL KEY THAT WILL COME UP WITH REGARD  
19 TO -- THAT HAS COME UP WITH REGARD TO THIS, THAT REALLY  
20 WILL COME UP WITH ALMOST ALL OF THE DISCUSSION ON THE  
21 REFORM PARTS OF THIS PACKAGE AS OPPOSED TO THE CLASS I  
22 PARTS OF THE PACKAGE, IS THAT WE'VE GOT TO COME TO SOME  
23 KIND OF UNDERSTANDING ABOUT WHAT'S THE VALUE OF NSR AND

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1 START FROM THAT, AS OPPOSED TO STARTING FROM THE  
2 ANALYSIS OF EVERY HYPOTHETICAL THAT MIGHT ARISE UNDER  
3 EVERY CIRCUMSTANCE WHERE YOU CHANGE THE RULES.

4 THAT KIND OF ANALYSIS INEVITABLY OVERLOOKS  
5 THE CURRENT VALUE THAT COULD HAVE BEEN ACHIEVED BY  
6 MODIFICATIONS, BUT THAT ISN'T ACHIEVED BECAUSE OF THE  
7 COST AND COMPLEXITY OF THE PROCESS, AND IT OVERLOOKS THE  
8 AMOUNT OF RESOURCES THAT ARE WASTED ON THE PROCESS THAT  
9 TODAY COULD BE FOCUSED ON MUCH MORE EFFECTIVE EMISSION  
10 REDUCTION STRATEGIES THAN NEW SOURCE REVIEW PROVIDES.

11 SO IF -- I MEAN, IF WE SIT AROUND TODAY WITH  
12 A DISCUSSION THAT SAYS, WELL, I CAN DREAM UP A SCENARIO  
13 UNDER WHICH THIS WOULD CAUSE AN INCREASE ABOUT WHICH  
14 WE'D BE CONCERNED, WE MIGHT AS WELL ALL GO HOME BECAUSE  
15 YOU'LL NEVER BE ABLE TO REFORM THIS PACKAGE IN A WAY  
16 THAT WON'T UNDER SOME HYPOTHETICAL BE ABLE TO GENERATE  
17 SOME KIND OF A PROBLEM.

18 AS FAR AS THE BURDENS ON THE TITLE V PROCESS  
19 GO, I THINK THAT -- I CERTAINLY AGREE WITH JOHN'S  
20 COMMENTS ABOUT THE EXISTING TITLE V PROCESS. BUT A  
21 CHANGE -- THESE KINDS OF CHANGES AND THESE KINDS OF  
22 LIMITATIONS AND THE UPGRADING OF MONITORING THAT'S GOING  
23 TO BE REQUIRED INEVITABLY ARE GOING TO RAISE THESE

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1 ISSUES. IT'S ONLY GOING TO RAISE THE ISSUES FOR CASES  
2 WHERE THERE HAS BEEN WHAT WOULD OTHERWISE HAVE BEEN A  
3 MAJOR MODIFICATION.

4 SO IT SEEMS TO ME THAT THE BURDEN ON THE  
5 TITLE V PROCESS IS MINIMAL AS LONG AS THE TITLE V  
6 PROCESS ITSELF IS REFORMED SO THAT IF THERE'S NO REAL  
7 DECISION TO BE MADE AT THAT POINT, YOU DON'T GO THROUGH  
8 A SIGNIFICANT PERMIT MODIFICATION.

9 AND, FINALLY, WE'RE TRIPPING EACH OTHER UP  
10 ON THIS DIFFERENCE BETWEEN THE HOURLY EMISSIONS AND THE  
11 ANNUAL EMISSIONS, AND WE'VE GOT TO BE VERY CAREFUL ABOUT  
12 THAT. IN SOME CASES WE'RE USING THAT ARGUMENT TO SAY,  
13 WELL, LOOK, THERE'S NOT GOING TO BE ANY INCREASE IN  
14 HOURLY EMISSIONS, SO THERE'S -- IT'S HARD TO SEE THAT  
15 YOU'D HAVE AN IMPACT ON INCREMENTS OR WHATEVER.

16 ON THE OTHER HAND, WE'RE LOOKING AT WHAT  
17 MIGHT HAPPEN TO ANNUAL EMISSIONS, AND WE'RE HEARING  
18 AGAIN THAT OLD ARGUMENT -- THAT I SUBMIT HAS ABSOLUTELY  
19 DATA TO SUPPORT IT IN THE REAL WORLD -- THAT BECAUSE YOU  
20 GO THROUGH A MODIFICATION YOU SUBSTANTIALLY INCREASE THE  
21 UTILIZATION OF THE FACILITY. THAT MAY BE TRUE IN SOME  
22 SECTORS, BUT IT'S NOT TRUE OVERALL. AND IF THAT IS TRUE  
23 OF SOME SECTORS, LET'S IDENTIFY THOSE SECTORS AND DESIGN

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1 A TEST THAT WORKS AROUND THAT.

2 THE IMPORTANT THING TO BEAR IN MIND HERE IS  
3 NOT WHETHER OR NOT YOU CAN DESIGN SOME KIND OF PROBLEM  
4 IN THIS THING. THE PROBLEM -- THE IMPORTANT THING HERE  
5 IS IS IT -- DOES IT MAKE SENSE FOR A GIVEN CONCERN TO  
6 HAVE A NATIONWIDE PROCESS THAT WILL REQUIRE EVERY CHANGE  
7 TO GO THROUGH AN ANALYSIS BECAUSE SOME SMALL FRACTION OF  
8 THE CHANGES MIGHT HAVE BEEN, IN RETROSPECT, SOMETHING  
9 YOU WISH HADN'T HAPPENED. THAT'S NOT THE WAY TO MAKE A  
10 DETERMINATION OF WHAT THE IMPACT ON AIR QUALITY WILL BE.

11 **MR. RAHER:** OKAY, THE LAST THREE CARDS, AND  
12 THEN WE'LL MOVE ON TO THE NEXT ISSUE.

13 CHUCK?

14 **MR. KNAUSS:** I'M CHUCK KNAUS.

15 A FEW OBSERVATIONS AND THEN A QUESTION  
16 REGARDING TIMING FOR DAVID, IF HE COULD CONSIDER IT.

17 I THINK THAT THE CLEAN UNIT AND CLEAN  
18 FACILITY EXCLUSION COMBINED WITH PAL REFLECT AN EFFORT  
19 TO IMPLEMENT A POLICY OF MOVING OFF CHANGE-BY-CHANGE  
20 ANALYSIS AND TRYING TO FREE UP RESOURCES FROM HAVING TO  
21 SCRUTINIZE EVERY CHANGE WITH THE COMPLEXITY THAT DAVE  
22 MENTIONED. I THINK IT'S CLEAR AS WE TRY TO ANALYZE  
23 CLEAN UNIT THAT THERE ARE MANY THINGS THAT WOULD FALL

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1 OUT UNDER OTHER EXCLUSIONS OR WOULD NOT RISE TO THE  
2 LEVEL OF A PHYSICAL CHANGE OR A CHANGE IN METHOD OF  
3 OPERATION. THIS MAY PROVIDE A MORE SIMPLE WAY OF MAKING  
4 THAT DETERMINATION. THAT MAY BE ITS GREATEST BENEFIT.

5 I THINK THE TIME PERIOD OF TEN YEARS IS  
6 REFLECTIVE OF A PERIOD NEEDED TO RETURN INVESTMENT ON  
7 THE TECHNOLOGY, AND I THINK THAT MAKES SENSE.

8 IN TRYING TO EVALUATE THIS EXCLUSION, AS  
9 WELL AS OTHER EXCLUSIONS IN THE PACKAGE, WE'RE TRYING TO  
10 FIGURE OUT WHEN THEY MIGHT BE EFFECTIVE. AND IT WOULD  
11 BE USEFUL TO HEAR JUST A HYPOTHETICAL TIME LINE  
12 PRESENTED AS TO THIS PACKAGE -- ASSUMING PROMULGATION AT  
13 SOME POINT IN THE FUTURE, ONE YEAR, ONE AND ONE-HALF  
14 YEARS, TWO YEARS; I'M NOT SURE HOW LONG IT MIGHT TAKE TO  
15 PUSH FORWARD -- AND THEN WITH RESPECT TO THE FIRST  
16 CATEGORY THAT DAVID MENTIONED, PRESUMPTIVE BACT, WHEN  
17 THE -- WHERE YOU HAVE BACT OR LAER IN PLACE, IN WHICH  
18 CASE IT WOULD AUTOMATICALLY QUALIFY FOR THIS EXCLUSION  
19 AS OPPOSED TO A DETERMINATION THAT HAS TO BE MADE  
20 THROUGH A STATE PROGRAM, WHEN WOULD THAT -- WHEN COULD  
21 WE EXPECT THAT SORT OF DECISION TO TAKE PLACE? AND THEN  
22 WITH RESPECT TO HAVING CERTIFIED PROGRAMS, ARE WE  
23 LOOKING FOUR YEARS OUT?

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1 I THINK FOR THIS EXCLUSION, AS WELL AS  
2 OTHERS, I NOTE THAT BECAUSE -- WITH RESPECT TO THE  
3 GUIDANCE COMMENT -- GUIDANCE ON A FEW ISSUES COULD, IN  
4 FACT, BE IMPLEMENTED IMMEDIATELY TO THE EXTENT IT'S  
5 INTERPRETING CURRENT LAW AND CURRENT REGULATION, AS  
6 OPPOSED TO WHAT'S LAID OUT HERE WHICH MAY BE FIVE YEARS  
7 OR FOUR YEARS AWAY.

8 **MR. RAHER:** DAVID?

9 **MR. SOLOMON:** ACTUALLY, DENNIS IS THE ONE TO  
10 SPEAK TO TIMING OF THE PACKAGE, BUT RIGHT NOW OUR  
11 SCHEDULE WOULD PROBABLY PUT US -- ASSUMING WE COME UP  
12 WITH WORKABLE RESPONSES TO THE MANY ISSUES THAT HAVE  
13 BEEN RAISED -- A YEAR FROM THE DATE OF PROPOSAL.

14 AT THAT TIME, FOR EXAMPLE, IF THE AGENCY  
15 WERE TO USE A CLEAN UNIT TEST AS PART OF THE FEDERAL  
16 REGULATIONS, IT WOULD BE EFFECTIVE IMMEDIATELY IN THOSE  
17 STATES WHERE THEY HAVE A DELEGATED PROGRAM. IN OTHER  
18 STATES, THE STATES WOULD HAVE TO AMEND THEIR PROGRAMS TO  
19 PROVIDE FOR THAT TYPE OF TEST. IN THAT CASE WE COULD BE  
20 LOOKING ANYWHERE FROM THREE TO FOUR YEARS OUT FROM  
21 TODAY.

22 **MR. RAHER:** STEVE?

23 **MR. KNAUSS:** DAVID, WHAT IS --

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1                   **MR. RAHER:** I'M SORRY. GO AHEAD.

2                   **MR. KNAUSS:** DO YOU KNOW OFF THE TOP JUST  
3 HOW MANY DELEGATED --

4                   **MR. SOLOMON:** ABOUT --

5                   **MR. KNAUSS:** -- YOU KNOW, WHAT THE RELATIVE  
6 NUMBERS ARE?

7                   **MR. SOLOMON:** I THINK IT'S APPROXIMATELY  
8 TWELVE OR SO STATES HAVE DELEGATED. IT MAY BE ELEVEN  
9 NOW, AND THE REST ARE SIP APPROVED.

10                   **MR. KNAUSS:** SO WE'RE LOOKING AT 35 OR SO  
11 THAT WOULD BE FOUR YEARS BEYOND PROMULGATION?

12                   **MR. SOLOMON:** WELL, I WOULD SAY TWO YEARS,  
13 DEPENDING ON HOW QUICKLY THE STATE PROCESS MOVES ALONG.

14                   **MR. KNAUSS:** OKAY.

15                   **MR. KATAOKA:** THAT'S FOR PSD. ALL  
16 NONATTAINMENT PROGRAMS, RIGHT, --

17                   **MR. SOLOMON:** RIGHT.

18                   **MR. KNAUSS:** OKAY.

19                   **MR. KATAOKA:** -- ARE NOT DELEGATED.

20                   **MR. RAHER:** STEVE?

21                   **MR. SOLOMON:** THE NONATTAINMENT NEW SOURCE  
22 REVIEW PERMITTING IS NOT A DELEGATED PROGRAM.

23                   **MR. RAHER:** STEVE?

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1                   **MR. FOTIS:**   STEVEN FOTIS, OF VAN NESS  
2                   FELDMAN.

3                   IN RESPONSE TO YOUR QUESTION AS TO WHAT YOU  
4                   THINK THE IMPACT MIGHT BE OR IMPLICATIONS IF ONE WAS TO  
5                   NOT OFFER THIS EXEMPTION, ONE OBSERVATION FROM OUR  
6                   PERSPECTIVE IS THAT IT WOULD PROBABLY INCREASE THE NEED  
7                   FOR PAL'S AS A WAY TO PROVIDE A SIMPLE -- A SIMPLIFIED  
8                   TEST FOR APPLICABILITY, AND THAT, I THINK, IS  
9                   OBVIOUSLY -- AT LEAST IN THE EARLY YEARS -- IS GOING TO  
10                  BE MORE INTENSIVE FROM AN ADMINISTRATIVE PERSPECTIVE.

11                  AND, ALSO, JUST TO NOTE THAT IN THE  
12                  PROPOSAL, THAT EPA WOULD NOT OR HAD INDICATED AN INTENT  
13                  TO NONAUTHORIZE THE USE OF PAL'S BY NEW GREENFIELD  
14                  SOURCES IN ATTAINMENT AREAS.   SO YOU WOULD HAVE TO,  
15                  OBVIOUSLY, EXPAND THE PAL CONCEPT THERE TO ALLOW IT.   I  
16                  MEAN, THAT'S JUST AN EXAMPLE OF, I THINK, EPA'S THINKING  
17                  THAT PAL'S WOULDN'T BE NECESSARY FOR NEW GREENFIELD  
18                  SOURCES, AND YOU WOULD HAVE TO HAVE IT AVAILABLE IN THAT  
19                  SITUATION.

20                  **MR. RAHER:**   DAVID?   DO YOU HAVE ANOTHER --

21                  **MR. HAWKINS:**   YEAH, JUST A BRIEF EFFORT TO  
22                  SEE -- I SENSE THAT, IN SOME REGARD, WE'RE TALKING PAST  
23                  EACH OTHER.   WE RAISE -- WE RAISE SITUATIONS WHERE THERE

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1 WOULD BE INCREASES IN EMISSIONS ASSOCIATED WITH A  
2 MODIFICATION, AND THE RESPONSE FROM BILL AND ERNIE IS  
3 THAT NOT EVERY CHANGE RESULTS IN AN INCREASE, AND,  
4 THEREFORE, THERE'S NO BENEFIT AT ALL FROM THIS. AND I  
5 THINK, YOU KNOW, THOSE ARE SORT OF COMMENTS THAT TALK  
6 PAST ONE ANOTHER.

7 I THINK WHAT THOSE COMMENTS IN TOTO POINT UP  
8 IS THAT THE CLEAN UNIT EXEMPTION IS NOT SUFFICIENTLY  
9 DISCRIMINATING. IT EXEMPTS THOSE UNITS WHERE THERE IS  
10 NO REAL INCREASE IN EMISSIONS, BUT IT ALSO EXEMPTS THOSE  
11 UNITS WHERE THERE IS ONE. AND THE JOB IS TO SEE IF IT'S  
12 POSSIBLE TO COME UP WITH A MORE DISCRIMINATING TECHNIQUE  
13 THAT DEALS WITH THE CONCERNS THAT I AND THE STATE AND  
14 LOCAL AND PARK SERVICE ENFORCERS HAVE RAISED WITHOUT, IF  
15 IT'S POSSIBLE, SWEEPING IN THE CHANGES THAT EVERYONE  
16 WOULD AGREE DON'T RAISE ANY POTENTIAL FOR INCREASED  
17 EMISSIONS THAT REQUIRE THIS DEDICATION OF RESOURCES.

18 **MR. RAHER:** OKAY. IF THERE ARE NO OTHER  
19 COMMENTS --

20 **MS. WEGMAN:** JOHN HAS A COMMENT.

21 **MR. RAHER:** OH. I'M SORRY, JOHN. I MISSED  
22 YOU.

23 **MR. RUSCIGNO:** JOHN RUSCIGNO, STATE OF

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1 OREGON.

2 I JUST WANTED TO MAKE A QUICK COMMENT ABOUT  
3 USING THE TITLE V MECHANISM. OREGON'S ABOUT YEAR AND  
4 ONE-HALF INTO ISSUING TITLE V PERMITS, AND IT'S QUITE A  
5 CHALLENGE TO GET THESE OUT IN THE TIME PERIOD UNDER THE  
6 CURRENT PROGRAM. ADDING ANOTHER REVIEW IS JUST A  
7 BACK-BREAKER. I'LL LEAVE IT AT THAT. WE DON'T NEED IT.

8 **MR. RAHER:** SPOKEN BY SOMEONE WHO'S GOING  
9 THROUGH THE PROCESS.

10 LET'S MOVE ON THEN TO THE NEXT ISSUE.  
11 AGAIN, AS LYDIA HAS SUGGESTED -- PARTICULARLY THE  
12 COMMITTEE MEMBERS, BUT ANYBODY IN THE AUDIENCE WHO WILL  
13 BE COMMENTING ON THIS RULE -- AGAIN, IT WOULD BE HELPFUL  
14 NOT ONLY TO ADDRESS WAYS TO IMPROVE IT, BUT ALSO WHAT IT  
15 MEANS WITH RESPECT TO THE IMPORTANCE OF THE PACKAGE AS A  
16 WHOLE, OR, AS I THINK STEVE MENTIONED, YOU KNOW, WHAT  
17 IMPACT WOULD ITS ELIMINATION HAVE ON OTHER PROGRAMS WILL  
18 BE EXTREMELY USEFUL TO THE AGENCY IN TERMS OF ITS TRYING  
19 TO ASSESS WHAT REVISIONS OR CHANGES IT SHOULD MAKE TO  
20 THIS PROVISION.

21 THE NEXT ISSUE THAT SEEMED TO RAISE A GREAT  
22 DEAL OF DISCUSSION INVOLVED THE NETTING BASELINE ITSELF.  
23 JUST TO REFRESH YOUR RECOLLECTION, THE PROPOSED RULE

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1 SUGGESTS THAT A UTILIZATION LEVEL OR, I THINK, CAPACITY  
2 FACTOR THAT THEY USED WILL BE THE HIGHEST CONSECUTIVE  
3 TWELVE-MONTH PERIOD IN THE TEN YEARS PRECEDING THE  
4 PROPOSED CHANGE; AND IN NONATTAINMENT AREAS AND IN THE  
5 OZONE TRANSPORT REGIONS, THE BASELINE COULDN'T BEGIN  
6 PRIOR TO NOVEMBER 11, 1990.

7 THE GENERAL COMMENTS THAT WERE RECEIVED, I  
8 THINK, FELL INTO THREE CATEGORIES. GENERALLY SPEAKING,  
9 THE INDUSTRY MEMBERS COMMENTED FAVORABLY ON THIS. AS  
10 YOU'LL RECALL FROM OUR EARLIER MEETINGS, THIS WAS  
11 DESIGNED TO ADDRESS INDUSTRIES THAT ARE CYCLICAL, THAT  
12 FIND IT DIFFICULT AND CONSTRAINING WITH NO EQUIVALENT  
13 BENEFIT TO OPERATE UNDER THE CURRENT PROGRAM. SO,  
14 GENERALLY, THEY APPRECIATED THIS ABILITY TO OPERATE IN A  
15 MORE OPEN MANNER.

16 THEY DID HAVE SOME COMMENTS, HOWEVER, IN  
17 THAT THE FIRST ONE WOULD BE THAT THE UTILIZATION FACTORS  
18 IN THE PAST, THAT MAY BE VERY COMPLICATED TO DEVELOP.  
19 AND THAT IS -- THE COMMENT COMES FROM PEOPLE WHO HAVE  
20 DIFFERENT PRODUCTS, DIFFERENT PROCESSES, ETC. THIS IS  
21 NOT, FOR INSTANCE, A PLANT THAT CHURNS OUT THE SAME  
22 PRODUCT WITH THE SAME PROCESS FOR TEN YEARS. IF YOU  
23 HAVE TO GO BACK AND ATTEMPT TO IDENTIFY WHICH YEAR

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1 YOU'RE GOING TO USE IN THAT LAST TEN YEARS, THEY FELT  
2 THAT THE COMPARABILITY ISSUE FOR DETERMINING THAT  
3 UTILIZATION RATE WOULD BE EXTREMELY DIFFICULT.

4 AND I THINK WE ALSO HEARD THAT THE STATES  
5 THOUGHT THAT THEY WOULD HAVE, OBVIOUSLY, ADDED BURDEN IN  
6 SITTING DOWN WITH THEIR SOURCES TO MAKE THAT ANALYSIS.

7 A SECOND COMMENT WAS THAT USING CURRENT  
8 ALLOWABLE EMISSIONS RATE IS NOT THE BEST WAY TO GO IN  
9 THAT THE CURRENT EMISSION FACTORS ONLY WORK, AGAIN, IF  
10 THE PAST PRODUCTS AND OPERATIONS WERE THE SAME. ALSO,  
11 IT'S PUNITIVE TO COMPANIES THAT ACTUALLY HAVE INSTALLED  
12 POLLUTION PREVENTION PROGRAMS. THEY WILL, IN EFFECT,  
13 LOSE THEIR BASELINE, HAVING DONE SOMETHING THAT HAS  
14 BENEFITTED THE ENVIRONMENT.

15 AND SO IN TERMS OF IDENTIFYING WHAT THE  
16 CURRENT ALLOWABLE EMISSION RATE WAS, THE SUGGESTION WAS  
17 THAT YOU SIMPLY ADJUST, BASED ON WHATEVER THE CURRENT  
18 REGULATIONS WERE SINCE THE TIME OF THE HIGHEST FACTOR  
19 THAT YOU'RE USING. DAVID HAWKINS RAISED THE FACT THAT,  
20 IN FACT, WHAT YOU SHOULD BE LOOKING AT HERE IS CURRENT  
21 ACTUALS IN TERMS OF MAKING YOUR DETERMINATION.

22 AND THEN, FINALLY, THE STATES AGAIN RAISED  
23 THE WHOLE QUESTION OF WHETHER THIS ADDS A BURDEN IN

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1 TERMS OF THE OVERALL NETTING BASELINE THAT IS GREATER  
2 THAN THE BURDEN TODAY.

3 AND I GUESS, JOHN PAUL, AGAIN, IT WOULD BE  
4 HELPFUL -- EITHER NOW OR IN THE WRITTEN COMMENTS -- TO  
5 GET A BETTER DESCRIPTION AS TO WHY LOOKING AT A GREATER  
6 TIME PERIOD, ASSUMING THAT YOU ADDRESS THE OTHER ISSUES  
7 WE JUST IDENTIFIED, WHY THAT WOULD CREATE A GREATER  
8 BURDEN ON THE STATE.

9 SO AGAIN, I THINK, IN SUMMARY, YOU HAD  
10 PEOPLE FROM INDUSTRY APPRECIATING THE FACT THAT THE FACA  
11 DID, IN FACT -- DID RECOMMEND AN INCREASED BASELINE  
12 PERIOD FOR CYCLICAL INDUSTRIES. THE AGENCY IDENTIFIED  
13 TEN YEARS -- ACTUALLY, I THINK THAT WAS SOMETHING THAT  
14 WE CAME UP WITH -- AND THEN IT HAS PLACED THESE TESTS OR  
15 METHODS FOR DETERMINING THAT BASELINE WITHIN THAT.

16 DAVID, BASED ON YOUR -- BASED ON WHAT YOU  
17 HEARD YESTERDAY, DO YOU HAVE ANY COMMENTS IN TERMS OF  
18 WHAT THE AGENCY WAS ATTEMPTING TO ACCOMPLISH HERE, AND  
19 ANY GENERAL CLARIFICATIONS?

20 **MR. SOLOMON:** AS YOU MENTIONED, WHAT WE WERE  
21 TRYING TO DO WAS ACCOMMODATE THE CONCERNS WE'VE HEARD  
22 FROM CYCLIC INDUSTRIES, THAT USING THE LAST TWO YEARS AS  
23 BEING REPRESENTATIVE IN MANY CASES WOULD BE

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1 INAPPROPRIATE, ESPECIALLY IF THERE WAS A DOWNTURN.

2 WE ALSO FELT THAT THE INFORMATION BEING  
3 REQUESTED -- THAT IS, OPERATIONAL LEVEL PLUS EMISSION  
4 FACTOR -- IS THE TYPE OF INFORMATION CURRENTLY REQUIRED,  
5 ALTHOUGH IT MAY BE MORE READILY AVAILABLE WITHIN THE  
6 LAST TWO YEARS THAN GOING BACK OVER TEN YEARS. BUT THE  
7 TYPE OF CALCULATION ITSELF IS THE TYPE -- IS THE EXACT  
8 SAME CALCULATION THAT IS DONE TODAY, ONLY WITH A  
9 DIFFERENT SET OF NUMBERS. AND THERE MAY BE SOME  
10 VALIDITY IN TERMS OF GOING BACK TEN YEARS AND THE  
11 ACCURACY OF THAT TYPE OF DATA, BUT THAT WOULD HAVE TO BE  
12 ADDRESSED ON A CASE-BY-CASE BASIS.

13 **MR. RAHER:** OKAY.

14 ANY ADDITIONAL COMMENTS, CLARIFICATIONS,  
15 SUGGESTIONS IN TERMS OF HOW TO ADDRESS THE ISSUES THAT  
16 WERE RAISED AT YESTERDAY'S HEARING, THE VALIDITY OF  
17 THOSE ISSUES, OR THE IMPACTS?

18 JOHN?

19 **MR. TROUT:** I WANT TO JUST PUT ON THE TABLE  
20 A DISCUSSION I HAD WITH DENNIS CRUMPLER THAT IT APPEARS  
21 THAT -- AND WHAT WE'RE TALKING ABOUT HERE IS DETERMINING  
22 THE ACTUAL EMISSIONS AS OF A SPECIFIC DATE. AND THE  
23 FIVE-YEAR CONTEMPORANEOUS PERIOD HAS NOT BEEN CHANGED IN

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1 THE REGULATION, SO WE'RE GOING BACK FROM A -- YOU KNOW,  
2 THE TIME THE CONSTRUCTION WOULD START, WE'RE GOING BACK  
3 FIVE YEARS AND THEN DETERMINING ACTUAL EMISSIONS, WHICH  
4 THEN ADDS THAT TEN-YEAR PERIOD FROM THAT POINT BACK.

5 SO IT APPEARS THAT WHAT WE ACTUALLY ENDED UP  
6 WITH HAS A POSSIBILITY OF GOING BACK FIFTEEN YEARS TO  
7 DETERMINE AN ACTUAL EMISSIONS RATE. SO, YOU KNOW, DAVE,  
8 WOULD YOU --

9 **MR. RAHER:** JOHN? JOHN, YOU AND DENNIS MAY  
10 HAVE JUST HAVE UNDERSTOOD WHAT YOU SAID, BUT I -- IT  
11 SORT OF WHIZZED RIGHT -- WHIZZED RIGHT BY ME THERE AS TO  
12 HOW WE WENT FROM TEN TO FIFTEEN. SO IF ONE OF YOU COULD  
13 JUST SLOW THAT DOWN A LITTLE BIT MORE, WE MIGHT HAVE IT,  
14 AND WE MIGHT BE THERE.

15 **MR. SOLOMON:** MY QUESTION IS, JOHN, ARE YOU  
16 DESCRIBING THE CURRENT SYSTEM OR THE PROPOSAL?

17 **MR. TROUT:** PARDON?

18 **MR. SOLOMON:** NO, I -- THE QUESTION IS IN  
19 TERMS OF WHAT YOU'RE TRYING TO DESCRIBE, IS IT WHAT'S IN  
20 THE PROPOSAL OR IS IT THE CURRENT SYSTEM?

21 **MR. TROUT:** WE BELIEVE THAT'S WHAT'S IN THE  
22 PROPOSAL --

23 **MR. SOLOMON:** OKAY.

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1                   **MR. TROUT:** -- IS A CONTEMPORANEOUS PERIOD  
2 IS WHAT -- THAT'S WHAT NETTING'S ALL ABOUT. REMEMBER,  
3 WE'RE TALKING ABOUT NETTING, AND CONTEMPORANEOUS MEANS  
4 TO GO BACK FIVE YEARS FROM THE POINT WHEN CONSTRUCTION  
5 STARTS AND DETERMINE ACTUAL EMISSIONS AND THEN LOOK AT  
6 WHEN THE INCREASE IS GOING TO START. THAT'S THE  
7 CONTEMPORANEOUS PERIOD.

8                   NOW, SO THE ACTUAL EMISSIONS AS OF A  
9 SPECIFIC DATE USED TO BE THE TWO YEAR, YOU KNOW, THE  
10 AVERAGE OF THE TWO YEARS PREVIOUS TO FIVE YEARS AGO.  
11 NOW THE TEN-YEAR LOOK-BACK OF WHAT THE ACTUAL EMISSIONS  
12 ARE GO FROM THE BEGINNING, WHICH IS FIVE YEARS AGO. SO  
13 IT APPEARS THAT WHAT WE MAY HAVE ENDED UP WITH IS GOING  
14 BACK FROM -- FROM NOW FIFTEEN YEARS FOR A POSSIBLE  
15 DETERMINING OF ACTUAL EMISSIONS, WHICH IS THE STARTING  
16 POINT FOR THE NETTING CALCULUS.

17                   **MR. SOLOMON:** RIGHT.

18                   **MR. TROUT:** SO I'LL LET YOU TALK WITH  
19 DENNIS. DENNIS UNDERSTANDS IT, AND I JUST WAN TO  
20 THROW --

21                   **MR. SOLOMON:** LET ME JUST --

22                   **MR. TROUT:** -- THAT OUT ON THE TABLE.

23                   **MR. RAHER:** NO, NO, NOW THAT'S NOT THE TEST

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1 WE'RE USING, JOHN.

2 MR. FOTIS: NOW WAIT. WHEN THE FEDS, STATES  
3 AND LOCALS AGREE, THAT'S THE TEST WE'RE USING.

4 MR. TROUT: RIGHT. RIGHT. RIGHT.

5 MR. SOLOMON: LET ME CLARIFY THE INTENT.  
6 THE INTENT WAS TO PROVIDE FOR A FINITE AND DISCRETE  
7 TEN-YEAR PERIOD LOOKING BACK FROM THE DATE OF THE  
8 MODIFICATION PERIOD. YOU COULD NOT USE A TIME OUTSIDE  
9 OF THAT TEN YEARS, AND THE SOURCE WOULD HAVE THE  
10 DISCRETION TO PICK WITHIN THAT TEN YEARS ANY  
11 TWELVE-MONTH PERIOD. THERE'S NO INTENT --

12 MR. TROUT: OKAY, THAT'S WHAT WE UNDERSTOOD  
13 THE INTENT WAS. --

14 MR. SOLOMON: OKAY.

15 MR. TROUT: -- IT MAY NOT BE HOW IT CAME  
16 OUT --

17 MR. SOLOMON: OKAY.

18 MR. TROUT: -- IN THE LANGUAGE.

19 MR. RAHER: OKAY. SO WHAT YOU'RE  
20 SUGGESTING, THAT THE AGENCY HAS TO CAREFULLY LOOK AT THE  
21 LANGUAGE SO THAT IT DOESN'T EXCEED THAT LIMIT?

22 MR. TROUT: THAT'S CORRECT.

23 MR. RAHER: OKAY.

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1                   **MR. TROUT:** YES.

2                   **MR. RAHER:** FINE.

3                   ANY ADDITIONAL -- STEVE?

4                   **MR. FOTIS: STEVEN FOTIS, OF VAN NESS**

5                   **FELDMAN.** I JUST WANT TO FLAG AN ISSUE THAT WE WILL BE  
6                   GIVING WRITTEN COMMENTS ON IN MORE DETAIL. BUT IT HAS  
7                   TO DO WITH -- AND IT'S AN ISSUE THAT'S NOT IN THE REFORM  
8                   PACKAGE, BUT IT PERTAINS TO LIMITATIONS ON NETTING WHERE  
9                   THERE IS CURRENTLY A REQUIREMENT THAT IN ORDER TO NET  
10                  OUT YOU HAVE TO HAVE COMMON SOURCE OR OWNERSHIP. IT'S A  
11                  COMMON OWNERSHIP AND OPERATOR REQUIREMENT.

12                  AND WE UNDERSTAND THE LOGIC OF THAT AND HOW  
13                  IT'S NECESSARY IN MANY CASES, BUT THERE ARE  
14                  SITUATIONS -- IN PARTICULAR, COGENERATION FACILITIES --  
15                  WHERE IT DOES WORK. AND IT'S SOMETHING -- IT'S AN AREA  
16                  THAT WE WOULD REALLY LIKE TO WORK WITH THE AGENCY AND  
17                  SEE IF THERE IS A WAY WHERE YOU COULD GET NETING -- TO  
18                  GET NETTING WORK -- TO WORK IN A SITUATION WHERE THERE  
19                  IS AN ENVIRONMENTAL BENEFIT.

20                  **MR. SOLOMON:** THAT WAS AN ISSUE THAT WAS  
21                  RAISED VERY -- I GUESS WE SLIGHTLY TOUCHED ON AT SOME OF  
22                  THE OTHER MEETINGS, AND I THINK THE BIGGEST ISSUES CAME  
23                  FROM OECA IN TERMS OF ENFORCEABILITY RELATIVE TO THE

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1 DECREASES AT THE SOURCE THAT WAS NOT ACTUALLY RECEIVING  
2 THE PERMIT.

3 SO IF YOU COULD PROVIDE ANY SUGGESTIONS AS  
4 TO HOW THAT CAN BE DONE AND PROVIDE THE ENFORCEABILITY  
5 THAT WOULD BE NEEDED TO ENSURE THAT THE DECREASES OCCUR,  
6 AND THEY'RE PERMITTED, THAT WOULD BE VERY HELPFUL.

7 **MR. FOTIS:** I WOULD LIKE TO WORK WITH YOU,  
8 FIRST OF ALL, TO UNDERSTAND EXACTLY WHAT THAT PROBLEM  
9 IS, AND THEN ABSOLUTELY.

10 **MR. RAHER:** DAVID?

11 **MR. HAWKINS:** A COUPLE OF QUICK THINGS.  
12 FIRST ON THE ISSUE OF WHETHER VOLUNTARY REDUCTIONS WOULD  
13 BE PUNISHED, I THINK THAT A RULE SHOULD BE DESIGNED SO  
14 IT DOESN'T DETER REDUCTIONS IN ACTUAL EMISSIONS.

15 HAVING SAID THAT, I THINK THAT IT'S ALSO  
16 APPROPRIATE TO RECOGNIZE THAT IF YOU HAVE A FACILITY  
17 THAT TEN YEARS AGO HAD AN ACTUAL EMISSION RATE THAT WAS  
18 20 PERCENT OF ITS ALLOWABLE RATE, AND TODAY THAT SAME  
19 ACTUAL EMISSION RATE IS STILL 20 PERCENT OF ITS  
20 ALLOWABLE, AND IT HAS MADE NO POLLUTION PREVENTION OR  
21 ANY OTHER TYPE OF EMISSION REDUCTION IN THE INTERIM --  
22 TO SAY THAT THAT SOURCE CAN NOW USE AN EMISSION RATE  
23 THAT'S FIVE TIMES HIGHER THAN IT EVER HAS ACTUALLY BEEN

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1 AS A BASIS FOR CALCULATING WHETHER THERE'S AN INCREASE  
2 IS INAPPROPRIATE.

3 THE SECOND COMMENT RELATES AGAIN TO THINKING  
4 ABOUT THE CONNECTION BETWEEN THIS PROPOSAL AND OTHER  
5 COMPONENTS, AND I THINK THAT THIS PROPOSAL HAS TO BE  
6 EVALUATED IN CONJUNCTION WITH THE ACTUAL-TO-FUTURE  
7 ACTUALS APPROACH BECAUSE THE PINCH, IF THERE IS ONE,  
8 WITH RESPECT TO SOURCES AND THE MISUSE OF RESOURCES, IF  
9 THERE IS ONE, HAS TO DO WITH THOSE CIRCUMSTANCES WHERE  
10 THE CALCULATION RULES RESULT IN WHAT IS VIEWED AS AN  
11 ARTIFICIAL DIFFERENCE BETWEEN THE BASELINE AND THE  
12 PROJECTED FUTURE EMISSIONS.

13 AND IF THE -- AND, OBVIOUSLY, THAT PINCH CAN  
14 BE REDUCED BY PUSHING ON THE BEFORE OR PUSHING ON THE  
15 AFTER, AND THIS PROPOSAL DOES BOTH. AND I THINK IT'S  
16 IMPORTANT TO REFLECT THAT IT BOTH ALLOWS THE USE OF  
17 HIGHER BEFORE EMISSIONS AS WELL AS LOWER AFTER  
18 EMISSIONS, AND EVALUATE THESE TWO THINGS JOINTLY.

19 **MR. RAHER:** OKAY.

20 JOHN?

21 **MR. TROUT:** I'D LIKE TO START OUT WITH ONE  
22 VERY POSITIVE. WE'RE VERY PLEASED THAT EPA DID WRITE IN  
23 ON THE NONATTAINMENT SIDE NOT GOING BACK BEFORE NOVEMBER

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1 OF 1990. SO THAT'S, I THINK, A GOOD RECOGNITION OF THE  
2 REAL PROBLEMS THAT THAT CAUSES US.

3 WE, AS STAPPA/ALAPCO, AN ASSOCIATION OF MANY  
4 STATE AND LOCAL AGENCIES, OBVIOUSLY, HAVE A LOT OF  
5 EXPERIENCE FROM MANY AGENCIES, AND SOMETIMES IT'S  
6 DIFFICULT FOR US TO TRY TO BALANCE THE THOUGHTS OF THE  
7 DIFFERENT AGENCIES. ONE OF THE THINGS THAT WE'RE  
8 DISCUSSING AND WE HAVE TO RESOLVE FOR OUR FINAL WRITTEN  
9 COMMENTS -- AND PARTICULARLY THE CALIFORNIA AGENCIES ARE  
10 LOOKING (SIC) -- THAT ON AN INDIVIDUAL EMISSIONS UNIT, A  
11 POTENTIAL-TO-POTENTIAL TEST AS BEING A FAIR WAY TO  
12 RESOLVE THE NETTING ISSUE THAT -- YOU KNOW, THE ACTUAL  
13 VERSUS POTENTIAL ISSUE.

14 SO WE'RE DISCUSSING THAT WITHIN THE  
15 ASSOCIATIONS AND WILL COME OUT WITHIN OUR WRITTEN  
16 COMMENTS WITH A RECOMMENDATION, BUT WE WANTED PEOPLE TO  
17 KNOW THAT'S ONE OF THE THINGS THAT WE ARE LOOKING AT ON  
18 A SINGLE EMISSIONS UNIT POTENTIAL-TO-POTENTIAL TO  
19 RESOLVE THIS ISSUE.

20 **MR. RAHER:** OKAY. JOHN, I APPRECIATE SORT  
21 OF THE FOREWARNING ON THAT, AND MAYBE IF ANY OF THE  
22 OTHER INDIVIDUAL MEMBERS HAVE QUESTIONS ABOUT THAT, THEY  
23 CAN TALK TO YOU OR JOHN PAUL OR BILL AND GET A LITTLE

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1 MORE INFORMATION AND INPUT BACK TO YOU ON THAT.

2 WHO ELSE WAS HERE? JOHN?

3 ICLAL?

4 **MS. ATAY:** HI, THIS IS ICLAL ATAY, FROM NEW  
5 JERSEY DEP.

6 I WOULD LIKE TO MAKE TWO POINTS. I AGREE  
7 WITH DAVID THAT THIS NETTING BASELINE ISSUE NEEDS TO BE  
8 TIED IN WITH ACTUAL-TO-FUTURE ACTUAL APPLICABILITY  
9 TESTS. I WOULD LIKE TO START MY COMMENT BY GIVING YOU  
10 AN EXAMPLE.

11 LET'S TAKE A SOURCE, A FACILITY THAT'S  
12 ALLOWED TO EMIT 250 TONS PER YEAR OF NITROGEN OXIDES  
13 EMISSIONS, AND THEY ARE ALLOWED TO EMIT AT 8,760 HOURS  
14 PER YEAR, AND THERE ARE NO OPERATING RESTRICTIONS ON  
15 THEIR EQUIPMENT. THEY'RE ALLOWED TO BURN GAS AND COAL.  
16 LET'S SAY THIS IS A BOILER. AND, TRADITIONALLY, LET'S  
17 SAY IN THE LAST TEN YEARS, THIS FACILITY HAS ALWAYS  
18 BURNED GAS, AND THEY HAVE OPERATED 2,000 HOURS PER YEAR,  
19 SO THEY HAVE EMITTED ABOUT 50 TONS PER YEAR.

20 THEY DECIDE THIS YEAR THAT THEY WANT TO BURN  
21 COAL NOW. THEIR PERMIT ALLOWS THAT, AND THEY WANT TO  
22 OPERATE 8,760 HOURS PER YEAR, SO THEY WILL EMIT AT  
23 250 TONS PER YEAR. THIS WILL NOT SUBJECT THEM TO NEW

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1 SOURCE REVIEW BECAUSE IT'S PERFECTLY ALLOWED IN THEIR  
2 PERMIT. EVEN THOUGH THEY HAVE A SIGNIFICANT EMISSION  
3 INCREASE, THEY WILL NOT BE SUBJECT TO REVIEW.

4 HAVING GIVEN THAT EXAMPLE, I WOULD LIKE TO  
5 TELL YOU AN APPLICABILITY TEST THAT WE USE IN NEW  
6 JERSEY, AND IT'S IN OUR SIP FOR NONATTAINMENT AREAS. WE  
7 USE A TEST OF POTENTIAL-TO-POTENTIAL UNLESS FOR NETTING  
8 PURPOSES DECREASES IN THE ACTUAL EMISSIONS IN THE  
9 CONTEMPORANEOUS PERIOD. THE REASON WE DO THAT IS THE  
10 POTENTIAL EMISSION RATE IS A GIVEN ALLOWABLE EMISSION  
11 RATE TO A FACILITY. AS IN THE EXAMPLE I HAVE GIVEN TO  
12 YOU, EVEN THOUGH THEY MAY OPERATE BELOW THAT, AT ANY ONE  
13 TIME WITHIN THE RESTRICTIONS OF THEIR PERMIT THEY CAN GO  
14 UP TO THEIR POTENTIAL.

15 AND FUTURE POTENTIAL IS THIS IS WHAT YOU  
16 ALLOW THEM TO OPERATE AT. YOU EVALUATE THE TECHNOLOGY  
17 OF THEIR FUTURE POTENTIAL. YOU SAY IF YOU OPERATE AT  
18 THIS FUTURE POTENTIAL EMISSION RATE -- THIS IS BEST  
19 AVAILABLE CONTROL TECHNOLOGY -- YOU EVALUATE THE  
20 INCREMENTS IN AIR QUALITY EFFECTS AT THEIR FUTURE  
21 POTENTIAL EMISSION RATES. AND YOU SAY TO THEM IT'S OKAY  
22 FOR YOU TO EMIT AT THIS PTE. AIR QUALITY IS OKAY. PAL  
23 IMPACTS ARE OKAY. INCREMENTS ARE OKAY. TECHNOLOGY IS

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1 OKAY. YOU GIVE THEM A PERMIT.

2 THE PREVIOUS PTE WAS DONE AS WELL AT THAT  
3 LIMIT, SO YOU LOOK AT FUTURE, NOT PTE. AND FUTURE PTE,  
4 YOU LOOK AT THE DIFFERENCE. AND IF THIS DIFFERENCE IS  
5 SIGNIFICANT, THEY MAY BE SUBJECT TO NEW SOURCE REVIEW.  
6 THEY MAY SAY, OKAY, WE HAVE EMISSION REDUCTIONS. WE ARE  
7 GOING TO NET OUT. THEN YOU LOOK AT ONLY AT THE EMISSION  
8 DECREASES IN THE ACTUAL EMISSIONS, NOT IN EMISSIONS THAT  
9 HAVE -- THE ENVIRONMENT HAS NEVER SEEN. SO YOU GIVE  
10 THEM CREDIT FOR EMISSION DECREASES IN ACTUAL EMISSIONS.

11 IF THEY HAVE INSTALLED SCR TECHNOLOGY IN  
12 ANOTHER BOILER AT THEIR FACILITY, AND THEY HAVE  
13 DECREASED THEIR EMISSIONS BY 50 TONS OF NO<sub>x</sub>, THEN YOU  
14 CAN GIVE THEM CREDIT FOR THE CHANGE. THEN YOU -- THIS  
15 IS A TEST. THIS IS FAIR, AND IT'S EASILY IMPLEMENTABLE.

16 THE WAY OF DOING HERE, GOING BACK TEN YEARS  
17 AND TRYING TO FIND OUT WHAT THEIR ACTUAL EMISSIONS WILL  
18 BE, IT'S GOING TO BE A MIND-BOGGLING THING. WHAT IS THE  
19 CRITERIA HOW THEY SHOULD DOCUMENT THEIR EMISSIONS? WE  
20 HAVE SEEN IN COMMENTS YESTERDAY THE PRODUCTION ACTIVITY  
21 LEVEL CAN BE SHOWN IN MANY DIFFERENT WAYS THAT WILL GIVE  
22 YOU DIFFERENT VALUES IN WHAT THE ACTUAL EMISSIONS ARE.  
23 AND IT REALLY IS INEQUITABLE BETWEEN INDUSTRIES BECAUSE

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1 SOME INDUSTRY MAY COME AND MIGHT FIND A WAY OF  
2 CALCULATING THEIR ACTUAL EMISSIONS THAT SOME OTHER  
3 INDUSTRY MAY HAVE -- MAY NOT HAVE FIGURED IT OUT IN  
4 THEIR FAVOR.

5 POTENTIAL LIMIT IS A FAIR WAY OF DOING IT.  
6 THAT'S THEIR ALLOWABLE. THAT'S WHAT -- AT THE LEVEL WE  
7 HAVE EVALUATED THEM AND TOLD THEM IT'S OKAY FOR THEM TO  
8 EMIT UP TO THAT LEVEL.

9 THE FUTURE ACTUAL AS WELL, YOU TOLD THEM YOU  
10 CAN EMIT UP TO 250 TONS, BUT YOU TELL ME YOU'RE GOING TO  
11 BE ONLY AT 50, SO I'M EXEMPTING YOU. NOW FOR FIVE YEARS  
12 YOU'RE GOING TO LOOK AT WHAT ARE YOU DOING, AND DO YOU  
13 REALLY -- ARE YOU REALLY BELOW THAT OR ABOVE THAT? IF  
14 YOU'RE ABOVE THAT, WHAT HAPPENS TO YOU?

15 IT REALLY DOESN'T GIVE THE PUBLIC THE  
16 ASSURANCE OF, OH, WHAT'S GOING TO HAPPEN TO ME NOW?  
17 THIS FACILITY IS BUILDING HERE. THEY'RE ALLOWED TO EMIT  
18 UP TO 250 TONS, BUT THEY'RE SAYING THEY WILL ONLY EMIT  
19 50. SO WHY AREN'T THEY COMMITTING TO 50? IT WILL PUT  
20 US IN A REALLY DIFFICULT SITUATION OF GOING TO PUBLIC  
21 AND PERMITTING THESE FACILITIES.

22 IT WILL BE VERY DIFFICULT TO IMPLEMENT  
23 ACTUAL-TO-FUTURE ACTUAL. POTENTIAL-TO-POTENTIAL, LESS

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1 DECREASES IN ACTUAL EMISSIONS AS CREDIT, WILL BE A FAIR  
2 AND IMPLEMENTABLE WAY OF DOING THIS.

3 THANK YOU.

4 **MR. RAHER: KAREN?**

5 MS. MALKIN: **KAREN MALKIN**, NATIONAL PARK  
6 SERVICE.

7 I'D JUST LIKE TO SUPPORT ICLAL'S COMMENTS AS  
8 WELL AS DAVID'S, AND JUST POINT OUT THAT, AGAIN, AS IN  
9 THE FIRST ISSUE OF THE CLEAN UNIT EXEMPTION, WE'RE  
10 TALKING ABOUT WAYS TO GET OUT OF THE FULL PSD REVIEW.  
11 AND, OF COURSE, EVEN THOUGH THE *CLEAN AIR ACT* HAS  
12 PROVIDED FEDERAL LAND MANAGER WITH AN AFFIRMATIVE  
13 RESPONSIBILITY, AS WELL AS OUR OWN ORGANIC ACT FOR THE  
14 NATIONAL PARK SERVICE -- WE HAVE RESPONSIBILITIES OVER  
15 THAT AS WELL -- WE'RE NOT, AS A CONCEPT, OPPOSED TO, YOU  
16 KNOW, GETTING OUT OF WORK. WE'RE CERTAINLY OVERBURDENED  
17 AND VERY LIMITED IN OUR STAFF. IT'S JUST A MATTER OF  
18 HOW IT'S DONE.

19 AND I SUPPORT THE CONCERNS THAT HAVE BEEN  
20 RAISED SO FAR. I ALSO THINK THAT THE TEN YEARS  
21 LOOK-BACK PRESENTS A PROBLEM. IT'S JUST THE SAME ISSUE  
22 THAT PEOPLE WERE TALKING ABOUT AND WE TALKED ABOUT IN  
23 THE CLEAN UNIT. WE'VE HAD -- TECHNOLOGY CAN ADVANCE

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1 TREMENDOUSLY IN TEN YEARS. I KNOW WE DID A LITTLE STUDY  
2 ON THAT WITH NO<sub>x</sub>, AND IT WAS JUST REALLY AMAZING THE  
3 DIFFERENCE IN BACT OVER THE PAST TEN YEARS FOR NO<sub>x</sub>. SO  
4 WHEN YOU'RE LOOKING BACK TEN YEARS, IT REALLY IS A  
5 CONCERN IF WE'RE REALLY SERVING THE ENVIRONMENT. I  
6 THINK FIVE YEARS IS MORE APPROPRIATE.

7 **MR. RAHER:** OKAY. ARE THERE ANY OTHER  
8 COMMENTS ON THE NETTING BASELINE ISSUE?

9 BEFORE WE TRY TO TAKE A BREAK -- WE STARTED  
10 A LITTLE LATE, SO WE'LL JUST GO A LITTLE LONGER -- LET'S  
11 MOVE ON TO THE NEXT ISSUE, WHICH WAS THE ISSUE OF PAL'S.  
12 I'LL TRY TO GIVE YOU A BRIEF SUMMARY AND THEN ASK DAVID  
13 TO JUST GIVE US AN ANALYSIS OF WHAT THE AGENCY WAS  
14 ATTEMPTING TO ADDRESS HERE.

15 FIRST, THERE WAS GENERAL SUPPORT, I THINK,  
16 FOR THE CONCEPT OF PAL'S. A NUMBER OF SOURCES HAVE  
17 ATTEMPTED TO DEVELOP PAL'S. STATES ARE HAVING MORE  
18 EXPERIENCE WITH THEM. THE SOURCES ARE HAVING MORE  
19 EXPERIENCE WITH THEM. BUT THE FOLLOWING WERE COMMENTS  
20 IN TERMS OF HOW THAT PAL CONCEPT WAS PRESENTED IN THE  
21 OVERALL EPA PACKAGE.

22 FIRST OF ALL, THERE'S AN INDICATION THAT THE  
23 PAL WOULD BE SUBJECT TO PERIODIC OPENING AND POSSIBLE

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1 DOWNWARD ADJUSTMENT, AND THERE WAS THE COMMENT THAT THIS  
2 REALLY, IN EFFECT, CONFUSES A PAL WITH THE CONCEPT OF  
3 NETTING: THAT THE PAL IS REALLY A PREAPPROVAL OF A  
4 LIMIT, AND IT'S NOT A QUESTION OF THEN REASSESSING IT  
5 AND REOPENING IT. THERE WAS THE COMMENT THAT IF YOU GO  
6 THROUGH THIS ENTIRE PROCESS AND GET YOURSELF A PAL AND  
7 KNOW THAT IT'S JUST GOING TO BE REOPENED CONSTANTLY,  
8 THAT IT WILL NOT ACTUALLY BE USED BY INDUSTRY.

9 SECOND, THAT IN A LIMITED NUMBER OF CASES  
10 THE PAL MAYBE SHOULD BE SET AT ALLOWABLES AND NOT  
11 ACTUALS; FOR INSTANCE, IF THE SOURCE HAS GONE THROUGH A  
12 LAER OR OFFSET REVIEW OR NETTED OUT WITH ENFORCEABLE  
13 LIMITS AFTER 1990 OR A PSD PERMIT HAD BEEN ISSUED AFTER  
14 1990.

15 THIRD IS THAT THERE WERE SOME SUGGESTIONS  
16 THAT THE PAL AUTHORITY ACTUALLY SHOULD BE CLARIFIED AND  
17 THAT THE FINAL RULE SHOULD NOT HAVE IT AS AN OPTION, AS  
18 WE HEARD ABOUT EARLIER, BUT THE STATES SHOULD SEE IT AS  
19 A REQUIRED PROVISION OR PORTION OF A FEDERAL NEW SOURCE  
20 REVIEW PROGRAM AND THAT EVEN THAT STATES SHOULD BE  
21 ENCOURAGED TO ADOPT PAL'S IN THEIR MINOR SOURCE PROGRAM.

22 IN TERMS OF WHAT HAPPENS IF YOU ATTEMPT TO  
23 OR AT SOME POINT IN TIME IN THE FUTURE DO TERMINATE YOUR

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1 PAL, THERE WAS A SUGGESTION THAT WE SHOULD NOT HAVE  
2 SOURCES MOVING IN AND OUT OF PAL'S. WE SHOULD NOT HAVE  
3 A SELF-SELECTION PROCESS WHERE ONLY THE SOURCES THAT  
4 BENEFIT FROM A PAL OBTAIN A PAL. SO IF A PAL IS  
5 TERMINATED IN THE FUTURE, THAT A BACT AND LAER ANALYSIS  
6 WOULD BE APPLIED RETROSPECTIVELY TO ANY ACTIONS THAT HAD  
7 PREVIOUSLY BEEN TAKEN UNDER THE PAL.

8 AND, FINALLY, THAT THERE WAS A QUESTION AS  
9 TO WHETHER THE AGENCY SHOULDN'T REQUIRE SOME TYPE OF  
10 ANALYTICAL PROCESS OR NOTICE IF WITHIN THE PAL THERE ARE  
11 ACTUALLY SHIFTING, MAJOR SHIFTING, OF OPERATIONS WITHIN  
12 A FACILITY THAT COULD BE CONSIDERED TO ACTUALLY CREATE  
13 OR CAUSE A POTENTIAL LOCAL ADVERSE AIR IMPACT, ALTHOUGH  
14 THE TOTAL EMISSIONS WOULD STAY BELOW THE PAL LIMIT.

15 THOSE WERE THE GENERAL COMMENTS THAT WE WERE  
16 ABLE TO PULL OUT OF THE TESTIMONY YESTERDAY. AS I SAID,  
17 THE GENERAL CONCEPT IS THAT PAL'S ARE USEFUL. THE  
18 QUESTION WAS WHETHER THEY WERE NOW LIMITED BY THE AGENCY  
19 IN THE PROPOSAL IN A WAY THAT MAKES THEM LESS BENEFICIAL  
20 THAN SOME STATES AND SOURCES HAVE FOUND THEM TO BE IN  
21 THEIR DEVELOPMENT.

22 THERE WAS ALSO ONE OTHER QUESTION THAT'S  
23 SIMILAR, OR STATEMENT, SIMILAR TO THE ONE LYDIA ISSUED;

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1 AND THAT IS, THAT PALS CAN BE AND ARE BEING DEVELOPED  
2 AND NEGOTIATED TODAY AND THAT THE AGENCY SHOULD CLARIFY  
3 THAT THAT AUTHORITY EXISTS TODAY AND DOES NOT, UNDER THE  
4 LANGUAGE IN THE PACKAGE, SUGGEST THAT YOU COULD ONLY  
5 DEVELOP A PAL ONCE THE SIP HAS BEEN AMENDED.

6 DAVID, DO YOU HAVE ANY COMMENTS ON THE PAL  
7 CONCEPT?

8 **MR. SOLOMON:** AS YOU INDICATED, WE ARE  
9 IMPLEMENTING PAL'S TODAY. HOWEVER, WE ARE, TO SOME  
10 EXTENT, LIMITED IN OUR ABILITY TO IMPLEMENT PAL'S WITHIN  
11 THE CONSTRAINTS OF THE EXISTING REGULATIONS; FOR  
12 EXAMPLE, THE FIVE-YEAR CONTEMPORANEOUS PERIOD. MANY OF  
13 THE PAL'S WE SEE HAVE A LIMITED LIFE. THE TWO-YEAR  
14 ACTUAL EMISSION BASELINE IS SOMETHING THAT WE'RE  
15 ADHERING TO RIGHT NOW IN PAL'S, AND WHAT WE TRIED TO DO  
16 IN THE PACKAGE WAS TO EXPAND AND ACTUALLY BRING MORE  
17 FLEXIBILITY TO PAL'S.

18 AND YOU PROBABLY ALL NOTICED THAT THERE ARE  
19 QUITE A FEW QUESTIONS THAT WE RAISE WITHIN THE CONTEXT  
20 OF THE PAL APPROACH, SOME OF THOSE QUESTIONS SPEAKING TO  
21 THE ISSUES THAT WERE RAISED. FOR EXAMPLE, SHOULD PAL'S  
22 HAVE A LIMITED LIFE? DOES IT MAKE SENSE TO ISSUE A PAL  
23 THAT GOES ON *AD INFINITUM*, OR IS THERE A NEED AFTER A

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1 CERTAIN NUMBER OF YEARS TO REEVALUATE THE BASIS OF THE  
2 PAL BASED ON CERTAIN CHANGES. FOR EXAMPLE, IN A  
3 NONATTAINMENT AREA RACT REQUIREMENTS WOULD REDUCE  
4 EMISSIONS AT THE SOURCE. IF THOSE EMISSIONS ARE GIVEN  
5 OVER TO NEW UNITS UNDER A PAL, HAS THE AREA REALLY SEEN  
6 THE TYPE OF REDUCTIONS THAT IT EXPECTED UNDER THE  
7 APPLICATION OF RACT?

8 SO THE QUESTIONS WE'RE HEARING, I THINK, ARE  
9 THE KIND OF QUESTIONS THAT WE'VE RAISED, AND WE'D REALLY  
10 LIKE TO TURN IT OVER TO THE GROUP IN TERMS OF YOUR  
11 THINKING ON THOSE ISSUES.

12 **MR. RAHER:** OKAY, MIKE?

13 **MR. BARR:** WE CERTAINLY DO AGREE THAT THE  
14 PAL CONCEPT FITS WELL WITH THE OBJECTIVES OF THE  
15 SUBCOMMITTEE AND ESPECIALLY IN PROVIDING FOR CERTAINTY,  
16 MORE PREDICTABILITY FOR EVERYBODY. FROM A MANUFACTURING  
17 POINT OF VIEW -- THE ABILITY TO HANDLE NEW MARKETS, NEW  
18 PRODUCTS, NEW PROCESSES -- PAL'S SEEM IDEALLY SUITED FOR  
19 THAT PURPOSE AND REDUCING COST AND DELAY FOR THOSE  
20 INDUSTRIES AND STATES THAT WANT TO SERIOUSLY EXPLORE THE  
21 CONCEPT.

22 THE JULY PROPOSAL, IN FACT, WE THINK HAS A  
23 LOT OF MERIT, BUT IT DOES NEED SOME MORE FLEXIBILITY.

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1 IT DOES MAINTAIN THE CURRENT LEVEL OF PROTECTION, AND  
2 MAYBE TOO WELL. IT SHOULD ALLOW THE STATE TO SET THE  
3 BASELINE AT THE LEVEL REQUIRED BY ALL THE CURRENT  
4 REGULATIONS AND REQUIREMENTS AS LONG AS THE SOURCE  
5 REMAINS SUBJECT TO PAL ADJUSTMENT AS NEW RULES ARE  
6 ADOPTED.

7 THAT'S A VERY SIMPLE APPROACH THAT WOULD BE  
8 VERY PROTECTIVE FOR EVERYBODY AND WOULD AMPLY PROTECT  
9 THE PLAN, THE STATE, THE INDUSTRY, IF THE INDUSTRY CHOSE  
10 TO HAVE THAT TYPE OF -- TO SUBJECT ITSELF TO THAT TYPE  
11 OF CHANGE.

12 THE PROPOSAL SHOULD ALSO ALLOW A BASELINE OF  
13 MORE REPRESENTATIVE ACTUALS. WE TALKED ABOUT THAT  
14 BEFORE. AND SETTING A BASELINE OF MORE REPRESENTATIVE  
15 ACTUALS PLANT-WIDE AS IF THE ENTIRE PLANT WOULD BE  
16 UNDERGOING NEW SOURCE REVIEW, SUBJECT TO THE GENERAL  
17 BASELINE RULE -- EITHER THE CURRENT ONE OR, PREFERABLY,  
18 THE NEW ONE -- WOULD BE ANOTHER WAY TO SET THE LEVEL OF  
19 THE PAL.

20 THE SOURCE UNDER THOSE CIRCUMSTANCES, I  
21 THINK, WOULD STILL BE SUBJECT TO NEW RULES, BUT IT  
22 SHOULD DO SOME EVALUATION FIRST TO SEE IF IT'S ALREADY  
23 FULFILLING OR PARTLY COMPLYING WITH ANY NEW RULES AND

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1 MAYBE HAS EARNED -- BY TAKING THAT TYPE OF A SOURCEWIDE,  
2 MORE REPRESENTATIVE ACTUAL BASELINE, MAYBE A SOURCE HAS  
3 EARNED SOME RELIEF FOR THE PAL TERM, AND THERE SHOULD BE  
4 SOME DEFERRAL OF THE REQUIREMENTS UNTIL THE PAL IS  
5 RENEWED.

6 IF THE PAL LEVEL, ON THE OTHER HAND, IS SET  
7 AT RECENT BACT OR LAER OR AT SOME LEVEL OF SIGNIFICANT  
8 REDUCTION, ANYBODY WHO HAS THAT TYPE OF A PAL, I THINK,  
9 HAS EARNED A GREAT DEAL OF TIME IN PROTECTING AGAINST  
10 NEW RULES AND REGULATIONS. THE PROPOSED BASELINES IN  
11 THE JULY PROPOSAL ARE, THEREFORE, TOO RESTRICTIVE AND  
12 ARE LIKELY TO NEEDLESSLY LIMIT PALS, ESPECIALLY THOSE IN  
13 ATTAINMENT AREAS.

14 STATES LIKE OREGON, CALIFORNIA, AND TEXAS  
15 HAVE DESIGNED THEIR OWN RESPONSIBLE PAL PROGRAMS WHICH  
16 EPA SHOULD DEFINITELY LISTEN TO AND ACCOMMODATE. THOSE  
17 STATES THINK PAL'S ARE PROTECTIVE AND WORTHWHILE BASED  
18 ON REAL-WORLD EXPERIENCE.

19 YOU SHOULD ALLOW STATES, ALSO, TO REVIEW AND  
20 ADJUST PAL PROVISIONS OVER TIME. DON'T LEAVE THOSE  
21 TYPES OF ADJUSTMENTS TOTALLY OPEN-ENDED BECAUSE THERE  
22 REALLY WOULD BE FAR TOO MUCH RISK FOR ANYBODY TO  
23 PARTICIPATE IN THE PROGRAM.

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1                   STANDARDS LIKE THE APPROPRIATENESS OF THE  
2 LEVELS ON REVIEW ARE FAR TOO VAGUE. ASSESSING "AIR  
3 QUALITY CHANGES" MIGHT ALSO BE TOO VAGUE. THESE  
4 CONCERNS CAN AND SHOULD BE ADDRESSED UP FRONT IN THE PAL  
5 PERMIT WITH APPROPRIATE RANGES OF LIMITS RIGHT UP FRONT.  
6 THAT'S PART OF A GOOD, WELL-DESIGNED PAL PROGRAM AND A  
7 WELL-DESIGNED PAL PERMIT. ALL OF THIS SHOULD BE  
8 REVIEWED THOROUGHLY BY THE PUBLIC AND INDUSTRY WHEN A  
9 PAL PROGRAM IS SET UP AT A STATE LEVEL AND, IF  
10 NECESSARY, WHEN INDIVIDUAL PAL PERMITS ARE ISSUED AND  
11 RENEWED.

12                   AS EPA HAS RECOGNIZED, WE THINK PAL'S ARE  
13 EXCITING. THEY'RE AN INNOVATIVE OPTION. WE'VE ENDORSED  
14 THEM THROUGHOUT THE ENTIRE PROCESS. STATES AND  
15 COMPANIES ARE EXPERIMENTING. EPA IS ALLOWING SOME  
16 FLEXIBILITY. LET'S EXPAND THAT FLEXIBILITY, DO MORE  
17 EXPERIMENTS, AND GET MORE OF THE BENEFITS.

18                   **MS. WEGMAN:** CAN I JUST ASK ONE QUESTION?  
19 MIKE, WHAT DO YOU MEAN BY "MORE REPRESENTATIVE ACTUALS"?

20                   **MR. BARR:** THE SAME THING AS THE BASELINE  
21 PROPOSAL IS TALKING ABOUT, YOU KNOW. THE CURRENT  
22 BASELINE --

23                   **MS. WEGMAN:** OKAY.

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1                   **MR. BARR:** -- IS MORE REPRESENTATIVE --

2                   **MS. WEGMAN:** RIGHT.

3                   **MR. BARR:** -- WITHIN SOME TIME PERIOD.

4                   ACTUALLY, I DON'T THINK THERE IS A LIMIT ON FIVE YEARS,  
5                   AS I READ THE CURRENT REGULATIONS, BUT, OBVIOUSLY,  
6                   THERE'S A LOT OF DIFFERENT READINGS. WE'VE BEEN TALKING  
7                   IN THIS -- THE JULY PROPOSAL INCLUDES THE HIGHEST TWELVE  
8                   MONTHS OUT OF TEN YEARS. YESTERDAY AT THE PUBLIC  
9                   HEARING, I THINK IT WAS THE REPRESENTATIVE OF CHRYSLER  
10                  WHO SAID FROM AN OPERATING PERSPECTIVE THEY WOULD FEEL  
11                  MORE COMFORTABLE, AND IT WOULD BE MORE MANAGEABLE, IF IT  
12                  WAS THE HIGHEST TWELVE MONTHS OF EMISSIONS DURING A  
13                  TEN-YEAR PERIOD. THAT WAS MORE REPRESENTATIVE. AND SO  
14                  THAT'S SORT OF A COMBINATION OF THE CURRENT TEST AND THE  
15                  PROPOSED TEST.

16                  MAYBE ALL THOSE THINGS SHOULD BE ALLOWED  
17                  TO -- AS STATE OPTIONS. BUT WHATEVER OPTIONS ARE  
18                  AVAILABLE FOR UNIT-BY-UNIT OR SOURCE-BY-SOURCE NEW  
19                  SOURCE REVIEW FOR SELECTING THE BASELINE SHOULD ALSO BE  
20                  AVAILABLE TO STATES WHEN THEY SELECTED THIS LINE OF PAL  
21                  PROGRAM.

22                  **MS. WEGMAN:** THANKS.

23                  **MR. RAHER:** BERNIE PAUL?

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1                   **MR. BERNIE PAUL:** THIS IS BERNIE PAUL, FROM  
2 ELI LILLY.

3                   I'D LIKE TO ECHO BOTH MIKE'S SUPPORT AND  
4 CONCERNS ABOUT THE PAL PROGRAM. I'D LIKE TO RAISE A  
5 COUPLE OF QUESTIONS ABOUT HOW IT MIGHT WORK. FIRST OF  
6 ALL, DOES THE PAL HAVE TO BE A PLANTWIDE APPLICABLE  
7 LIMIT? CAN A SOURCE HAVE THIS TYPE OF EMISSION CAP  
8 APPLY ONLY TO A SPECIFIC AREA OF A PLANT SITE? IT MAY  
9 BE EASIER FOR A COMPANY TO MANAGE ITS OPERATIONS FOR A  
10 CERTAIN AREA AND NOT WANT TO INTERMINGLE DIFFERENT TYPES  
11 OF OPERATIONS WITHIN THAT SAME SOURCE.

12                  ANOTHER QUESTION I'D LIKE TO RAISE AS A  
13 FUTURE ISSUE FOR THE PAL PROGRAM IS WHETHER YOU COULD  
14 HAVE MULTIPLE CAPS AT A PLANT SITE, AGAIN TO ALLOW A  
15 SOURCE TO BETTER MANAGE ITS EMISSIONS, UNDER THE  
16 UMBRELLA OF A PAL OR SOMETHING LIKE THAT? I HAVEN'T  
17 THOUGHT TOO HARD ABOUT HOW TO WORK ALL THAT OUT, BUT IT  
18 SEEMS LIKE IT MAY BE EASIER FOR SOME COMPANIES TO MANAGE  
19 THEIR OPERATIONS THAT WAY.

20                  **MR. RAHER:** YEAH.

21                  **MR. SOLOMON:** I DON'T THINK THE AGENCY SEES  
22 THE NEED TO DIFFERENTIATE IN TERMS OF ONLY APPLYING A  
23 PAL ACROSS THE WHOLE FACILITY AS OPPOSED TO MULTIPLE

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1 UNITS. I THINK THE ISSUES ARE MORE BASELINE, THE  
2 ABILITY TO DEMONSTRATE COMPLIANCE, BUT THERE'S NOTHING  
3 THAT PRESCRIBES A PAL AS ONLY APPLICABLE ACROSS THE  
4 WHOLE SOURCE AS OPPOSED TO JUST THE POWERHOUSE OR ONE  
5 CHEMICAL PRODUCTION FACILITY, AND I COULD ENVISION  
6 DEFINITELY HAVING MULTIPLE PAL'S.

7 **MR. BERNIE PAUL:** THANK YOU.

8 **MR. RAHER:** MIKE, DID YOU HAVE SOMETHING TO  
9 STATE ON THIS ISSUE, OR IS IT ANOTHER ISSUE?

10 **MR. BARR:** JUST QUICKLY. IN EXPERIMENTING  
11 WITH PAL'S IN CALIFORNIA, WE'VE HAD THEM ON JUST LIKE A  
12 WHARF OR JUST A PARTICULAR MANUFACTURING FACILITY WHERE  
13 IT MAKES A LOT OF SENSE FROM A MONITORING POINT OF VIEW  
14 AND EFFICIENCY OF PLANT OPERATION TO LUMP THEM TOGETHER.  
15 SO THAT THERE COULD BE -- RATHER THAN HAVING FIFTY  
16 DIFFERENT OR A HUNDRED DIFFERENT UNITS, THERE COULD BE,  
17 IN EFFECT, HALF A DOZEN DIFFERENT PAL'S WITHIN A PLANT.

18 **MR. SOLOMON:** AND AS PART OF CERTAIN PAL  
19 PROJECTS, WE ARE ACTUALLY LOOKING AT IMPLEMENTING PAL'S  
20 AT JUST CERTAIN PORTIONS OF THE FACILITY; FOR EXAMPLE,  
21 POWERHOUSE.

22 **MR. RAHER:** JOHN BUNYAK?

23 **MR. BUNYAK:** JOHN BUNYAK, NATIONAL PARK

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1 SERVICE.

2 EPA ACKNOWLEDGES THAT CERTAIN CHANGES UNDER  
3 THE PAL CAN CHANGE A SOURCE'S IMPACT AREA AND MUST BE  
4 ASSESSED TO DEMONSTRATE PROTECTION OF THE STANDARDS, THE  
5 INCREMENTS, AND AIR QUALITY RELATED VALUES, BUT THERE'S  
6 REALLY NO MECHANISM FOR THE FEDERAL LAND MANAGER TO BE  
7 INVOLVED IN THAT DETERMINATION. I THINK THERE SHOULD BE  
8 SOME SPECIFIC FLM CONSULTATION PROVISIONS IN THE  
9 PROPOSAL THAT WOULD ALLOW THE FLM TO MAKE SOME  
10 ASSESSMENT ON AQRV'S.

11 **MR. RAHER:** OKAY.

12 DAVID HAWKINS?

13 **MR. HAWKINS:** YEAH. WELL, GENERALLY, I  
14 THINK THE CONCEPT OF A PAL, AS A CONCEPT, IS ATTRACTIVE  
15 AS A WAY OF REDUCING TRANSACTION COSTS, AND THE -- I  
16 THINK THE KEY ISSUES ARE DESIGN ISSUES IN TERMS OF WHAT  
17 DOES THE PAL PROVIDE FOR IN TERMS OF TOTAL EMISSIONS AND  
18 AIR QUALITY IMPACT PROTECTIONS.

19 THERE ARE JUST A COUPLE OF THINGS I WANTED  
20 TO MENTION. ONE THAT YOU SUMMARIZED, PAT, IN YOUR  
21 INTRODUCTION THAT I JUST WANT TO EXPAND UPON FOR A  
22 SECOND -- AND THAT IS THE ISSUE OF TERMINATION OR THE  
23 DURATION. I THINK THE WAY THE PAL CONCEPT WOULD

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1 OPERATE, DURING THE TERM OF A PAL THE FACILITY COULD  
2 UNDERTAKE ANY CONSTRUCTION PROJECTS IT WISHED --  
3 POSSIBLY SHORT OF INTRODUCING TOTALLY NEW UNITS, BUT  
4 POSSIBLY INCLUDING TOTALLY NEW UNITS -- AS LONG AS THE  
5 EMISSIONS STAYED WITHIN THE PAL LIMITS DURING THE TERM  
6 OF THE PAL.

7 THIS SCENARIO I THINK WE HAVE TO ADDRESS AS  
8 A DESIGN PROBLEM IS HOW DO YOU DEAL WITH A SITUATION  
9 WHERE A PAL IS CREATED FOR A FIVE-YEAR TERM, AND  
10 CONSTRUCTION ACTIVITY OCCURS, LET'S SAY, IN YEARS FOUR  
11 AND FIVE OF THAT TERM SO THAT MAJOR NEW PRODUCTION  
12 CAPACITY IS ALL READY TO RAMP UP JUST AS THE PAL IS  
13 EXPIRING.

14 SO IT'S EASY FOR THE FACILITY TO LIVE WITH  
15 THE PAL LIMITS DURING THAT FIVE-YEAR TERM BECAUSE THEY  
16 HAVEN'T REALLY THAT PRODUCTION CAPACITY TO FULL USE, BUT  
17 THE PAL THEN EXPIRES, AND ALL OF THIS ACTIVITY WHICH WAS  
18 CONSTRUCTED WITHOUT EITHER TECHNOLOGY OR AIR QUALITY  
19 REVIEW, BECAUSE OF THE PREDICATE THAT THERE WERE THESE  
20 PAL LIMITS THAT WERE GOING TO PROVIDE THE EQUIVALENT  
21 SAFEGUARDS -- ALL THIS CONSTRUCTION CAN NOW CONTINUE TO  
22 OPERATE WITHOUT THOSE PAL LIMITS IN PLACE UNDER THAT  
23 EXPIRATION SCENARIO.

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1                   AND THAT'S A DESIGN ISSUE THAT I THINK WE  
2                   HAVE TO DEAL WITH. BECAUSE IF WE DON'T DEAL WITH IT, I  
3                   THINK YOU COULD EASILY SEE THAT SCENARIO DEVELOPING.  
4                   IT'S A RATION -- IT WOULD BE A RATIONAL BUSINESS  
5                   PLANNING APPROACH TO GET STUFF IN THE GROUND AT A TIME  
6                   PAL REALLY DIDN'T IMPOSE ANY SIGNIFICANT CONSTRAINTS AND  
7                   WITH THE EXPIRATION THEN LIMITING ANY CONSTRAINTS IN THE  
8                   FUTURE.

9                   **MR. RAHER:** JOHN PAUL?

10                  **MR. HAWKINS:** I'M SORRY. JUST A --

11                  **MR. RAHER:** OH.

12                  **MR. HAWKINS:** -- ONE OTHER ITEM.

13                  **MIKE BARR** HAS MENTIONED THE STATE EXPERIENCE  
14                  WITH PAL'S, AND THERE'S BEEN REFERENCE TO SOME PAL'S  
15                  THAT HAVE BEEN ESTABLISHED WITH EPA AS WELL. I THINK IT  
16                  WOULD BE VERY HELPFUL IF THERE IS ANY KIND OF A  
17                  COMPENDIUM OF THOSE PAL'S THAT HAVE BEEN ESTABLISHED --  
18                  IT SURELY CAN'T BE THAT MANY -- TO GET SOME SORT OF A  
19                  DOCUMENT THAT SUMMARIZES THEIR FEATURES, THEIR  
20                  CHARACTERISTICS, AND ANY OPERATING EXPERIENCE THAT HAS  
21                  ACTUALLY OCCURRED WITH RESPECT TO THEM.

22                  I, YOU KNOW, TAKE MIKE'S COMMENT THAT THE  
23                  STATES THAT HAVE THESE HAVE EXPERIENCE THAT SATISFIES

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1 THEM THAT THEY, INDEED, PROTECT THE ENVIRONMENT, AND IT  
2 WOULD BE USEFUL TO GET A SUMMARY OF WHAT THAT EXPERIENCE  
3 IS.

4 **MR. RAHER:** ACTUALLY, THERE IS AN ARTICLE  
5 THAT'S BEING PUBLISHED VERY SHORTLY IN ONE OF THE AIR  
6 QUALITY PERIODICALS -- AND WE'LL TRY TO FIND THE  
7 NAME -- WHICH DOES ACTUALLY SUMMARIZE THEM, AND WE CAN  
8 GET THAT AND LET EVERYBODY KNOW THAT A LITTLE LATER.

9 JOHN?

10 **MR. DANIEL:** I'M JOHN DANIEL, FROM VIRGINIA.

11 VIRGINIA IS VERY SUPPORTIVE OF THE PAL  
12 CONCEPT. IN FACT, WE'RE GOING THROUGH A MINOR NEW  
13 SOURCE REVIEW REGULATION CHANGE NOW THAT WILL ALLOW THIS  
14 CONCEPT, AND WE'RE DOING IT FOR A COUPLE OF REASONS.  
15 ONE, WE THINK IT WOULD GIVE THE SOURCES GREATER  
16 OPPORTUNITIES TO RESPOND TO CHANGING MARKET CONDITIONS  
17 WHERE THEY NEED TO DO SOMETHING DIFFERENT SO THEY CAN  
18 TAKE ADVANTAGE OF SOMETHING THAT'S OUT THERE.

19 BUT SECOND, AND PROBABLY PRIMARY IN OUR  
20 MIND, IS IT'S GOING TO TAKE SOME OF THE WORKLOAD OFF AN  
21 OVERWORKED PERMITTING STAFF SO THAT WE DON'T HAVE TO  
22 PERMIT VERY LITTLE PIDDLING CHANGE THAT COMES ALONG IF  
23 IT DOESN'T EXCEED THE PAL. SO WE'RE EXCITED ABOUT THIS

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1 CONCEPT AND LOOKING FORWARD TO HAVING IT IN THE PSD  
2 REGULATION AS WELL.

3 **MR. RAHER:** GOOD.

4 CHUCK?

5 **MR. KNAUSS:** FIRST, I WANT TO SUPPORT THE  
6 PREPARED REMARKS OF MIKE BARR. HE REALLY HIT MOST OF  
7 THE KEY ISSUES.

8 **MR. BARR:** THAT WAS PURELY CONTEMPORANEOUS.  
9 EXTEMPORANEOUS, SORRY.

10 **MR. KNAUSS:** I THINK SEVERAL OTHER POINTS,  
11 POINTS RAISED BY OTHERS, MERIT NOTING. I THINK, FIRST,  
12 THAT, YOU KNOW, PAL'S AND CAPS CAN BE DONE TODAY AND ARE  
13 BEING DONE UNDER THE CURRENT REGS. IN ADDITION, THE  
14 BASELINE I THINK WE SHOULD BE LOOKING AT -- UNDER  
15 CURRENT REGS THE BASELINE NEED NOT BE THE LAST TWO  
16 YEARS. IT CAN BE A REPRESENTATIVE PERIOD, AND I GUESS  
17 I'M PUZZLED WHY THE AGENCY FEELS CONSTRAINED RIGHT NOW  
18 TO BE LOOKING AT CURRENT ACTUALS AS THE PAST TWO YEARS  
19 GIVEN WHAT THE REGULATION SAID. AND IF I HEARD THAT,  
20 THEN I'VE MISINTERPRETED WHAT YOU SAID.

21 **MR. RAHER:** DAVID, DO YOU WANT TO JUST  
22 RESPOND?

23 **MR. SOLOMON:** YEAH. WE'RE WORKING WITHIN

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1 THE FRAMEWORK OF THE EXISTING REGULATIONS, WHICH IS THE  
2 LAST TWO YEARS OR ANOTHER REPRESENTATIVE PERIOD --

3 **MR. KNAUSS:** OKAY.

4 **MR. SOLOMON:** -- OF TIME, BUT IT'S STILL THE  
5 ACTUAL BASELINE AS DEFINED IN THE REGULATIONS WITH THE  
6 AMBIGUITY OF WHAT IS ANOTHER REPRESENTATIVE --

7 **MR. KNAUSS:** REPRESENTATIVE PERIOD.

8 **MR. SOLOMON:** -- MORE REPRESENTATIVE PERIOD.

9 **MR. KNAUSS:** RIGHT.

10 **MR. SOLOMON:** RIGHT.

11 **MR. KNAUSS:** I THINK WITH RESPECT TO -- AND  
12 THE OTHER -- THE OTHER POINT THAT I HEARD WAS THAT IT  
13 CAN BE LIKE UNITS, BUT NEED NOT BE THE ENTIRE FACILITY,  
14 AND I THINK THAT'S AN IMPORTANT POINT.

15 WITH RESPECT TO DAVID'S QUESTION ABOUT WHAT  
16 HAPPENS IN THE LAST TWO YEARS, I GUESS I DON'T  
17 UNDERSTAND THE LAST TWO YEARS CAP. THE PAL'S NEED NOT  
18 HAVE A TIME LIMIT, AND IF THERE WERE A TIME LIMIT, YOU  
19 WOULD BE LOOKING BACK BASELINE IN THE SAME WAY --  
20 HOWEVER IT ENDS UP BEING CALCULATED, ACCORDING TO THE  
21 CURRENT REGS OR ACCORDING TO REVISED REGS -- FOR  
22 DETERMINING WHAT THE NEW ONE MIGHT BE. BUT THERE IS NO  
23 FIVE YEARS, NEED NOT BE A FIVE-YEAR LIMIT.

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I GUESS THAT'S SOMETHING --

**MR. HAWKINS:** CAN I JUST ENGAGE (SIC) ON  
THAT A LITTLE?

**MR. RAHER:** SURE. GO AHEAD.

**MR. HAWKINS:** I DIDN'T SAY THERE WAS A  
FIVE-YEAR LIMIT IN THE RULES, BUT THERE IS NO -- THERE  
IS NO DESIGN SPEC WITH RESPECT TO DURATION. IN THE  
ABSENCE OF A DESIGN SPEC, THERE WOULDN'T BE ANYTHING TO  
PREVENT THE CREATION OF PAL'S FOR A LIMITED TERM THAT  
WOULD EFFECTIVELY ALLOW THE CONSTRUCTION OF MAJOR NEW  
CAPACITY THAT WOULD NOT EMIT AT ANYTHING RESEMBLING ITS  
POTENTIAL OR ITS FUTURE ACTUAL EMISSIONS DURING THE TERM  
OF THE PAL, BUT WOULD SHORTLY AFTER THE TERMINATION OF  
SUCH A PAL BE IN A POSITION TO EMIT IN AMOUNTS MUCH  
GREATER THAN THE AMOUNT THAT WAS CONTEMPLATED UNDER THE  
PAL. THAT'S THE DESIGN ISSUE THAT I THINK WE NEED TO  
ADDRESS.

**MR. RAHER:** DAVID, MAYBE WE SHOULD ASK THE  
AGENCY AS TO WHETHER OR NOT THEY ENVISION A PAL  
TERMINATING; OR IF IT TERMINATED, WHAT WOULD HAPPEN WITH  
RESPECT TO THOSE KINDS OF CONSTRUCTION ACTIVITIES,  
BECAUSE IT'S PROBABLY AN ISSUE THAT SHOULD BE ADDRESSED.

**MR. SOLOMON:** YEAH. TO ADDRESS

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1 DAVID HAWKINS' CONCERN, I MEAN, WITHIN THE PAL STRUCTURE  
2 WE WOULD ASSUME THAT THE LIMITATIONS THAT APPLIED IN  
3 ORDER FOR THAT NEW UNIT TO BE BUILT IN TERMS OF THE  
4 EMISSIONS ALLOCATION TO THAT UNIT AND OTHER UNITS WOULD  
5 STILL BE BINDING. THE SOURCE WOULD NOT HAVE THE  
6 FLEXIBILITY UNDER THAT ALLOCATION TO MAKE CHANGES ANY  
7 MORE, BUT THAT WAS A CONDITION OF CONSTRUCTION.

8 SO IF THE SOURCE WAS ALLOCATED 500 TONS FOR  
9 UNITS A, B, AND C AND BROUGHT UNIT D WITHIN THAT  
10 500 TONS, WE WOULD ENVISION THAT LIMIT AS STILL APPLYING  
11 AS A TERM OF THE CONDITION OF CONSTRUCTION. BUT IF THE  
12 PAL EXPIRED, IT WOULD EXPIRE AS AN APPLICABILITY TEST,  
13 NOT AS AN EMISSION LIMITATION ON THAT NEW UNIT AND THE  
14 UNITS UNDER THE PAL.

15 **MR. RAHER:** THAT JUST SEEMED TO MAKE SOME  
16 CARDS GO DOWN.

17 **MR. SOLOMON:** PAT?

18 **MR. BARR:** PAT, THAT'S BEEN OUR EXPERIENCE,  
19 TOO, THAT THERE -- THE LIMITS REALLY SERVE TWO  
20 FUNCTIONS. ONE IS ENFORCEMENT, AND THE OTHER IS  
21 APPLICABILITY, AND THE ENFORCEABLE LIMITS OUGHT TO  
22 CONTINUE. IT IS A DESIGN FEATURE FOR THE PROGRAM. IT'S  
23 AN IMPORTANT ONE THAT SHOULD BE CONSIDERED, I THINK, BY

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1 EPA. AND IF EPA COULD LEAVE AS MUCH FLEXIBILITY UP TO  
2 THE STATES AS POSSIBLE, THAT WOULD BE GREATLY  
3 APPRECIATED.

4 THERE ARE POWERFUL REASONS, I THINK, FOR  
5 SOURCES WHO CHOOSE A PAL TO KEEP PAL AND NOT GET OUT OF  
6 THE PAL, BUT IT IS AN IMPORTANT POINT.

7 **MR. RAHER:** JOHN, DO YOU HAVE A COMMENT ON  
8 THIS PARTICULAR --

9 **MR. TROUT:** YEAH. I THINK THIS GOES BACK TO  
10 THE ONE -- STAPPA AND ALAPCO PRINCIPLES, THAT THE  
11 CHEAPEST AND BEST TIME TO CONTROL A NEW SOURCE IS THE  
12 TIME THAT IT'S INSTALLED. AND THE ISSUE HERE, I THINK,  
13 IS IF A PIECE OF EQUIPMENT IS INSTALLED WITHOUT GOOD  
14 CONTROLS -- AND LATER BECAUSE THERE WANTS TO BE AN  
15 INCREASE, WE GO BACK AND LOOK AT IT -- NOW THERE HAS  
16 BEEN A CERTAIN AMOUNT OF MONEY THAT WAS SPENT TO PUT  
17 THAT IN, AND IT WILL BE MUCH EXPENSIVE TO RETROFIT WITH  
18 GOOD CONTROLS.

19 EVEN IF THAT IS SUBJECT TO A REVIEW, THE  
20 ECONOMICS OF PLAYING INTO THE PROBLEM THAT IT'S CHEAPER  
21 TO DESIGN INTO A NEW SOURCE GOOD CONTROLS THAN IT IS  
22 RETROFIT. SO I THINK ONE OF THE ISSUES THAT  
23 DAVID HAWKINS IS REALLY ADDRESSING HERE IS THAT IF A

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1       PIECE OF EQUIPMENT IS INSTALLED, THE ECONOMICS CHANGE AS  
2       TO WHAT WOULD BE REQUIRED IF THEY WERE TO INCREASE TO  
3       THEIR FULL POTENTIAL.

4                   **MR. RAHER:**   BILL?

5                   **MR. PEDERSEN:**  YEAH, JUST A THOUGHT ON  
6       POSSIBLE -- POSSIBLE SIMPLIFICATION OF ALL THE CONCEPTS  
7       IN THIS APPLICABILITY PART OF THE PACKAGE.  WHEN YOU  
8       LOOK AT THE CLEAN UNIT EXCLUSION, AND YOU LOOK AT THE  
9       PAL, THEY'RE REALLY TWO SUGGESTIONS WITH SIMILAR  
10      RESULTS, AND THE RESULT IS SOME TYPE OF AN  
11      ALLOWABLE-TO-ALLOWABLE ACCOUNTING SYSTEM.

12                   I THINK -- I THINK IT WOULD BE WORTH DOING  
13      TO SEE IF YOU COULD RESTATE A CLEAN UNIT AS A TYPE OF A  
14      PAL, AND IT SEEMS -- IT SEEMS TO BE LOGICAL, AND I THINK  
15      IT MIGHT BE A WAY OF STRIPPING OUT SOME OF WHAT I'D  
16      CERTAINLY AGREE IS THE EXCESS COMPLEXITY OUT THE CLEAN  
17      UNIT APPROACH.  I HAVEN'T TRIED TO DO IT, BUT I'M -- I  
18      CERTAINLY PLAN TO THINK ABOUT IT SOME MORE.

19                   **MR. RAHER:**  MIKE, DO YOU HAVE ANOTHER --

20                   **MR. BARR:**  JUST A RESPONSE.  I THINK THAT'S  
21      AN EXCELLENT IDEA.  I THINK THAT'S EXACTLY WHAT THE  
22      CLEAN UNIT IS, IS A TYPE OF A PAL UNDER CERTAIN  
23      CIRCUMSTANCES THAT, AS EARNED, MAY BE MORE TIME

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1 PROTECTION BY BEING A CLEAN UNIT.

2 ON THE ISSUE OF THE APPROPRIATE TIME FOR NEW  
3 SOURCE REVIEW: WHEN AN ENTIRE PLANT HAS JUST GONE  
4 THROUGH NEW SOURCE REVIEW, IT'S INCREDIBLY WASTEFUL AND  
5 DELAYING TO EVERYBODY, INCLUDING THE AGENCY, TO REQUIRE  
6 THE LOOK AT THAT TECHNOLOGY OVER AND OVER AND OVER AND  
7 OVER AGAIN. AND SO THAT GENERAL PRINCIPLE IS  
8 UNDERSTANDABLE, BUT IT'S NOT NECESSARILY CORRECT.

9 **MR. RAHER:** OKAY. I THINK WE'VE HAD A GOOD  
10 DISCUSSION ON PAL'S. WE'VE HAD SOME CLARIFICATION AND  
11 SOME OF THE ISSUES RAISED. ARE THERE ANY OTHER COMMENTS  
12 ON THE PAL CONCEPT?

13 ALL RIGHT, WE'VE GOT A COUPLE MORE POINTS ON  
14 APPLICABILITY, BUT I THINK EVERYBODY NEEDS TO GET UP AND  
15 GET SOME BLOOD FLOWING. AND SO WHY DON'T WE RECONVENE  
16 IN TEN MINUTES, WHICH WOULD BE 11:05, AND THEN WE'LL TRY  
17 TO FINISH THIS UP AND MOVE INTO THE NEXT AREA.

18 (10:56 A.M. RECESS 11:19 A.M.)

19 **MR. RAHER:** ALL RIGHT. WE LEFT OFF TALKING  
20 ABOUT SOME OF THE ISSUES DEALING WITH APPLICABILITY, AND  
21 THERE ARE TWO APPLICABILITY ISSUES LEFT THAT WE STILL  
22 NEED TO ADDRESS AS SOON AS MR. BECKER SITS DOWN. THERE  
23 ARE SO MANY MEMBERS AROUND THE TABLE THAT HE CAN'T EVEN

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1 MAKE IT TO HIS SEAT.

2 **MR. BECKER:** I'M THE ONLY ONE THAT'S NOT  
3 HERE.

4 **MR. RAHER:** THAT'S RIGHT. YOU'RE THE ONLY  
5 ONE THAT'S HOLDING IT UP.

6 LET'S GO NOW TO THE ISSUE OF POLLUTION  
7 CONTROL PROJECTS. ONCE AGAIN, JUST FOR THE BENEFIT OF  
8 YOUR BACKGROUND, REMEMBER THAT THE AGENCY HAS PROPOSED A  
9 GENERAL EXCLUSION BASICALLY FOR ADD-ON CONTROLS, FUEL  
10 SWITCHES TO CLEANER FUELS, AND POLLUTION PREVENTION  
11 PROJECTS.

12 THE COMMENTS THAT WERE RECEIVED YESTERDAY --  
13 AGAIN NOT EXTENSIVE, BUT I THINK IMPORTANT AND ONES THAT  
14 I THINK THE COMMITTEE SHOULD ADDRESS -- IS, FIRST OF  
15 ALL, THERE WERE THE STATES SUGGESTING AGAIN THAT THIS  
16 MIGHT BE TOO MUCH OF A BURDEN IN TERMS OF THE REVIEW ON  
17 IT, ALTHOUGH I THINK THAT WAS LESS CRITICAL THAN ON THE  
18 OTHER ISSUES BECAUSE, OBVIOUSLY, POLLUTION CONTROL  
19 PROJECTS ARE ONES THAT THEY ARE WELCOMING AND LOOKING  
20 AT.

21 SOME INDIVIDUALS THOUGHT THAT, AND CONCERNS,  
22 THOUGHT THAT THE DEFINITION OF THE PCP WAS TOO NARROW.  
23 THEY WANTED IT TO COVER THE INSTALLATION OF -- OR

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1 SUGGESTED THAT THE AGENCY AND THE FACA CONSIDER ACTUALLY  
2 COVERAGE OF NEW UNITS, THE ACTUAL CHANGES REQUIRED BY  
3 STATE AND LOCAL REQUIREMENTS THAT MAY BE DESIGNED TO  
4 REDUCE POLLUTION, PROGRAMS SUCH AS EPA'S 33/50 PROGRAM.  
5 AND ONE OR MORE MEMBERS SUGGESTED THAT EVEN CROSS-MEDIA  
6 PROGRAMS, SUCH AS WATER POLLUTION PROJECTS, SHOULD BE  
7 CONSIDERED FOR PURPOSES OF POLLUTION CONTROL PROJECTS.

8 OTHER COMMENTS WERE THAT THE POLLUTION  
9 CONTROL PROJECT ANALYSIS -- WITHOUT THOSE ADDITIONS --  
10 REALLY IS EXTREMELY COMPLEX AND DIFFICULT TO EXPLAIN,  
11 LET ALONE ADMINISTER. THE EXAMPLE WAS TO REFERENCE THE  
12 AGENCY'S DISCUSSION OF ERC'S AND THE RELATIONSHIP OF  
13 THAT TO THE OVERALL PCP PROGRAM, AND YOU CAN -- THE  
14 SUGGESTION WAS DEMONSTRATES THE COMPLEXITY, AND THAT  
15 THERE SHOULD BE EITHER SOME WAY TO ADDRESS THAT ISSUE OR  
16 EVEN POSSIBLY ELIMINATE THE POLLUTION CONTROL PROJECT.

17 AND THEN THE NEXT QUESTION WAS WHETHER OR  
18 NOT POLLUTION CONTROL PROJECTS, AS DEFINED, COULD  
19 ACTUALLY LEAD TO EMISSIONS INCREASES AS OPPOSED TO  
20 DECREASES.

21 DAVID, AGAIN WE TURN TO YOU TO GIVE US A  
22 LITTLE BIT OF BACKGROUND: THE THOUGHT PROCESS THAT THE  
23 AGENCY HAD IN TRYING TO GENERATE WHICH -- AN OPTION

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1 WHICH CLEARLY BY ITS NAME IS ONE THAT THIS FACA AND MANY  
2 OF THE PEOPLE ON IT WOULD SUPPORT; THAT IS, DOING  
3 SOMETHING TO IMPROVE POLLUTION CONTROL PROJECTS.

4 **MR. SOLOMON:** AS YOU'RE AWARE, WE CURRENTLY  
5 HAVE A POLICY MEMO OUT WHICH EXCLUDES OR ALLOWS FOR THE  
6 EXCLUSION, WITH CERTAIN SAFEGUARDS, OF POLLUTION CONTROL  
7 PROJECTS. WE ALSO HAVE THE *WEPCO* RULEMAKING, WHICH  
8 EXCLUDES CERTAIN TYPE OF ACTIVITIES AS POLLUTION CONTROL  
9 PROJECTS AT UTILITIES. AND WHAT WE DID WAS TO BUILD  
10 UPON THOSE TWO EXCLUSIONS TO COME UP WITH AN EXCLUSION  
11 THAT WOULD APPLY ACROSS THE BOARD -- BASICALLY TO ALL  
12 FACILITIES -- TRYING TO PROVIDE AS MUCH OF A STREAMLINED  
13 AND SIMPLIFIED EXCLUSION AS WE CAN, AND, ESSENTIALLY, WE  
14 THINK WE'VE DONE THAT.

15 TO THE EXTENT THAT THE PROJECT QUALIFIES  
16 UNDER THE DEFINITION OF POLLUTION CONTROL PROJECT, IT IS  
17 EXCLUDED UNLESS IT'S DETERMINED THAT THERE WILL BE AN  
18 INCREASE IN EMISSIONS. THE WAY THE EMISSIONS INCREASE  
19 IS DETERMINED IS ESSENTIALLY AN ACTUAL-TO-ACTUAL TYPE OF  
20 TEST. SO IF THE UNIT IS NOT GOING TO BE OPERATED ANY  
21 DIFFERENTLY AFTER THE APPLICATION OF THE CONTROL DEVICE,  
22 THERE IS NO ASSESSMENT OF AN EMISSIONS INCREASE. AND,  
23 AGAIN, ONLY IF THE EMISSIONS WILL INCREASE ACTUALLY AND

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1 ONLY IF THAT INCREASE -- IF THERE'S A CONCERN ON THE  
2 STATE'S PART THAT THAT WOULD CAUSE OR CONTRIBUTE TO AN  
3 VIOLATION WOULD THE PROJECT NOT BE ALLOWED TO GO AHEAD.

4 **MR. RAHER:** ISSUES WITH RESPECT TO THAT?  
5 ICLAL?

6 **MS. ATAY:** WE IN THE STATE OF NEW JERSEY --

7 **MR. RAHER:** ICLAL, COULD YOU JUST --

8 **MS. ATAY:** OKAY.

9 **MR. RAHER:** -- IDENTIFY YOURSELF --

10 **MS. ATAY:** THANK YOU.

11 **MR. RAHER:** -- FOR THE RECORD?

12 **MS. ATAY:** ICLAL ATAY, NEW JERSEY DEPARTMENT  
13 OF ENVIRONMENTAL PROTECTION.

14 WE IN NEW JERSEY HAVE USED THE POLLUTION  
15 CONTROL PROJECT GUIDANCE OF EPA IN ISSUING NO<sub>x</sub> RACT  
16 COMPLIANCE PLANS, AND IT HAS WORKED WELL BECAUSE WE HAD  
17 COME OUT WITH REGULATIONS THAT MANDATED PEOPLE TO  
18 INSTALL CONTROL TECHNOLOGY TO REDUCE THEIR NITROGEN  
19 OXIDES EMISSIONS. THE SAME CONTROL TECHNOLOGY CAUSED AN  
20 INCREASE IN CARBON MONOXIDE EMISSIONS.

21 SINCE WE WERE IN AN ATTAINMENT AREA FOR  
22 CARBON MONOXIDE AND A SEVERE NONATTAINMENT AREA FOR NO<sub>x</sub>,  
23 THAT WAS A GOOD PROVISION, AND IT HELPED US IMPLEMENT

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1 RULES AND NOT SUBJECT THE FACILITY TO PSD REVIEW FOR  
2 SOMETHING WE HAD MANDATED TO THEM TO INSTALL.

3           HOWEVER, I HAVE CONCERN WITH THE EXPANDED  
4 USE OF THE POLLUTION CONTROL PROJECT. WE HAD PEOPLE  
5 APPROACH NEW JERSEY, AND THEY WANTED TO INSTALL A NEW  
6 POWER PLANT. THE NEW POWER PLANT WOULD CAUSE THEIR  
7 EMISSIONS OF NO<sub>x</sub> TO GO FROM 1,000 TONS TO 500 TONS, AND  
8 THEY WANTED TO EMPLOY A TECHNOLOGY THAT WOULD ACHIEVE  
9 THE 500 TONS PER YEAR EMISSIONS.

10           HOWEVER, FOR THE LAST TEN YEARS WE HAD ASKED  
11 ALL OF THE FACILITIES THAT INSTALLED SIMILAR POWER  
12 PLANTS TO INSTALL A TECHNOLOGY THAT WOULD ACHIEVE ONLY  
13 100 TONS PER YEAR OF EMISSIONS, AND THE COST BETWEEN THE  
14 100 TONS PER YEAR FACILITY AND THE 500 TONS PER YEAR  
15 FACILITY WAS ONLY MINIMAL. AND FOR THIS FACILITY TO ASK  
16 TO BE EXCLUDED -- SAYING THEY ARE GOING TO HAVE 500 TONS  
17 PER REDUCTION IN THE POLLUTION CONTROL PROJECT, AND  
18 WE'RE REPLACING OUR POWERHOUSE; THEREFORE, WE SHOULD BE  
19 EXCLUDED -- WAS NOT JUSTIFIED IN OUR CASE.

20           IF EVERYBODY ELSE CAN INSTALL -- THERE'S A  
21 MINIMAL COST DIFFERENCE; THE TECHNOLOGY IS AVAILABLE  
22 READILY -- WHY SHOULDN'T THEY INSTALL THE TECHNOLOGY  
23 THAT ONLY ACHIEVES 100 TONS PER YEAR?

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1                   **MR. RAHER:** ICLAL, LET ME CLARIFY ONE THING,  
2 IF I COULD. OBVIOUSLY, THAT EXAMPLE, WHICH IS A GOOD  
3 EXAMPLE, WAS NOT NEARLY ADD-ON CONTROL, AND IT CERTAINLY  
4 WASN'T A FUEL SWITCH WHICH THE AGENCY SAID IT'S -- YOU  
5 KNOW, THEY WOULD CONSIDER AS POLLUTION CONTROL PROJECTS.  
6 YOU WOULD PUT THAT THEN IN THE CLASSIFICATION SOMEBODY  
7 WOULD BE ASKING FOR THAT AS A POLLUTION PREVENTION  
8 PROJECT, AND YOU THINK THAT THAT'S AN AREAS THAT NEEDS  
9 TO BE ADDRESSED BECAUSE OF YOUR EXAMPLE. CORRECT?

10                   **MS. ATAY:** CORRECT.

11                   **MR. RAHER:** ALL RIGHT. GOOD. GOOD POINT.

12                   ANY OTHER COMMENTS ON THE PCP ANALYSIS OR  
13 ISSUES AS THEY WERE DISCUSSED? NO COMMENTS? OKAY.

14                   I THINK WITH RESPECT TO APPLICABILITY NOW,  
15 I'D LIKE TO ASK ANYBODY WHO HAS LOOKED AT THE PACKAGE,  
16 ADDRESSED ISSUES, ET CETERA, TO RAISE ANY ADDITIONAL  
17 ISSUES WITH RESPECT TO APPLICABILITY. THERE WAS ONE  
18 ADDITIONAL COMMENT -- NOT LISTED IN THE PACKAGE AS SUCH  
19 AS A PROPOSED REGULATION, BUT MORE AS A QUESTION -- THAT  
20 WAS RAISED AT YESTERDAY'S HEARING THAT I WILL START OFF  
21 THIS ANALYSIS WITH; AND THAT IS, WHETHER THE PACKAGE  
22 SHOULD ALSO INCLUDE FROM AN APPLICABILITY STANDPOINT THE  
23 QUESTION OF ALLOWING PRE-PERMIT CONSTRUCTION.

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1 I KNOW THAT WE HAD SEVERAL DISCUSSIONS AND  
2 ANALYSES THROUGHOUT THE PROJECT -- THROUGHOUT THIS  
3 FACA -- AS TO THAT, AND THIS WAS RAISED AGAIN YESTERDAY  
4 AT THE HEARING AND WAS BROKEN DOWN REALLY INTO TWO  
5 CATEGORIES. THE FIRST ONE WAS WITH RESPECT TO EXISTING  
6 SOURCES TO ALLOW MODIFICATIONS AND ADDRESSES ONCE THE  
7 PERMIT APPLICATION WAS FILED AND COMPLETE, DEEMED  
8 COMPLETE -- ALLOW THOSE TO BE CONSTRUCTED AT THE OWNER'S  
9 RISK AND ALSO EVEN TESTING OF THOSE MODIFICATIONS SO  
10 LONG AS THERE ARE NO VIOLATIONS OF EXISTING EMISSION  
11 LIMITS. WITH RESPECT TO A GREENFIELD SOURCE, IT WAS  
12 MORE IN THE LINE OF KEEPING THE EXISTING RULES WITH  
13 RESPECT TO CLEARING AND FOUNDATIONS.

14 THE ISSUE WAS RAISED WITH RESPECT TO THAT  
15 QUESTION AS TO WHETHER OR NOT THERE WOULD BE TOO MUCH  
16 PRESSURE PLACED ON STATES BECAUSE OF THE FACT THAT THE  
17 INVESTMENT HAD ALREADY BEEN MADE, ALTHOUGH OBVIOUSLY  
18 THERE ARE OTHER PERMIT- OR CERTIFICATE-TYPE PROGRAMS IN  
19 WHICH CONSTRUCTION IS ALLOWED IN THE MOBILE SOURCE AREA  
20 UNDER EPA'S REGULATION THAT DOESN'T MANDATE THAT THE  
21 AGENCY GRANT THE CERTIFICATE JUST BECAUSE THE CARS HAVE  
22 BEEN BUILT.

23 AND THERE WAS ALSO SOME SUGGESTION THAT, IN

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1 FACT, THERE MAY BE TOO MUCH PRESSURE ON THE SOURCE.  
2 BECAUSE ONCE YOU'VE MADE THE INVESTMENT, AND YOU HAVE  
3 EVERYTHING IN PLACE, BASICALLY WHATEVER THE PUBLIC OR  
4 THE PERMITTING AUTHORITY WOULD WANT YOU WOULD AGREE TO  
5 BECAUSE YOU HAD YOUR CAPITAL INVESTMENT ALREADY SUNK.

6 SO THOSE -- THAT WAS AN ISSUE WITH RESPECT  
7 TO APPLICABILITY THAT WAS NOT IDENTIFIED AS SUCH IN OUR  
8 PACKAGE THAT WE GOT BUT THAT WAS BROUGHT UP AT THE  
9 HEARING. ARE THERE ANY COMMENTS ON THAT?

10 BILL?

11 **MR. BUMPERS:** ACTUALLY, QUITE BRIEF. IT  
12 SOUNDS TO ME -- WELL, NUMBER ONE, I THINK FOR EXISTING  
13 SOURCES, GIVING OWNERS THE ABILITY TO MOVE FORWARD WITH  
14 THE PROJECTS AT THEIR OWN RISK IS AN EXCELLENT IDEA. IT  
15 IS MY EXPERIENCE WITH THE MODIFICATIONS ARE THAT SOURCES  
16 ARE ON A FAIRLY SHORT TIME LINE. THEY USUALLY WANT TO  
17 MAKE CHANGES BECAUSE THERE IS SOMETHING WRONG WITH THEIR  
18 FACILITY, AND IN THE END YOU KNOW WITH RELATIVE  
19 CERTAINTY WHERE YOU'RE GOING TO END UP. THERE'S NOT  
20 THAT MUCH QUESTION ABOUT WHAT IS GOING TO APPLY TO YOU.

21 THAT HAVING BEEN SAID, IT SOUNDS TO ME THAT  
22 THE CONCERNS OFFERED SORT OF ARE A GOOD BALANCE, AND  
23 THAT IS RISK ON BOTH SIDES: RISK THAT YOU'RE GOING TO

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1 BE SUBJECT TO PRESSURE IF YOU DO IT, AFTER YOU'VE MADE  
2 THE INVESTMENT, TO GO AHEAD AND PUT IN A RETROFIT VERSUS  
3 RISK ON THE OTHER SIDE THAT ECONOMIC FORCES WILL TELL  
4 THE STATE NOT TO DO ANYTHING MORE. IT LOOKS LIKE A GOOD  
5 BALANCE TO STRIKE.

6 MR. RAHER: WELL, WE'LL TALK ABOUT THAT  
7 BALANCE.

8 JOHN?

9 MR. JOHN PAUL: STAPPA AND ALAPCO WILL HAVE  
10 MORE DETAILED COMMENTS IN OUR WRITTEN COMMENTS. WE HAVE  
11 SOME -- HAD SOME OF OUR MEMBERS -- AND AS YOU CAN  
12 IMAGINE, THEY'RE IN THE NORTHERN PART OF THE COUNTRY --  
13 WHO BELIEVE THAT IT IS IMPORTANT BECAUSE THE  
14 CONSTRUCTION SEASON IS NOT NEAR AS LONG UP IN MINNESOTA  
15 AS IT IS IN FLORIDA, FOR EXAMPLE. SO WE ARE GOING TO  
16 ADDRESS THIS ISSUE.

17 I KNOW IN A FORMER LIFETIME, WHEN I WAS IN  
18 ONE OF THOSE NORTHERN CLIMATES, WE DID HAVE A WAIVER  
19 PROVISION -- NOT FOR PSD PERMITS BECAUSE THAT WAS  
20 CLEARLY NOT ALLOWED, BUT IN OFFSET PERMIT SITUATIONS.  
21 AND CAREFULLY CRAFTED WAIVERS DO WORK, AND IT'S  
22 IMPORTANT THAT THE INDUSTRY NOT THEN HAVE ANY RIGHTS  
23 GIVEN TO IT BECAUSE THEY SPENT MONEY DOING THINGS.

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1                   AND WE ALWAYS GET INTO, YEAH, WE ALL SAY  
2                   THAT IT'S GOING TO COUNT THAT YOU'VE ALREADY SPENT SOME  
3                   MONEY, BUT, AGAIN, A CAREFULLY CRAFTED WAIVER PROGRAM  
4                   WAS VERY WORKABLE IN MICHIGAN, AND WE WILL PROBABLY BE  
5                   SUGGESTING A LITTLE BIT OF FLEXIBILITY IN THIS ISSUE.

6                   ON -- IF YOU WANT OTHER ISSUES, --

7                   **MR. RAHER:**    YEAH.

8                   **MR. JOHN PAUL:**  -- ON APPLICABILITY --

9                   **MR. RAHER:**  I WAS JUST GOING TO SAY UNLESS  
10                  THERE ARE ANY OTHER COMMENTS ON PRE-PERMIT CONSTRUCTION,  
11                  I THINK IF ANYBODY ELSE HAS ISSUES ON APPLICABILITY, WE  
12                  SHOULD NOW RAISE THEM.

13                  JOHN?

14                  **MR. JOHN PAUL:**  OKAY.  THE -- OKAY, THE  
15                  WEPCO --

16                  **MR. RAHER:**  I'M SORRY.

17                  DAVID, DID YOU HAVE --?

18                  **MR. HAWKINS:**  MINE'S APPLICABILITY, ALSO,  
19                  SO --

20                  **MR. RAHER:**  OKAY.  THAT'S FINE.  GO AHEAD.

21                  **MR. HAWKINS:**  THANK YOU.

22                  **MR. JOHN PAUL:**  WE DIDN'T TALK ABOUT THE  
23                  WEPCO ISSUE, AND THAT, OF COURSE, GETS INTO THE SAME

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1 ISSUE OF THE ACTUAL VERSUS POTENTIAL EMISSIONS. WE AT  
2 THIS POINT WOULD POINT OUT THAT WE ARE CONCERNED THAT IF  
3 THE *WEPCO* PROVISIONS WERE EXTENDED TO OTHER INDUSTRIES  
4 THAT A WHOLE LOT OF RESOURCE COULD BE CONSUMED IN  
5 LOOKING IN THE ISSUE OF WHAT COULD AND WHAT WOULD HAVE  
6 HAPPENED. IN THE INDUSTRY SECTOR, WE DON'T HAVE NEAR  
7 THE INFORMATION FOR THE OTHER SOURCE CATEGORIES AS THE  
8 UTILITIES HAVE, AND WE ALSO SUGGEST THAT THERE CERTAINLY  
9 IS AN ISSUE OF CERTAINTY FOR INDUSTRY WHERE AN ISSUE MAY  
10 BE LOOKED AT FIVE OR TEN YEARS IN THE FUTURE AS TO  
11 WHETHER OR NOT THEY COMPLIED WITH THE ORIGINAL  
12 REQUIREMENTS AND CERTAINLY IN THE FUTURE COULD THEN BE  
13 REQUIRED TO RETROFIT IF THEY DID NOT MEET THOSE  
14 REQUIREMENTS.

15 SO THERE'S NOT A WHOLE LOT OF CERTAINTY FOR  
16 INDUSTRY, SO IT SETS UP AN ISSUE WHERE WE COULD HAVE  
17 CONFRONTATIONS YEARS DOWN THE ROAD, AND WE ARE CONCERNED  
18 ABOUT THAT.

19 **MR. RAHER:** DAVID?

20 **MR. HAWKINS:** YEAH. WELL, I ALSO WANTED TO  
21 RAISE THE ACTUAL-TO-FUTURE ACTUALS ISSUE. AS YOU KNOW,  
22 IN THE PAST WE'VE HAD DISCUSSIONS IN TRYING TO FIND  
23 OUT -- TRYING TO PINPOINT THE DIFFICULTY THAT INDUSTRY

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1 WOULD HAVE ACTUALLY HAVING A FUTURE ACTUAL PROJECTION BE  
2 AN ENFORCEABLE OBLIGATION, AND THIS HAS AGAIN TO DO WITH  
3 THE LINKAGE.

4 IF, IN FACT, THE RULES ADOPT AN APPROACH  
5 THAT ALLOW THE BASELINE TO BE SOMETHING THAT THE FIRM  
6 ACTUALLY FEELS IS REPRESENTATIVE OF ITS EMISSIONS IN THE  
7 PAST, AND IT ASSERTS THAT ITS FUTURE ACTUALS WON'T BE  
8 MORE THAN THAT, WHAT IS THE DIFFICULTY WITH HAVING THAT  
9 ASSERTION BE ACCOMPANIED BY AN ENFORCEABLE OBLIGATION?  
10 SO THAT'S THE FIRST QUESTION.

11 THE SECOND ISSUE, IF I COULD JUST GO BACK TO  
12 THE QUESTIONS THAT BERNIE PAUL RAISED WITH RESPECT TO  
13 THE PAL'S AND THE IDEA OF PAL'S THAT COVER LESS THAN AN  
14 ENTIRE FACILITY, THERE ARE A COUPLE OF THINGS THAT COME  
15 TO MIND. ONE IS THAT THE -- THERE ARE OFTEN PROJECTS AT  
16 EXISTING FACILITIES WHICH -- WHERE THE EQUIPMENT BEING  
17 MODIFIED OR INSTALLED ITSELF MAY ONLY HAVE MODEST  
18 EMISSION INCREASES ASSOCIATED WITH IT. BUT IT IS LINKED  
19 IN A PROCESS TO OTHER EMITTING UNITS WHICH, AS A RESULT  
20 OF INSTALLING THIS NEW EQUIPMENT OR UPGRADING THIS NEW  
21 EQUIPMENT, THOSE OTHER PIECES OF EQUIPMENT WILL HAVE  
22 VERY SUBSTANTIAL INCREASES IN EMISSIONS.

23 YOU MAY HAVE A PROCESS WHICH IS SUPPLIED BY

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1 A BOILER, BUT THE PROCESS MAY BE MODIFIED IN A WAY THAT  
2 THE DEMAND ON THE BOILER IS INCREASED BY A FACTOR OF TWO  
3 OR THREE WITH THE EMISSIONS FROM THAT BOILER GOING UP  
4 CORRESPONDINGLY AND WITH A SIGNIFICANT INCREASE IN  
5 ACTUAL EMISSIONS.

6 I GUESS MY CONCERN IS IF -- WITH A PAL THAT  
7 COVERS LESS OF A -- LESS THAN ALL OF A FACILITY, DO WE  
8 NEED TO BE CONCERNED ABOUT PAL'S THAT ARE DESIGNED TO  
9 SORT OF THROW A LASSO AROUND THE EQUIPMENT THAT ITSELF  
10 WON'T HAVE MUCH OF AN INCREASE AND EXCLUDE THE EQUIPMENT  
11 THAT WILL HAVE A VERY SIGNIFICANT INCREASE FROM THE  
12 CALCULATION?

13 THE SECOND FEATURE ASSOCIATED WITH THAT SORT  
14 OF SUBFACILITY PAL IS THE ISSUE OF COMPLEXITY. HOW MUCH  
15 OF A DEMAND ON TRACKING WILL THIS PLACE ON THE  
16 REGULATORY AGENCIES IF THEY HAVE TO SORT OF KEEP TRACK  
17 OF LOTS OF LITTLE CIRCLES WITHIN A FACILITY, EACH OF  
18 WHICH HAS ITS OWN -- EACH OF WHICH HAS ITS OWN PAL? AND  
19 WHAT WILL THAT DO TO REPORTING AND RECORD-KEEPING IN  
20 TERMS OF TRACKING EMISSIONS? SO, I GUESS, THOSE ARE THE  
21 POINTS I WANTED TO PUT ON THE TABLE.

22 **MR. RAHER:** YOU'RE SUGGESTING THAT THAT  
23 WOULD BE MORE COMPLICATED THAN HAVING A PERMIT LEVEL FOR

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1 EACH AND EVERY PIECE OF EQUIPMENT WHICH OBVIOUSLY TAKES  
2 RECORD-KEEPING?

3 **MR. HAWKINS:** WELL, THE -- AS I UNDERSTAND  
4 THE CURRENT SYSTEM, EQUIPMENT BASED -- THE  
5 EQUIPMENT-BASED SYSTEM TYPICALLY DOESN'T HAVE, UNLESS  
6 THEY'VE TRIED TO NET OUT OF REVIEW, DOESN'T HAVE AN  
7 ANNUAL EMISSION LIMIT ASSOCIATED WITH IT. SURE, I COULD  
8 CONCEIVE OF SOME SITUATIONS WHICH ARE MORE COMPLEX THAN  
9 THIS, BUT, AGAIN, IT SEEMS TO ME THAT THE MULTIPLE-PAL  
10 APPROACH INTRODUCES COMPLEXITY INTO A TOPIC THAT WAS  
11 INTENDED TO LESS COMPLEX.

12 **MR. RAHER:** OKAY. ANY OTHER -- BERNIE?

13 **MR. BERNIE PAUL:** I HAVE A COUPLE OF  
14 COMMENTS TO OFFER IN RESPONSE TO DAVID'S CONCERNS.  
15 FIRST OF ALL, I THINK FOR A LOT OF INDUSTRY TYPES WHERE  
16 YOU'RE MAKING A LOT OF SMALL CHANGES, THAT SOME BE  
17 THROWN INTO THE NEW SOURCE REVIEW PROGRAM, AND OTHERS  
18 MAY NOT; THAT IF YOU ESTABLISH A MANAGEMENT SYSTEM LIKE  
19 PAL'S FOR THOSE, THAT THOSE SMALL INCREMENTAL CHANGES  
20 ARE NOT LIKELY TO HAVE THE SORT OF DOWNSTREAM EFFECT  
21 THAT YOU'RE CONCERNED ABOUT. I ACKNOWLEDGE THAT THAT  
22 COULD EXIST, BUT I THINK THAT IS A VERY RARE SITUATION,  
23 AT LEAST IN OUR INDUSTRY, AND I WOULD EXPECT IN A LOT OF

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1 OTHER INDUSTRIES THAT THAT WOULD ALSO BE TRUE.

2 WITH REGARD TO COMPLEXITY, I WAS -- I WAS  
3 CONCERNED ABOUT HAVING MULTIPLE PAL'S AT A PLANT SITE  
4 BECAUSE I THINK IT WOULD ELIMINATE, PERHAPS, SOME  
5 COMPLEXITY FOR OUR OPERATIONS MANAGEMENT PEOPLE IF THEY  
6 KNOW THAT THEY HAVE TO MANAGE AN EMISSIONS CAP FOR A  
7 CERTAIN AREA. THEY DON'T HAVE TO WORRY ABOUT WHAT'S  
8 GOING ON IN A DIFFERENT PART OF THE PLANT. LEAVE THAT  
9 UP TO SOME OTHER ORGANIZATION TO DO THAT. SO THAT YOU  
10 WOULD END UP WITH PERHAPS HIGHER COMPLIANCE BECAUSE  
11 PEOPLE UNDERSTAND WHAT THEY HAVE TO DO.

12 **MR. RAHER:** OKAY. ANY OTHER ISSUES OR  
13 COMMENTS WITH RESPECT TO THOSE TOPICS OR ANY OTHER  
14 APPLICABILITY ISSUES? I KNOW ONLY MENTION THAT WITH  
15 RESPECT TO THE PACKAGE THAT WE WERE GIVEN THERE WAS A  
16 PROVISION IN IT, OR PROPOSAL, REFERENCING THE CMA  
17 EXHIBIT "B." I CAN SUMMARIZE VERY EASILY FOR YOU THOSE  
18 COMMENTS YESTERDAY. THERE WAS ONE FOR AND ONE TOTALLY  
19 AGAINST, AND THAT WAS ABOUT AS LONG AS THE COMMENT ON  
20 BOTH OF THOSE TOOK, SO --.

21 DAVID?

22 **MR. HAWKINS:** JUST TO FOLLOW UP, IS THERE  
23 ANY INTEREST IN DIALOGUE ON THIS QUESTION OF THE

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1 ENFORCEABILITY OF THE FUTURE ACTUALS? I WOULD BE  
2 INTERESTED IF THERE IS -- IF THERE ARE INDUSTRY FOLKS  
3 WHO WANT TO ADDRESS THAT ISSUE.

4 **MR. RAHER:** OKAY. WOULD ANYBODY -- LET'S  
5 TAKE THAT UP, AND THEN WE'LL GO TO THE OTHER COMMENTS.

6 BILL?

7 **MR. BUMPERS:** I'LL MAKE A BRIEF COMMENT AND  
8 THEN DEFER TO HENRY BECAUSE I SEE HIM REACHING FOR THE  
9 CARD AS WELL.

10 **MR. RAHER:** YOU NEED TO HELP HENRY OUT. HE  
11 ONLY HAS ONE ARM.

12 **MR. BUMPERS:** OH, THAT'S RIGHT. IT WASN'T  
13 FROM ANY ARM-TWISTING TO SUPPORT *WEPCO*, I'M SURE.

14 THE BIGGEST PROBLEM WITH THAT IS THAT IT  
15 WOULD BE VERY DIFFICULT TO TAKE SOME CAPPED EMISSION  
16 LIMIT ON THE ACTUAL-TO-FUTURE ACTUAL, IN PART BECAUSE AT  
17 LEAST UNDER THE CURRENT *WEPCO* RULE -- AND I THINK IF YOU  
18 EXTEND IT TO OTHER INDUSTRY SOURCES, IT SHOULD BE  
19 EXTENDED SIMILARLY -- IS THAT WE HAVE THE BENEFIT  
20 CONSISTENT WITH THE EXISTING RULES TO REDUCE FROM THE  
21 PROJECTED FUTURE ACTUAL THE DEMAND GROWTH THAT WE WOULD  
22 OTHERWISE BE MEETING ANYWAY.

23 AND YOU CAN'T CLEARLY PROJECT THAT, KNOW IT

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1 WITH COMPLETE ACCURACY. AS A RESULT, TRYING TO TAKE  
2 SOME FIRM CAP ON WHAT YOUR EMISSIONS WOULD BE WOULD SORT  
3 OF DEFEAT THE PURPOSE OF THE *WEPCO* ACTUAL-TO-FUTURE  
4 ACTUAL METHODOLOGY AND BE EXCEEDINGLY DIFFICULT.

5 **MR. SOLOMON:** SO IF THE DEMAND GROWTH WERE  
6 ELIMINATED, THAT WOULD AVOID THAT PROBLEM?

7 **MR. NICKEL:** YEAH, DAVID --

8 **MR. BUMPERS:** RIGHT. SO WHICH ONE DO WE  
9 ELIMINATE? I THINK YOUR SUGGESTION, WHICH ISN'T THERE,  
10 OUGHT TO BE ELIMINATED. SIMPLE ENOUGH.

11 **MR. RAHER:** HENRY, DO YOU WANT TO --

12 **MR. NICKEL:** YEAH, I'LL JUST MAKE A COMMENT.  
13 I MEAN, AS DAVID WELL KNOWS, HIS ACTUAL-TO-ACTUAL  
14 APPROACH IS IDENTICAL TO THE CURRENT ACTUAL-TO-POTENTIAL  
15 APPROACH. UNDER AN ACTUAL-TO-POTENTIAL REGIME, YOU CAN  
16 ALWAYS AVOID NEW SOURCE REVIEW BY CAPPING YOUR PAST  
17 ACTUAL EMISSIONS. SO THIS REALLY ISN'T ANYTHING NEW,  
18 AND, AS EVERYONE UNDERSTANDS, IT IS THAT CAPPING ON  
19 CAPACITY WHICH HAS CAUSED PEOPLE GREAT ANXIETY AND WAS  
20 ONE OF THE MAJOR MOTIVATING FORCES FOR ALL OF THESE  
21 DISCUSSIONS FROM INDUSTRY'S STANDPOINT.

22 GOING BEYOND THAT, I THINK THAT, YOU KNOW,  
23 AS BILL WAS MENTIONING, IT'S -- THE NECESSITY FOR THERE

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1 TO BE A RELATIONSHIP BETWEEN THE PHYSICAL CHANGE AND THE  
2 FUTURE ACTUAL EMISSIONS MAKES CAPPING PAST ACTUALS  
3 INAPPROPRIATE. UNDER THE *WEPCO* RULE, FOR EXAMPLE, THE  
4 QUESTION IS POSED WHETHER OR NOT THE INCREASE IN  
5 UTILIZATION COULD HAVE BEEN ACCOMMODATED DURING THE  
6 REPRESENTATIVE BASELINE YEAR. I THINK THAT'S A VERY  
7 EASY TEST TO APPLY.

8 IT BASICALLY SAYS IF, FOR EXAMPLE, YOU LOSE  
9 A PUMP, AND DURING THE REPRESENTATIVE BASELINE YEAR THAT  
10 PUMP WAS OPERATING IN A MANNER THAT WOULD ALLOW YOU TO  
11 FULLY UTILIZE THE UNIT, YOU WOULD NOT PROJECT ANY  
12 INCREASED ACTUAL EMISSIONS IN THE INCREASE IN  
13 UTILIZATION TO THAT PUMP BECAUSE THAT INCREASED  
14 UTILIZATION COULD HAVE BEEN ACCOMMODATED DURING THE  
15 PREVIOUS BASELINE YEAR. SO THAT'S -- THAT'S THE ANSWER,  
16 AND, OF COURSE, YOU'VE REALLY BROUGHT US BACK TO WHERE  
17 WE BEGAN THIS ENTIRE PROCESS, YOU KNOW, WITH YOUR  
18 SUGGESTION.

19 **MR. RAHER:** THIS IS NOT CONTINUING THE  
20 DEBATE THAT WE STARTED FOUR YEARS AGO, DAVID, IF YOU  
21 WANT TO TRY TO ADDRESS THAT BECAUSE I, YOU KNOW, I THINK  
22 YOU --

23 **MR. HAWKINS:** YEAH, I JUST THINK THAT WE

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1 NEED TO BE CLEAR ABOUT WHAT IT IS THAT'S BEING PROPOSED,  
2 AND THIS WHOLE CONCEPT OF FUTURE ACTUAL EMISSIONS, GIVEN  
3 THE RESPONSE WE'VE HEARD, HAS TO BE ACKNOWLEDGED AS IN  
4 MANY CASES A FICTION. IT IS -- IT IS A PROJECTION WHICH  
5 THE APPLICANT WANTS TO HAVE RECOGNIZED BY THE REVIEWING  
6 AUTHORITY, BUT DOESN'T WANT TO LIVE WITH ITSELF. AND IF  
7 IT'S CLEAR THAT THE APPLICANT DOESN'T WANT TO LIVE WITH  
8 THAT PROJECTION, THEN WE SHOULD GET IT OUT OF THE  
9 PROCESS BECAUSE ALL IT IS, IS OBFUSCATION.

10 **MR. RAHER:** ERNIE?

11 **MR. ROSENBERG:** I'M GOING TO HAVE --  
12 ERNIE ROSENBERG, WITH OCCIDENTAL.

13 -- A FAIRLY RADICAL SUGGESTION, WHICH IS  
14 THAT PERHAPS EPA DOESN'T HAVE TO NAIL DOWN EXACTLY HOW  
15 THIS IS GOING TO BE DONE ACROSS THE BOARD. ONE OF THE  
16 PROBLEMS THAT WE'RE HAVING WITH APPLICABILITY IS THAT  
17 THERE'S SO MUCH DIFFERENCE BETWEEN DIFFERENT KINDS OF  
18 INDUSTRIES, BOTH IN TERMS OF WHAT THE VARIABILITY IS OF  
19 THEIR EMISSIONS AND IN TERMS OF HOW MUCH YOU CAN NAIL  
20 DOWN IN TERMS OF EITHER PAST OR FUTURE EMISSIONS AND  
21 THAT A ONE-SIZE-FITS-ALL APPROACH PROBABLY DOESN'T MAKE  
22 ANY SENSE AND THAT THE AGENCY SHOULD ALLOW THE STATES TO  
23 ADOPT DIFFERENT APPROACHES SO LONG AS THE BASELINE FROM

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1 WHICH YOU'RE STARTING IS REPRESENTATIVE OF THAT  
2 FACILITY'S ACTUAL OPERATION, AND YOU'RE NOT CAUSING A  
3 CONSTRICTION OF ITS PRODUCTION, PRODUCTIVE CAPACITY, AND  
4 THAT THE FUTURE POINT THAT YOU'RE MEASURING THE INCREASE  
5 AGAINST IS ENFORCEABLE AND THAT -- SO LET'S LOOK AT THE  
6 ENTIRE PACKAGE OF THINGS THAT EPA'S DOING AND NOT LOOK  
7 AT NSR IN A VACUUM.

8 THE TITLE V PROGRAM AND THE COMPLIANCE  
9 ASSURANCE MONITORING PROGRAM, WHEN THEY ARE IN PLACE,  
10 PROVIDE AN AWFUL LOT OF ASSURANCE PLUS AIR QUALITY  
11 TRACKING FROM THE IMPROVED MONITORING THAT YOU'VE NEVER  
12 BEEN ABLE TO HAVE BEFORE SO THAT YOU'RE GOING TO HAVE A  
13 DIFFERENT SET OF MECHANISMS SO THAT YOU DON'T HAVE TO  
14 CONFOUND THE NSR PROCESS WITH THE AIR QUALITY MANAGEMENT  
15 PROCESS AND VICE VERSA.

16 AND WHEN WE TALKED ABOUT THIS AT CMA, WE  
17 COULDN'T EVEN COME UP WITH A SINGLE APPROACH WITHIN CMA  
18 THAT REALLY ADDRESSED ALL THE VARIABILITY WITHIN THE  
19 CHEMICAL INDUSTRY, AND I SUGGEST THAT EPA SIMPLY STEP  
20 BACK FROM THIS AND MAKE THAT -- REPRESENT -- AND MAKE  
21 THOSE THE CRITERIA: A STARTING POINT THAT'S  
22 REPRESENTATIVE AND A FUTURE POINT THAT'S ENFORCEABLE.

23 **MR. RAHER:** ICLAL?

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1                   **MS. ATAY:** I'M GOING TO MAKE A  
2 RECOMMENDATION TO NSR REFORM COMMITTEE TO EVALUATE SITE  
3 BY SITE THE ACTUAL-TO-FUTURE ACTUAL METHODOLOGY WITH THE  
4 POTENTIAL-TO-POTENTIAL -- FUTURE POTENTIAL METHODOLOGY  
5 WITH ACTUAL -- CREDITING ACTUAL EMISSION DECREASES AND  
6 LOOK AT THE -- COMPARE THINGS FOR COMPLEXITY,  
7 IMPLEMENTATION, EASE OF IMPLEMENTATION, ENFORCEMENT  
8 ISSUES, EASE OF ENFORCEABILITY, ASSURANCE OF PROTECTION  
9 OF AIR QUALITY, AND SEE WHICH METHODOLOGY WOULD BE THE  
10 BEST METHODOLOGY.

11                   I THINK THAT WE CAN REACH A RESOLUTION IN  
12 THAT. I REALLY HAVE TRULY CONCERNS ON ACTUAL-TO-FUTURE  
13 ACTUAL EMISSIONS WITH RESPECT TO GOING TO A LOCAL AREA  
14 TRYING TO PERMIT A FACILITY. THAT WOULD RAISE A LOT OF  
15 EYEBROWS, YOU KNOW, SAYING THAT SOMEBODY HAS 1,000 TONS  
16 OF EMISSIONS POTENTIAL ALLOWED IN THEIR PERMIT, BUT THEY  
17 WILL ONLY EMIT, YOU KNOW, 250 TONS. WHAT ASSURANCE IS  
18 THERE WHEN THE PERMIT SAYS YOU EMIT UP TO 1,000 TONS?  
19 SO I WOULD RECOMMEND THAT WE CAREFULLY EVALUATE.

20                   **MR. RAHER:** I THINK IN TERMS OF THE PROCESS  
21 WHERE WE ARE THAT'S A GOOD RECOMMENDATION. IT PROBABLY  
22 REQUIRES NEW JERSEY TO MAKE THAT IN A WRITTEN COMMENT TO  
23 THE AGENCY WHERE THEY CERTAINLY WILL DO THAT. AS A

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1 FACA, WE REALLY DON'T HAVE A MECHANISM FOR COMING  
2 TOGETHER AGAIN.

3 BUT, AGAIN, TO THE EXTENT OTHER PEOPLE HERE  
4 ON THE FACA OR INTERESTED PARTIES WOULD LIKE TO  
5 COMMENT ON THAT IN THEIR WRITTEN COMMENTS TO THE AGENCY,  
6 I WOULD HOPE THAT, ICLAL, THEY COULD CONTACT YOU, AND  
7 YOU COULD GIVE THEM --

8 **MS. ATAY:** YES.

9 **MR. RAHER:** -- THE NECESSARY INFORMATION SO  
10 THAT THEY MIGHT DO THAT.

11 DAVID?

12 **MR. HAWKINS:** JUST ONE FURTHER COMPLICATION  
13 THAT'S POINTED UP BY ICLAL'S COMMENT. IF YOU HAVE A  
14 FACILITY THAT HAS ONE OF THESE FUTURE ACTUAL  
15 PROJECTIONS -- SAY, 250 IN A PERMIT THAT ALLOWS  
16 1,000 -- WHAT OPPORTUNITIES ARE THERE FOR EMISSIONS  
17 REDUCTION CREDITS OR OPEN-MARKET CREDITS IF THEY GO  
18 BELOW THIS 1,000 AND GO IN THE RANGE OF ABOVE 250 BUT  
19 BELOW 2,000 (SIC). ARE WE IN A SITUATION WHERE THEY ARE  
20 ACTUALLY CURRENCY FOR DOING SOMETHING THAT THEY ALREADY  
21 SAID THEY WOULD DO?

22 IT'S JUST ANOTHER RAMIFICATION OF THIS  
23 DISCONNECT BETWEEN ACTUALS FOR PURPOSE OF APPLICABILITY

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1 AND WHAT'S PERMIT ALLOWABLE. I'M NOT SURE THAT'S BEEN  
2 THOUGHT THROUGH AS WELL.

3 **MR. RAHER:** IF THERE ARE NO OTHER  
4 APPLICABILITY COMMENTS, WHY DON'T WE MOVE ON THEN AND  
5 SEE WHETHER THERE ARE GENERAL COMMENTS FROM THE GROUP IN  
6 TERMS OF OUR NEXT TOPIC, WHICH IS NSR TECHNOLOGY  
7 REQUIREMENTS AND UNDEMONSTRATED TECHNOLOGY APPLICATIONS.

8 THERE WAS NOT A GREAT DEAL OF DISCUSSION  
9 WITH RESPECT TO THESE ISSUES YESTERDAY. THERE WAS  
10 GENERAL REFERENCE TO THE TOP-DOWN BACT STATEMENTS IN THE  
11 PACKAGE, AND, AGAIN, THERE WERE CERTAIN -- THERE WERE  
12 PEOPLE SUPPORTING AND OPPOSING. BUT I THINK, IN  
13 GENERAL, THESE ISSUES ARE OPEN FOR DISCUSSION TO THE  
14 EXTENT THAT ANY COMMITTEE MEMBER WOULD LIKE TO EITHER  
15 RAISE ISSUES OF CLARIFICATION OR EXPAND ON COMMENTS OR  
16 RAISE COMMENTS THAT THEY THINK ARE APPROPRIATE IN THE  
17 FEATURE.

18 HENRY?

19 **MR. NICKEL:** YEAH, I WANTED A POINT OF  
20 CLARIFICATION. IN READING WHAT YOU'RE DOING ON BACT AND  
21 TOP-DOWN BACT, AM I CORRECT IN READING THAT BASICALLY  
22 WHAT YOU HAVE SAID IS THAT WHAT WE'VE, YOU KNOW, ALL  
23 KNOWN TO LOVE AS TOP-DOWN BACT IS THE WAY IN WHICH BACT

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1 ANALYSES WILL BE CONDUCTED IN THOSE CASES WHERE EPA HAD  
2 THE PERMIT PROGRAM UNDER PART 52 AND THOSE CASES WHERE  
3 STATES DELEGATED THE PERMIT PROGRAM UNDER PART 52?

4 WHEREAS, THOSE STATES THAT HAVE SIP PSD  
5 PROGRAMS WOULD HAVE GREATER LATITUDE TO WAIVE THE  
6 FACTORS AND WOULD NOT NECESSARILY HAVE TO APPLY A  
7 TOP-DOWN APPROACH BUT COULD COMPARE DIFFERENT  
8 TECHNOLOGIES WITHIN THE RANGE IF THEY CONSIDER THE  
9 ENTIRE RANGE AND WEIGHT THE FACTORS AS THEY DEEMED  
10 APPROPRIATE FOR THEIR OWN LOCAL NEEDS.

11 IS THAT DISTINCTION SOMETHING THAT YOU WERE  
12 PROPOSING, OR ISN'T IT?

13 **MR. CRUMPLER:** I HAD HOPED IT WAS CLEAR.

14 **MR. SOLOMON:** YEAH, JUST GO AHEAD.

15 **MR. CRUMPLER:** YES, THAT'S A VERY ACCURATE  
16 PICTURE OF WHAT WE'RE TRYING TO DO, I THINK.

17 **MR. SOLOMON:** THE KEY IS IN THE STATES WITH  
18 A SIP-APPROVED PROGRAM, THAT THEY DEMONSTRATE THAT  
19 THEY'VE MET THE TWO CORE CRITERIA; THAT IS, THEY'VE  
20 LOOKED AT THE SPECTRUM OF AVAILABLE CONTROLS, INCLUDING  
21 THE MOST STRINGENT. AND IF THEY DO NOT CHOOSE THE MOST  
22 STRINGENT OR THE MORE STRINGENT TECHNOLOGIES, THEY NEED  
23 TO PROVIDE DOCUMENTATION AND JUSTIFICATION GIVEN THE

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1 STATUTORY ENVIRONMENTAL, ENERGY, AND ECONOMIC CRITERIA.

2 **MR. RAHER:** BILL?

3 **MR. BECKER:** AND HOW IS THAT DIFFERENT FROM  
4 THE TOP-DOWN APPROACH?

5 **MR. CRUMPLER:** YOU COULD TAKE IT FROM  
6 BOTTOM-UP OR INSIDE-OUT OR --

7 **MR. BECKER:** BUT DON'T YOU -- IF YOU --  
8 UNDER BOTH SCENARIOS, DON'T YOU HAVE TO EXPLAIN WHY YOU  
9 HAVEN'T IDENTIFIED THE MOST STRINGENT IF YOU CHOOSE  
10 SOMETHING LESS STRINGENT -- WHETHER YOU STARTED FROM THE  
11 TOP OR STARTED FROM THE BOTTOM?

12 **MR. CRUMPLER:** THAT'S CORRECT.

13 **MR. BECKER:** OKAY. SO HOW IS THAT DIFFERENT  
14 FROM THE TOP-DOWN APPROACH?

15 **MR. SOLOMON:** WELL, THERE ISN'T THAT MUCH OF  
16 A DIFFERENCE, ONLY THAT TOP-DOWN REALLY FOCUSES IN ON  
17 THE TOP THAT IS PUT IN THE TABLE FIRST. THE ANALYSIS IS  
18 DONE. WHEREAS, THERE MAY BE OTHER APPROACHES THAT DON'T  
19 NECESSARILY START AT THE TOP BUT STILL RECOGNIZE THE  
20 MORE STRINGENT TECHNOLOGIES AND ADDRESS THOSE  
21 TECHNOLOGIES ALSO.

22 **MR. NICKEL:** WELL, ALSO, YOU DON'T HAVE TO  
23 MAKE A FINDING THAT THE TOP IS INFEASIBLE BASED UPON THE

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1 FACTORS. YOU CAN MAKE YOUR SELECTION ON OTHER CRITERIA  
2 THAN FEASIBILITY.

3 **MR. RAHER:** PRAVEEN?

4 **MR. AMAR:** JUST A QUICK QUESTION. IT HAS TO  
5 DO WITH THE CLEARINGHOUSE, AND THE POINT IS BEING MADE  
6 THAT EPA'S PROPOSING MANDATORY SUBMITTAL OF BACT  
7 DETERMINATIONS. AS A PRACTICAL MATTER, HOW WOULD THAT  
8 HAPPEN?

9 **MR. RAHER:** DENNIS?

10 **MR. CRUMPLER:** WELL, THIS IS A *CLEAN AIR ACT*  
11 REQUIREMENT. IT ACTUALLY CAME OUT OF THE *1990 CLEAN AIR*  
12 *ACT*, AND THERE'S BEEN A LOT OF DISCUSSION, I KNOW, IN  
13 THE SIP WORLD ABOUT WHAT THE STATES PUT IN THEIR SIP'S.  
14 CAN THEY IMPOSE REGULATIONS UPON THEMSELVES AND THAT  
15 SORT OF THING. BUT AS A PRACTICAL MATTER, THE *CLEAN AIR*  
16 *ACT* SAYS THAT THEY SHOULD BE REPORTED TO THE  
17 RACT/BACT/LAER CLEARINGHOUSE, SO THAT'S WHAT WE SAID.  
18 STATES HAVE THE RESPONSIBILITY TO SEE THAT IT IS  
19 REPORTED.

20 NOW WHAT WE TRIED TO DO IN THE REGULATIONS  
21 IS PUT IN ENOUGH ALTITUDE THAT ALLOWS THE STATES TO HAVE  
22 SOURCES REPORT THAT INFORMATION. THERE ARE STILL SOME  
23 OUTSTANDING ISSUES RELATIVE TO HOW YOU Q.A. THAT

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1 INFORMATION, HOW IT GETS LOGGED INTO THE SYSTEM. AND WE  
2 TRIED TO PUT IN A LITTLE BIT OF LANGUAGE THERE THAT  
3 INDICATES THAT THE EVOLUTION OF THE COMMUNICATION AGE IS  
4 ALSO GOING TO IMPACT THIS WHOLE PROCESS BECAUSE EPA IS  
5 IN THE PROCESS OF MOVING A LOT OF ITS COMMUNICATIONS AND  
6 INFORMATION TRANSFER TO THE INTERNET SYSTEM. AND THE  
7 RACT/BACT/LAER CLEARINGHOUSE WOULD BE, IN FACT, IMPACTED  
8 BY THAT.

9 **MR. AMAR:** DOES THE PROPOSAL THEN REQUIRE A  
10 CERTAIN TIME LIMIT BEFORE WHICH THE STATE AND THE SOURCE  
11 HAVE TO SUBMIT THE INFORMATION TO THE CLEARINGHOUSE?  
12 THOSE'S A TIME PERIOD, I'M WONDERING?

13 **MR. SOLOMON:** PRAVEEN, IS YOUR CONCERN THAT  
14 THE STATES WON'T OR THE STATES SHOULD NOT BE REQUIRED --

15 **MR. AMAR:** NO, THE STATES SHOULD BE  
16 REQUIRED, BUT I WAS JUST TRYING TO FOUND OUT THE  
17 CURRENTNESS, SO TO SPEAK, OF THE CLEARINGHOUSE. YOU  
18 WANT THE INFORMATION IN TIME.

19 **MR. CRUMPLER:** YEAH. THERE IS -- THERE IS A  
20 TIME REQUIREMENT IN THE PROVISIONS, AND I THINK IT'S  
21 NINETY DAYS?

22 **MR. SOLOMON:** IT'S SIXTY DAYS.

23 **MR. AMAR:** SIXTY DAYS, OKAY.

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1                   **MR. SOLOMON:** WE COULD --

2                   **MR. AMAR:** OKAY.

3                   **MR. SOLOMON:** YEAH, WE COULD WRITE WITHIN  
4 THE REGULATION THAT THE PERMIT IS NOT VALID UNTIL IT'S  
5 SUBMITTED. I DON'T THINK WE'D WANT TO DO THAT, --

6                   **MR. AMAR:** NO, NO, NO.

7                   **MR. SOLOMON:** -- BUT I WOULD HOPE THAT THE  
8 STATES COULD WORK AMONG THEMSELVES TO ENSURE THAT AS  
9 EXPEDITIOUSLY AS PRACTICABLE THEY CAN GET THE PERMITS TO  
10 US. I MEAN, THIS IS A TOOL FOR THE STATES AND FOR THE  
11 APPLICANTS AND FOR THE PUBLIC. IT'S NOT FOR EPA.

12                   **MR. RAHER:** ICLAL, DO YOU HAVE --

13                   **MS. ATAY:** I JUST WANT TO FOLLOW UP ON WHAT  
14 PRAVEEN IS SAYING. WE IN THE STATE OF NEW JERSEY WE  
15 DRAW PLANS, WORK PLANS, WITH EPA ON WHAT WE'RE GOING TO  
16 DO, HOW WE'RE GOING TO IMPLEMENT OUR SIP, AND THIS ITEM  
17 IS WITHIN OUR WORK PLAN WHICH IS CALLED THE "NATIONAL  
18 PERFORMANCE PARTNERSHIP AGREEMENT" RIGHT NOW.

19                   AND WE CHOSE NOT TO PUT THIS IN OUR RULES  
20 BECAUSE WE -- OUR RULES DO NOT REGULATE OURSELVES. THEY  
21 DO REGULATE THE INDUSTRIES IN THE STATE.

22                   THE SECOND THING I WANT TO -- WELL, IS THERE  
23 A WAY OF FACILITATING THE INFORMATION FLOW INTO THE

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1 BACT/LAER CLEARINGHOUSE BECAUSE ALL PSD AND  
2 NONATTAINMENT PERMIT DECISIONS GO TO EPA REGIONS ANYWAY  
3 TO BE PUBLISHED IN THE *FEDERAL REGISTER*, AND COULD WE  
4 TIE IN THE BACT/LAER CLEARINGHOUSE WITH THE *FEDERAL*  
5 *REGISTER* PUBLICATION BECAUSE THEN YOU DON'T MISS BECAUSE  
6 ALL DECISION GO.

7 **MR. SOLOMON:** I JUST WANT TO POINT OUT THAT  
8 NOT ALL REGIONS ADHERE TO THAT PROCESS. THERE ARE MANY  
9 REGIONS IN WHICH THE STATE WILL ISSUE A PERMIT, AND  
10 THEIR REGION MAY NOT EVEN RECEIVE A COPY OF THAT PERMIT.  
11 IT DEPENDS UPON WHAT TYPE OF OPERATING AGREEMENTS THE  
12 REGION HAS WITH THE INDIVIDUAL STATES.

13 **MS. ATAY:** BUT IT'S IN PART 1, 40 CFR 124.  
14 "EPA MUST BE NOTIFIED OF PSD PERMIT DECISIONS. PSD  
15 PERMIT NOTIFICATION MUST GO TO THE REGION." I MEAN  
16 THAT'S A RULE REQUIREMENT.

17 **MR. SOLOMON:** BUT EPA IS IMPLEMENTING A  
18 DIFFERENTIAL OVERSIGHT, AND, AGAIN, THAT IS DEPENDING ON  
19 WHAT AGREEMENT IT HAS THE -- THE REGION HAS WITH THE  
20 STATE.

21 **MS. ATAY:** OKAY.

22 **MR. RAHER:** BILL?

23 **MR. BECKER:** THANKS, PAT. I WANT TO EXPLORE

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1 A COMMENT YOU MADE IN THE SUMMARY JUST TO MAKE SURE OR  
2 TO CLARIFY TO MAKE CERTAIN --

3 **MR. RAHER:** YOU CAN'T HOLD ME RESPONSIBLE  
4 FOR SOMETHING I DIDN'T DO, BUT THAT'S OKAY.

5 **MR. BECKER:** THIS IS GET-BACK TIME.

6 **MR. RAHER:** YEAH.

7 **MR. BECKER:** I THOUGHT YOU HAD SAID IN YOUR  
8 SUMMARY OF THE HEARING YESTERDAY THAT CERTAIN PEOPLE  
9 OPPOSED THE TOP-DOWN BACT PROVISION, AND IF THAT'S TRUE,  
10 I THINK I WOULD LIKE TO EXPLORE THAT SOMETIME AT THIS  
11 MEETING. BECAUSE WHEN WE MET LAST, WHICH WAS PROBABLY  
12 ABOUT EIGHT YEARS AGO, WE TALKED A LOT ABOUT TOP-DOWN  
13 BACT. AND THE INDUSTRY CONCERNS AT THE TIME, I  
14 REMEMBER, WERE THAT THERE WASN'T SUFFICIENT AND TIMELY  
15 GUIDANCE TO PROMPT GOOD DECISIONS BY REGULATORS, AND WE  
16 TALKED ABOUT GETTING THE BACT/LAER CLEARINGHOUSE IN  
17 SUFFICIENT ORDER TO ADDRESS THAT CONCERN HEAD-ON, AND WE  
18 EVEN ON THIS END RAISED OUR HANDS AND SAID WE WILL DO  
19 WHATEVER IT TAKES, INCLUDING A MANDATORY REQUIREMENT, TO  
20 HELP GET THAT BACT/LAER CLEARINGHOUSE IN ORDER. BECAUSE  
21 THE INSTALLATION OF VERY GOOD CONTROLS, AT LEAST THE  
22 INITIAL CONSIDERATION OF VERY GOOD CONTROLS, IS REALLY A  
23 BEDROCK PRINCIPLE OF THIS WHOLE REGULATION.

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1                   AND IF WE'RE NOW HEARING -- AND I DON'T  
2                   KNOW. WE'RE CLARIFYING. IF WE'RE NOW HEARING THAT SOME  
3                   ARE WALKING AWAY FROM THIS VERY IMPORTANT NOTION OF  
4                   TOP-DOWN BACT, THEN I'D LIKE TO EXPLORE WHY ESPECIALLY  
5                   SINCE WE ARE, GIVEN DIMINISHED RESOURCES, STILL WILLING  
6                   TO MAKE YOUR JOB OF ANALYZING AND OF RELYING UPON THE  
7                   BEST TECHNOLOGIES EASIER.

8                   **MR. RAHER:** HENRY?

9                   **MR. NICKEL:** BILL, YOU MAY NOT HAVE HEARD  
10                  US, BUT FROM THE VERY BEGINNING OUR CONCERN WITH  
11                  TOP-DOWN BACT, OUR OVERRIDING CONCERN, WAS THE FACT THAT  
12                  IT WAS A SET OF CRITERIA THAT REQUIRED THE STATES TO  
13                  WEIGHT CERTAIN FACTORS MORE HEAVILY THAN OTHER FACTORS  
14                  AND THAT IT PROHIBITED A COMPARISON BETWEEN TECHNOLOGIES  
15                  AND THE STATES DETERMINING WHICH WAS BEST WITHIN THE  
16                  PERMISSIBLE RANGE. SO THAT A GOOD CLEARINGHOUSE OR BACT  
17                  CLEARINGHOUSE DIDN'T SOLVE THAT PROBLEM.

18                  NOW WHAT I SEE THAT THE AGENCY HAS PROPOSED,  
19                  IT IS RESPONSIVE TO OUR CORE CONCERNS AT LEAST WITH  
20                  RESPECT TO THE STATES THAT HAVE SIP AUTHORITY. AND WE  
21                  CLEARLY ARE NOT PREPARED AND HAVE NEVER BEEN PREPARED TO  
22                  ENDORSE TOP-DOWN BACT WHICH HAS AS ITS CORE CRITERIA IN  
23                  TERMS OF WEIGHING A FEASIBILITY STANDARD AND LOOKING AT

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1 EACH TECHNOLOGY ALONE WITH RESPECT TO THE OTHER FACTORS  
2 AS SOMETHING THAT WAS ACCEPTABLE.

3 SO, I MEAN, WE LIKE THE WAY THE AGENCY HAS  
4 MOVED, BUT THAT'S IN RESPONSE TO COMMENTS THAT I THINK A  
5 NUMBER OF US HAD CONSISTENTLY MADE THROUGHOUT THIS  
6 PROCESS.

7 **MR. RAHER:** BILL, I THINK THAT'S TRUE, AND  
8 THAT'S HOW I INTENDED TO CHARACTERIZE THIS: THAT THE  
9 CONCERN IS THE CLARIFICATION HENRY WAS TALKING ABOUT,  
10 THAT THE REFERENCE TO THIS IN THE AGENCY'S PACKAGE IS  
11 HOW IT'S BEING HANDLED IN THIS PACKAGE AND NOT SORT OF  
12 *CARTE BLANCHE* APPROVAL, AND I THINK THAT'S WHAT HENRY'S  
13 JUST CLARIFIED NOW. SO I DON'T THINK ANYBODY WAS  
14 OBJECTING TO THE -- WHAT YOU BUSINESS WAS A WAY TO  
15 ADDRESS THESE ISSUES, BUT AT THE SAME TIME THEY'RE NOT  
16 JUST SAYING THAT TOP-DOWN IS ACCEPTABLE ACROSS ALL  
17 PROGRAMS.

18 ANY OTHER COMMENTS? OH, I'M SORRY. KAREN?

19 **MS. MALKIN:** I JUST WANT TO GO BACK TO  
20 SOMETHING I HEARD DENNIS SAY. IF I UNDERSTOOD YOU  
21 CORRECTLY, FOR THE SIP-APPROVED STATES IT IS EPA'S  
22 INTENT THAT YOU COULD ACTUALLY USE A BOTTOM-UP APPROACH?  
23 I HEARD YOU SAY "BOTTOM-UP"? AND, YOU KNOW, HOW WOULD

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1 THAT WORK? AND WOULD YOU EVER EVEN CONSIDER THEN THE  
2 BEST, MOST IN TERMS OF MOST ENVIRONMENTAL PROTECTIVE  
3 TECHNOLOGY? HOW WOULD -- THAT SEEMS TO BEING TURNING  
4 THE WHOLE TECHNOLOGY-FORCING ASPECT THAT'S WORKED SO  
5 WELL, AND LET ME JUST GIVE YOU A COUPLE OF QUICK  
6 EXAMPLES.

7 IN ONE YEAR ALONE -- AND THESE ARE JUST THE  
8 PERMITS THAT THE DEPARTMENT OF INTERIOR AGENCIES THAT  
9 HANDLE CLASS I AREAS, FISH & WILDLIFE SERVICE AND PARK  
10 SERVICE, JUST IN ONE YEAR, I MEAN, WE WERE ABLE TO -- BY  
11 POINTING OUT, LOOKING AT THE CLEARINGHOUSE, AND FROM OUR  
12 OWN KNOWLEDGE -- WE WERE ABLE TO GET SO<sub>2</sub> REDUCED OVER  
13 1300 TONS IN JUST FROM WHAT WAS INITIALLY PROPOSED BY  
14 THE APPLICANT. SO I'M CONCERNED. WHAT DO YOU MEAN BY A  
15 "BOTTOM-UP APPROACH?"

16 **MR. CRUMPLER:** WELL, THAT'S JUST THE  
17 DIRECTION OF THE FLOW OF INFORMATION. WE'RE STILL  
18 ADHERING TO THE TWO CORE CRITERIA WHICH WE PROPOSED  
19 WHICH SAYS YOU HAVE TO -- YOU HAVE TO HAVE THE ENTIRE  
20 SPECTRUM OF TECHNOLOGIES, INCLUDING THE MOST STRINGENT,  
21 IN THE POOL OF TECHNOLOGIES THAT ARE ANALYZED. OKAY?  
22 SO THAT TECHNOLOGY -- THAT TOP TECHNOLOGY IS GOING TO  
23 ALWAYS FALL IN THE POOL OF CANDIDATES. SO IT'S JUST A

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1 MATTER OF HOW THOSE CANDIDATES ARE ANALYZED, AND WHICH  
2 -- DO YOU TAKE THE LEAST OPTION FIRST AND PROCEED  
3 UPWARD, OR DO YOU TAKE TOP ONE FIRST AND PROCEED  
4 DOWNWARD? AND YOU ALSO HAVE TO JUSTIFY IN YOUR ANALYSIS  
5 THE REJECTION OF THE MORE STRINGENT TECHNOLOGIES. THAT  
6 DOESN'T NECESSARILY MEAN THE TOP-DOWN TECHNOLOGY OR THE  
7 MOST STRINGENT TECHNOLOGY, BUT IT MEANS WHAT DO YOU --  
8 HOW DO YOU JUSTIFY REJECTION OF MAYBE TWO OR THREE MORE  
9 STRINGENT TECHNOLOGIES.

10 **MR. RAHER:** SO IT'S REALLY -- I THINK,  
11 KAREN, WHAT DENNIS IS SAYING, YOU LOOK AT THE PACKAGE AS  
12 MORE PROCESS VERSUS THE PRINCIPLE AS YOU LOOK AT THE  
13 TWO -- AT THE PROGRAMS.

14 **MS. MALKIN:** NOW AS A PRACTICAL MATTER, I  
15 GUESS I'M HAVING A HARD TIME UNDERSTANDING THAT THAT  
16 WOULD WORK. UNDER THE CURRENT SYSTEM YOU LOOK AT THE  
17 BEST TECHNOLOGY, THE TOP, FROM THE TOP DOWN, AND IF  
18 THAT -- AND YOU EVALUATE THAT TOP ONE FIRST, AND YOU MAY  
19 NOT GO TO LOOKING AT THE OTHER LESSER -- LESS  
20 ENVIRONMENTALLY BENEFICIAL TECHNOLOGIES IF THAT TOP ONE  
21 MEETS YOUR TEST. AND HERE -- SO I DON'T UNDERSTAND IN A  
22 BOTTOM-UP APPROACH HOW YOU WOULD GET TO LOOK AT TOP  
23 TECHNOLOGY IF THE -- I WOULD SEE HOW THE BOTTOM ONE --

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1 YOU'RE DOING THE REVERSE.

2 **MR. SOLOMON:** YEAH, TOP-DOWN PROCESS HAS A  
3 STRUCTURE TO IT. IT IS A PROCESS. IT IS A METHODOLOGY.  
4 IT IS A STEP-BY-STEP. THERE ARE FIVE STEPS STARTING AT  
5 THE TOP. BUT, BASICALLY, IT BUILDS ON THE TWO  
6 PRINCIPLES THAT YOU CONSIDERED THE BEST, AND IF YOU  
7 DON'T CHOOSE THE BEST, YOU JUSTIFY ACCORDING TO  
8 STATUTORY CRITERIA WHY. SO YOU START AT THE BEST, AND  
9 YOU DO THE ANALYSIS.

10 IF THE STATE CAME TO THE SAME CONCLUSION  
11 USING A DIFFERENT METHODOLOGY, WHATEVER THAT METHODOLOGY  
12 WAS, THAT WOULD BE ACCEPTABLE. THEY DO NOT HAVE TO  
13 FOLLOW EPA'S STEPS TO COME TO THAT CONCLUSION AS LONG AS  
14 THEY'VE DEMONSTRATED THAT THEIR CONCLUSION WAS DERIVED  
15 FROM IMPLEMENTING THE TWO PRINCIPLES. --

16 **MR. RAHER:** BOB?

17 **MR. SOLOMON:** THIS --

18 **MR. RAHER:** EXCUSE ME.

19 **MR. SOLOMON:** I SEE KAREN IS STILL LOOKING  
20 PUZZLED.

21 **MR. RAHER:** AT LUNCH YOU CAN DISCUSS THIS  
22 SCINTILLATING TOPIC.

23 BOB?

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1                   **MR. BEASLEY:** THE OAQPS COST CONTROL MANUAL  
2 DISCUSSES LOOKING AT COSTS BASED ON AVERAGE COST AND  
3 ALSO ON INCREMENTAL COST. AND WHILE IT'S SOMEWHAT  
4 AMBIGUOUS AS TO HOW TO WEIGHT THESE TWO, IT DOES -- AND  
5 I THINK WE ALL HAVE IN OUR PERMITTING EFFORTS LOOKED AT  
6 BOTH TYPES OF COSTS. IF YOU USED A PURELY TOP-DOWN  
7 BASIS, YOU WOULD STOP ONCE YOU GOT TO SOMETHING THAT HAD  
8 AN AVERAGE COST THAT WAS ACCEPTABLE. YOU WOULD NEVER  
9 GET TO THE NEXT-BEST, SO YOU WOULD NEVER DO AN  
10 INCREMENTAL COST ANALYSIS AND NOT DISCOVER THAT  
11 TECHNOLOGY THAT'S ALMOST AS GOOD BUT A WHOLE OF A LOT  
12 CHEAPER.

13                   **MR. RAHER:** BILL, DO YOU HAVE --

14                   **MR. BECKER:** YEAH, JUST A QUICK COMMENT. I  
15 AGREE WITH WHAT KAREN WAS SAYING. IF -- IF THERE'S NOT  
16 THE PRESUMPTION THAT AT LEAST WE'RE GOING TO START WITH  
17 THE BEST, AND WE MAY END UP WITH THE SECOND OR THIRD OR  
18 FOURTH OF FIFTH BEST, BUT IF WE'RE NOT GOING TO START  
19 WITH THE BEST, THEN THIS WHOLE DYNAMIC OF DISCUSSING  
20 EXEMPTIONS AND APPLICABILITY AND WHETHER OR NOT WE'RE  
21 GOING TO SIMPLIFY BY IMPOSING A LESSER NUMBER OF SOURCES  
22 TO THIS RULE, IT CHANGES.

23                   IF WE'RE GOING TO START WITH THE BEST, LET'S

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1 START AT THE TOP. AND IF WE END UP SOMEPLACE LOWER THAN  
2 THE TOP, FINE. BUT IF YOU ALLOW, UNDER THE GUISE OF  
3 FLEXIBILITY, AGENCIES TO START WITH THE WORST, IT'S  
4 GOING TO BE VERY DIFFICULT FROM A REGULATORY STANDPOINT  
5 FOR US TO GET TO THE BETTER DECISION.

6 AND IF WE DON'T, THEN IT'S GOING TO AFFECT  
7 THE REST OF THIS RULE, AND I WOULD URGE THAT THE  
8 INDUSTRY THINK CAREFULLY THROUGH ITS PRIORITIES AS TO  
9 WHAT IT WANTS OUT OF THIS: WHETHER IT'S WILLING TO PUT  
10 ON THE BEST OR SOMETHING CLOSE TO IT OR WHETHER IT WANTS  
11 TO AVOID SOME OF THE RULES ON SOURCES THAT THEY FEEL  
12 VERY STRONGLY SHOULDN'T BE REGULATED UNDER THIS RULE.

13 **MR. RAHER:** HENRY? ON THIS ISSUE, AND THEN  
14 WE --

15 **MR. NICKEL:** YEAH. LET ME JUST SAY THAT AS  
16 FAR AS I'M PERSONALLY CONCERNED I DON'T CARE WHERE YOU  
17 START, WHETHER YOU START AT THE BOTTOM OR WHETHER YOU  
18 START AT THE TOP. YOU HAVE TO EXPLAIN YOUR SELECTION  
19 AND WHAT I CARE ABOUT IS TO BE ABLE TO COMPARE  
20 TECHNOLOGIES SO THAT I CAN LOOK DOWN TO THE FOURTH  
21 LEVEL, SEE THAT THE INCREMENTAL COST ANALYSIS SHOWS  
22 TREMENDOUS DIFFERENCE BETWEEN THE MORE STRINGENT  
23 TECHNOLOGY AND THE NEXT LEVEL LESS STRINGENT TECHNOLOGY.

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1 AND I CAN GO TO THAT LESS STRINGENT NEXT TECHNOLOGY AND  
2 REJECT THE TOP THREE.

3 IT'S NOT A QUESTION OF LOOKING AT THE TOP.  
4 IT'S A QUESTION WHAT ARE THE DECISIONAL CRITERIA THAT  
5 GOVERN THE SELECTION. AND AS I READ THE PROPOSAL, AT  
6 LEAST IN THE SIP STATES, YOU HAVE VERY FLEXIBLE DECISION  
7 CRITERIA.

8 **MR. RAHER:** LESLIE, IS IT ON THIS TOPIC OR  
9 ANOTHER?

10 **MS. RITTS:** IT'S ON THIS --

11 **MR. RAHER:** OKAY.

12 **MS. RITTS:** -- TOPIC. I DON'T KNOW IF IT'S  
13 NECESSARY TO SAY ANYTHING MORE AFTER HENRY, BUT WE'RE  
14 JUST GETTING ALL TIED UP IN KNOTS OVER THE RUBRIC.  
15 YOU'RE STILL GOING TO CONSIDER THE TOP TECHNOLOGY.  
16 YOU'RE STILL IN MOST CASES GOING TO PUT THE TOP  
17 TECHNOLOGY ON UNLESS THERE'S SOME REALLY COMPELLING  
18 REASON NOT TO, AND YOU'RE GOING TO CONSIDER THESE AIR  
19 QUALITY RELATED VALUES IN THAT DETERMINATION. SO, YOU  
20 KNOW, I DON'T UNDERSTAND WHAT THE BIG DEAL IS.

21 **MR. RAHER:** NO, I THINK THIS IS -- THIS IS A  
22 POINT OF CLARIFICATION.

23 AND I THINK, BILL, WHAT WE SAYING IS TO THE

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1 EXTENT THAT A SIP PROCESS -- A STATE HAS GONE THROUGH  
2 THAT HAS GREATER FLEXIBILITY, MAYBE THAT'S A BENEFIT.  
3 THAT'S WHY THEY WANT TO GET IT THROUGH HERE AND NOT --

4 **MR. BECKER:** OKAY, REAL QUICKLY. I DON'T  
5 THINK THIS IS RUBRIC. THIS IS -- THIS IS AN ANALYSIS  
6 THAT CHANGES THE WHOLE DYNAMIC OF WHETHER THERE IS THE  
7 PRESUMPTION THAT SOMEONE WHO IS BUILDING A NEW FACILITY  
8 IS GOING TO START WITH THE BEST AND WORK ITS WAY DOWN OR  
9 WHETHER THERE'S GOING TO BE ALLOWANCE TO START WITH THE  
10 WORST AND NEVER GET UP TO THE BETTER FACILITIES EVEN IF  
11 IT'S IN THE DATABASE. AND I THINK THAT DECISION WHERE  
12 WE END UP WITH IS GOING TO BE AFFECTED BY WHERE WE  
13 START, AND IT'S GOING TO CHANGE HOW WE FEEL ABOUT  
14 ALLOWING SOME OF THESE EXCLUSIONS.

15 **MR. BUMPERS:** YEAH, I REALLY -- I WAS GOING  
16 TO MAKE A SEPARATE POINT, BUT I WOULD LIKE TO RESPOND TO  
17 WHAT BILL SAID, AND I'M SOMEWHAT AMAZED THAT HE HAS SUCH  
18 CONCERNS THAT THE STATES WOULD BE SO INEPT AT LOOKING AT  
19 THE TECHNOLOGIES THAT WE'RE GOING TO COME IN AND START  
20 WITH THE LEAST STRINGENT TECHNOLOGY AND NEVER MOVE.  
21 THAT'S ABSURD. TO START WITH, AND AS YOUR CLIENTS, I  
22 THINK THEY'D BE OFFENDED BY THE PRESUMPTION OF IT.

23 BUT ONE OF THE THINGS THAT HAS BOTHERED US

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1 FROM THE START IS THAT IF YOU GO STRICTLY TOP-DOWN, YOU  
2 MAY NEVER GET TO AN INCREMENTAL COST ANALYSIS, AND THAT  
3 IS OFFENSIVE. THAT IS ABSOLUTELY RIDICULOUS TO NEVER BE  
4 ABLE TO, AS HENRY SAID, COMPARE THE TECHNOLOGIES AND THE  
5 RELATIVE COST-EFFECTIVENESS. AS AN OLD ECONOMIST -- AND  
6 I MAKE NO APOLOGIES FOR IT -- I'D SAID IN THE SAME FORUM  
7 MANY TIMES --

8 **MR. RAHER:**

9 **MR. BUMPERS:** EMPHASIS ON "OLD" AT THIS  
10 POINT.

11 BUT, AND I'VE SAID THIS BEFORE, YOU CAN'T  
12 FIND AN ECONOMIC TEXTBOOK IN THE COUNTRY THAT WILL TELL  
13 YOU THAT YOU SHOULD MAKE ANY DECISIONS ON THE BASIS OF  
14 AVERAGE COST, AND IF YOU IGNORE INCREMENTAL COSTS OF  
15 TECHNOLOGIES AND THE ENVIRONMENTAL EFFECTIVENESS OF IT,  
16 YOU ARE DESTINED TO MAKE VERY POOR CHOICES.

17 AND I THINK DAVID HIT IT RIGHT. AS LONG AS  
18 YOU ADHERE TO THE PRINCIPLES, AND YOU'RE MAKING THE  
19 CORRECT COMPARISON AND JUSTIFYING WHY YOU DON'T TAKE THE  
20 MOST STRINGENT TECHNOLOGY OR MORE STRINGENT  
21 TECHNOLOGIES, YOU'RE GOING TO GET TO THE RIGHT AND SAME  
22 RESULTS. AND I THINK IT'S VERY IMPORTANT THAT THE  
23 STATES MAINTAIN THE FLEXIBILITY TO DO THIS IN A RATIONAL

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1 PROCESS.

2 **MR. RAHER:** JOHN?

3 **MR. BUNYAK:** JOHN BUNYAK, NATIONAL PARK  
4 SERVICE. I GUESS I'LL THROW IN MY TWO CENTS. I THINK  
5 IN THEORY, WHETHER YOU USE BOTTOM-UP OR A TOP-DOWN  
6 APPROACH, YOU SHOULD COME TO THE SAME LEVEL, BUT PAST  
7 HISTORY DOESN'T SEEM TO DICTATE THAT. PRIOR TO EPA'S  
8 TOP-DOWN POLICY, SOURCES WERE COMING IN PROPOSING NSPS,  
9 AND IT WAS DIFFICULT FOR THE STATES TO GO BEYOND THAT.  
10 SO I THINK THE PARK SERVICE IS A MAJOR ADVOCATE OF  
11 TOP-DOWN AND WOULD ENCOURAGE THE EPA TO INCLUDE THE  
12 STATE SIP PROPOSAL AS WELL.

13 **MR. RAHER:** WHAT -- ICLAL, ONE LAST COMMENT,  
14 AND WE'RE GOING TO BREAK FOR LUNCH AND COME BACK AND  
15 DISCUSS A COUPLE OF MINOR ISSUES, LIKE CLASS I.

16 **MS. ATAY:** I HEAR THAT THE REAL INTEREST  
17 HERE IS NOT THE WAY HOW THE ANALYSIS WAS DONE, BUT  
18 WHETHER INCREMENTAL COSTS -- THE DECISION IS BASED ON A  
19 TOTAL COST BASIS OR AN INCREMENTAL COST BASIS. I WOULD  
20 SAY THE DECISION CANNOT BE BASED ALONE ON TOTAL COST, OR  
21 IT CANNOT BE BASED ALONE ON INCREMENTAL COST. BOTH HAVE  
22 TO BE TAKEN INTO CONSIDERATION AT THE SAME TIME.

23 FOR EXAMPLE, IF YOU'RE TALKING ABOUT

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1       INSTALLATION OF ONE CONTROL TECHNOLOGY AND YOU'RE TRYING  
2       TO MAKE A SELECTION BETWEEN CONTROL TECHNOLOGY "A" OR  
3       CONTROL TECHNOLOGY "B," CONSIDERATION OF TOTAL COST AND  
4       LOOKING AT INCREMENTAL COSTS MAY LEAD YOU TO SELECT THE  
5       MORE STRINGENT CONTROL AS THE MORE APPROPRIATE OPTION.  
6       HOWEVER, IF YOU'RE TALKING ABOUT ADDING CONTROL  
7       TECHNOLOGIES IN SERIES, CONTROL TECHNOLOGY "A" PLUS  
8       CONTROL TECHNOLOGY "B" OR JUST CONTROL TECHNOLOGY "A,"  
9       THE INCREMENTAL COST DECISION MAY LEAD YOU TO DECIDE  
10      THAT CONTROL TECHNOLOGY "A" ALONE WOULD BE SUFFICIENT.  
11      SO THEY SHOULD BOTH BE TAKEN -- GIVEN CONSIDERATION  
12      TOGETHER, NOT ONE OR THE OTHER.

13               **MR. RAHER:** I'M NOT SO SURE THAT THE PACKAGE  
14      DOESN'T ALLOW THAT AT THE PRESENT TIME AS PROPOSED AS  
15      YOU WOULD --

16               **MS. ATAY:** I SEE THAT --

17               **MR. RAHER:** RIGHT.

18               **MS. ATAY:** -- IT DOES ALLOW --

19               **MR. RAHER:** IT DOES. RIGHT. OKAY.

20               **MS. ATAY:** YEAH.

21               **MR. RAHER:** ALL RIGHT. IF THERE ARE NO MORE  
22      DISCUSSIONS ON THE TECHNOLOGY SIDE, WHY DON'T WE TAKE  
23      A -- IS THERE ANYTHING --

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**MS. BANKOFF:** PAT?

**MR. RAHER:** I'M SORRY. BARBARA?

**MS. BANKOFF:** WE DIDN'T EVEN GET TO UT/A OR POLLUTION PREVENTION. ARE YOU PLANNING TO DO THAT AFTER LUNCH OR IGNORE IT OR?

**MR. RAHER:** ACTUALLY, I THINK I JUST OVERLOOKED IT. THAT'S ALL.

**MS. BANKOFF:** THAT'S WHAT I --

**MR. RAHER:** WHY DON'T WE TAKE THAT UP RIGHT AFTER LUNCH, --

**MS. BANKOFF:** OKAY.

**MR. RAHER:** -- AND THEN WE'LL MOVE ON THEN?

**MS. BANKOFF:** ALL RIGHT. I MEAN, THE OTHER THING IS -- UNLESS OTHER PEOPLE HAVE COMMENTS, I JUST HAVE A VERY BRIEF ONE, WHICH SEEMS APPROPRIATE TO THIS DISCUSSION. TWO MINUTES.

**MR. RAHER:** OKAY.

**MS. BANKOFF:** LESS THAN TWO MINUTES?

**MR. RAHER:** SURE.

**MS. BANKOFF:** I MEAN, BASICALLY I WANTED TO SAY THAT I THINK THE UT/A APPROACH WAS -- OH, SORRY -- I'M SORRY. I WAS DOING OKAY BEFORE, BUT --.

I APPRECIATE WHAT WAS DONE ON UT/A, AND I



1 WANTED TO COMMEND THE FOLKS WHO WORKED ON THAT. SOME OF  
2 THE ONES WHO AREN'T HERE AS WELL. I APPRECIATED THE  
3 BASIC APPROACH AND THE INTENT AND LIKE THE FACT THAT FOR  
4 UT/A IN NONATTAINMENT AREAS THERE IS SOME RECOGNITION OF  
5 RISK-SHARING, AND THE PROPOSAL ADOPTS THE CONCEPT THAT  
6 WE HAD RECOMMENDED ON GROSS AND MARGINAL FAILURE. AND I  
7 THINK THAT'S ALL TO THE GOOD.

8 THE ONE THING THAT I WAS CONCERNED ABOUT IS  
9 THAT THERE STILL NEEDS TO BE A SEPARATE SUBCATEGORY, I  
10 BELIEVE, FOR DEMONSTRATED POLLUTION PREVENTION, WHICH WE  
11 HAD RECOMMENDED. IT WAS AN UNANIMOUS RECOMMENDATION  
12 FROM THE ENTIRE GROUP. AND I THINK THAT THE MAIN REASON  
13 IS THE WAY IT'S CURRENTLY SET UP, THE AGENCY'S APPROACH  
14 TO LAER DOESN'T ALLOW FOR CONSIDERATION OF COLLATERAL  
15 EMISSIONS, ENERGY IMPACTS, OTHER THINGS LIKE THAT, AND I  
16 THINK THAT WITHOUT THAT SEPARATE SUBCATEGORY, THERE  
17 REALLY IS A DISINCENTIVE TO DOING A NUMBER OF APPROACHES  
18 THAT ARE POLLUTION PREVENTION.

19 I MEAN BOTH JOHN -- SORRY TO USE YOUR NAME,  
20 BUT JOHN AND EVEN DAVE MENTIONED SOMETHING THIS MORNING  
21 ABOUT COLLATERAL EMISSIONS. JOHN HAD MENTIONED USING  
22 LOW VOC COATINGS. THERE'S NOT MUCH INCENTIVE TO DOING  
23 THAT IF YOU HAVE TO DO ADD-ON TECHNOLOGIES, AND I

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1 BELIEVE THAT THERE IS ENOUGH -- THERE IS ENOUGH OF A  
2 SAFEGUARD MECHANISM THAT'S ALREADY SET UP IN THE UT/A  
3 PROPOSAL THAT THE SAME THING COULD BE USED FOR A  
4 SUBCATEGORY FOR DEMONSTRATED P<sub>2</sub>. SO I WOULD STRONGLY  
5 URGE THAT THAT BE RECONSIDERED. OTHER THAN THAT, I  
6 THINK IT'S VERY HELPFUL.

7 **MR. RAHER:** OKAY. ALL RIGHT, WELL, WE CAN  
8 AGAIN REVISIT THIS RIGHT AFTER LUNCH AS WELL AS LOOKING  
9 AT ANY OF THE OTHER ISSUES THAT THE COMMITTEE MEMBERS  
10 WOULD LIKE TO RAISE BEFORE WE MOVE ON TO CLASS I.

11 WHY DON'T WE TAKE A BREAK RIGHT NOW?

12 (12:17 P.M. LUNCH RECESS 1:28 P.M.)

13 **MR. RAHER:** ALL RIGHT, LET'S BEGIN. I THINK  
14 BEFORE WE MOVE ON TO THE ISSUE OF CLASS I REQUIREMENTS,  
15 I'M GOING TO DO THREE THINGS: FIRST OF ALL, ASK IF  
16 THERE ARE ANY ADDITIONAL COMMENTS SIMILAR TO BARBARA'S  
17 COMMENTS ON UNDEMONSTRATED TECHNOLOGY OR ANY OF THE  
18 OTHER TECHNOLOGY REQUIREMENT ISSUES.

19 I'D LIKE TO THEN ASK IF THERE'S ANYBODY ON  
20 THE FACA THAT WOULD LIKE TO MAKE ANY CLARIFYING COMMENTS  
21 OR SUGGESTIONS BASED ON WHAT WE'VE ALL HEARD TODAY ON  
22 ANY OF THE ISSUES, SORT OF AS A CLEANUP OF THIS PHASE.  
23 AND THEN WE'D LIKE TO ASK ANYBODY IN THE PUBLIC, IN THE

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1 AUDIENCE, IF THEY WOULD LIKE TO MAKE ANY GENERAL  
2 COMMENTS, AND THEN WE'LL MOVE ON THE CLASS I.

3 IS THERE ANYBODY WHO WOULD LIKE TO MAKE ANY  
4 COMMENTS AS A FOLLOW-ON TO BARBARA'S COMMENTS ON THE  
5 UNDEMONSTRATED TECHNOLOGY, ETC.? DID THAT -- DID SHE  
6 PRETTY WELL CAPTURE MANY OF THE THOUGHTS? OKAY.

7 IS THERE ANYONE ON THE COMMITTEE WHO WOULD  
8 LIKE TO MAKE SORT OF GENERAL COMMENTS ON WHAT YOU HEARD  
9 THIS MORNING, ANY AREAS WHERE WE THINK THAT THE AGENCY  
10 SHOULD PLACE MORE EMPHASIS, DO A LITTLE MORE ANALYSIS,  
11 OR WE, AS COMMITTEE MEMBERS, SHOULD BE LOOKING AT THAT  
12 KIND OF ACTIVITY FOR WRITTEN COMMENTS?

13 HENRY?

14 **MR. NICKEL:** YES, I JUST WANTED TO GIVE ME  
15 REACTION TO A RECOMMENDATION WE HEARD FROM TWO OF THE  
16 STATE REPRESENTATIVES EARLIER; AND THAT IS, CONSIDERING  
17 A POTENTIAL-TO-POTENTIAL ACCOUNTING APPROACH WITH ACTUAL  
18 EMISSIONS CONSIDERED FOR PURPOSES OF OFFSETS.

19 I THINK -- AND I THINK THAT YOU'VE HEARD  
20 THIS FROM A NUMBER OF US BEFORE -- THAT WOULD BE REAL  
21 SIMPLIFICATION. IT WOULD BE REAL REFORM. IT WOULD  
22 RESPOND TO THE CENTRAL CONCERN THAT A NUMBER OF US HAVE  
23 ABOUT LOSING CAPACITY THAT YOU'RE AUTHORIZED TO USE, AND

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1 WE'RE ALWAYS -- AND CONSTRUCT A FACILITY TO USE.

2 IT WOULD ENABLE YOU TO MOVE AWAY FROM A  
3 NUMBER OF THESE OTHER RULES, WHICH THERE IS NO QUESTION  
4 AT ALL INVOLVE MORE COMPLEX JUDGMENTS THAN APPLICATION  
5 OF THAT PARTICULAR APPROACH. I KNOW JUST FROM THE  
6 STANDPOINT OF THE *WEPCO* RULE, I THINK YOU COULD -- YOU  
7 COULD GET RID OF 90 PERCENT OF THE *WEPCO* RULE.

8 THE ONE THING THAT WE'VE BEEN TALKING ABOUT  
9 TODAY THAT WOULD HAVE TO REMAIN, OF COURSE, WOULD BE  
10 POLLUTION CONTROL EXCLUSION. AS WAS DISCUSSED EARLIER,  
11 YOU WILL HAVE SOME COLLATERAL INCREASES, AND THAT HAS TO  
12 BE ADDRESSED THROUGH THAT TYPE OF EXCLUSION. BUT I  
13 THINK THAT THIS WOULD BE VERY PROMISING AND CERTAINLY  
14 SOMETHING THAT WE'RE GOING TO BE LOOKING AT WHEN WE  
15 PREPARE OUR COMMENTS ON THE PROPOSAL.

16 **MR. RAHER:** I WOULD -- I BELIEVE -- WE'RE  
17 NOT PUTTING WORDS IN HER MOUTH, BUT I BELIEVE ICLAL  
18 AGREED TO MAKE AVAILABLE TO ANYONE THE NEW JERSEY  
19 PROGRAM AND HOW IT WORKS AND ANY, YOU KNOW, ANY  
20 DESCRIPTION OF IT THAT WOULD BE NECESSARY THAT'S NOT  
21 EVIDENT FROM THE LANGUAGE FROM THE PROGRAM ITSELF. AND  
22 THAT MAY BE VERY, VERY USEFUL FOR ANY OF THE GROUPS,  
23 INCLUDING YOUR OWN STATE ASSOCIATION AND SO FORTH TO

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1 LOOK AT AND SEE WHETHER WE COULD GIVE SOME FEEDBACK TO  
2 THE AGENCY AS TO WHETHER OR NOT THIS SIMPLIFICATION  
3 WOULD BE USEFUL OR NOT.

4 ICLAL?

5 **MS. ATAY:** I COULD SEND A COMPARISON OF THE  
6 ACTUAL-TO-FUTURE ACTUAL WITH POTENTIAL-TO-POTENTIAL  
7 CURRENT NEW JERSEY PROGRAM TO EVERYONE IN THE NSR REFORM  
8 IF THEY WANT IT.

9 **MR. RAHER:** I ACTUALLY THINK THAT THE WOULD  
10 BE --

11 **MR. NICKEL:** IT WOULD BE VERY HELPFUL.

12 **MR. RAHER:** IS THERE ANY OBJECTION TO THAT?  
13 I THINK THAT WOULD BE EXTREMELY HELPFUL, AND IT WOULD  
14 GIVE ALL OF US A PIECE OF PAPER TO TAKE A LOOK AT AND  
15 MAYBE FACILITATE THE DISCUSSION.

16 **MR. SOLOMON:** I JUST HAVE A COUPLE  
17 QUESTIONS, NOT QUESTIONS -- SUGGESTIONS. WE DO RAISE  
18 THE POTENTIAL-TO-POTENTIAL TEST WITHIN THE FRAMEWORK OF  
19 CMA EXHIBIT "B," AND OUR BIGGEST CONCERN IS THE  
20 POTENTIAL FOR ALLOWING REAL INCREASES IN EMISSIONS THAT  
21 WOULD OTHERWISE HAVE NOT OCCURRED AND THEIR IMPACT ON  
22 AIR QUALITY. AND I KNOW THAT WITHIN THE PACKAGE WE  
23 SOLICIT COMMENT ON HOW THAT ISSUE COULD BE ADDRESSED.

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1                   WHAT I'VE HEARD FROM NEW JERSEY WAS ALONG  
2 WITH THE POTENTIAL-TO-POTENTIAL TEST THERE WAS SOME KIND  
3 OF AIR QUALITY ASSESSMENT OR INCREMENT ANALYSIS. SO THE  
4 MEMBERS HERE THAT ARE COMMENTING, IF YOU CAN PROVIDE ANY  
5 COMMENTS ON HOW EPA COULD DEAL OR SHOULD DEAL WITH THE  
6 POTENTIAL AIR QUALITY RAMIFICATIONS OF GOING TO THE  
7 POTENTIAL-TO-POTENTIAL TEST THE AGENCY WOULD APPRECIATE  
8 THAT.

9                   AND JUST A CLARIFYING REQUEST FROM NEW  
10 JERSEY. ALONG -- IS IT A STRAIGHT  
11 POTENTIAL-TO-POTENTIAL TEST, OR, AS I UNDERSTOOD IT,  
12 THERE'S ALSO AN INCREMENT AND NO<sub>x</sub> TEST THAT GOES ALONG?

13                   **MS. ATAY:** THERE'S NO INCREMENT AND NO<sub>x</sub> TEST  
14 THAT GOES ALONG. WE DID -- IF SOMEBODY DOES THE NETTING  
15 ANALYSIS USING POTENTIAL-TO-POTENTIAL, THEY ARE  
16 COMPLETELY EXCLUDED FROM THE PROGRAM. HOWEVER, NEW  
17 JERSEY HAS ITS OWN AUTHORITIES THAT MAY ALLOW US TO  
18 REQUIRE AN AIR QUALITY IMPACT ANALYSIS TO BE DONE.

19                   THE ONLY THING IS THAT IN THIS POTENTIAL-TO-  
20 POTENTIAL TEST IT'S NOT SIMILAR TO WHAT'S IN THE RULE.  
21 IT'S QUITE DIFFERENT THAN THAT. IT'S YOUR POTENTIAL  
22 EMISSIONS NOW, YOUR FUTURE POTENTIAL EMISSIONS THAT  
23 YOU'RE ASKING FOR NOW, AND CREDIT ONLY IS GIVEN FOR

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1 NETTING PURPOSES IF YOU HAVE MADE ACTUAL EMISSION  
2 REDUCTIONS. NO CREDIT FOR ALLOWABLE REDUCTIONS. CREDIT  
3 FOR ONLY ACTUAL EMISSION REDUCTIONS. THAT IS THE  
4 DIFFERENCE.

5 **MR. SOLOMON:** BUT THE QUESTION I HAVE,  
6 THOUGH, IS THAT -- MAYBE I'M A LITTLE BIT CONFUSED. BUT  
7 IF I HAVE AN EMISSION UNIT, AND ALL I'M DOING IS  
8 MODIFYING THAT UNIT -- AND WE'RE NOT TALKING REDUCTIONS,  
9 JUST TALKING MODIFYING THAT UNIT OR REPLACING THAT  
10 UNIT -- IS THAT STILL A POTENTIAL-TO-POTENTIAL TEST, OR  
11 IS THAT AN ACTUAL-TO-POTENTIAL TEST?

12 **MS. ATAY:** IT'S A POTENTIAL-TO-POTENTIAL  
13 TEST. BECAUSE IF YOU'RE MODIFYING YOUR UNIT AND YOU ARE  
14 STILL STAYING WITHIN THE ALLOWABLE EMISSIONS LIMIT THAT  
15 WAS ESTABLISHED FOR YOU, THOSE ALLOWABLE EMISSIONS  
16 LIMITS HAVE BEEN SUBJECT TO AIR QUALITY IMPACT ANALYSIS,  
17 INCREMENT ANALYSIS, AND IN THE CASE OF NEW JERSEY ALSO  
18 HEALTH RISK ASSESSMENTS AND WERE FOUND TO BE ACCEPTABLE  
19 AS FAR AS THE ENVIRONMENT IS CONCERNED; THEREFORE, THERE  
20 IS NO NEED RE-SUBJECT YOU IF YOU'RE GOING TO STAY WITHIN  
21 YOUR ALLOWABLES.

22 **MR. SOLOMON:** BUT MY QUESTION IS THERE'S A  
23 DISCONNECT FROM WHAT I HEARD THIS MORNING RELATIVE TO

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1 YOUR CONCERN ABOUT THE CLEAN UNIT TEST IN THAT THERE YOU  
2 SAID THERE WAS POTENTIAL FOR INCREASES IN EMISSIONS THAT  
3 WOULD GO UNREVIEWED, AND WHAT I'VE HEARD NOW IS  
4 BASICALLY THE SAME TYPE OF TEST WITHOUT AN AIR QUALITY  
5 ASSESSMENT.

6 **MS. ATAY:** THAT'S QUITE DIFFERENT, DAVID,  
7 BECAUSE IN THE CASE OF A CLEAN UNIT EXEMPTION, I CAN  
8 COME UP AND SAY, OKAY, THIS UNIT IS EMITTING 100 TONS OF  
9 NO<sub>x</sub> NOW, AND IT HAS BACT/LAER -- IT HAS BEEN MADE A  
10 DEMONSTRATION ON IT TWO YEARS FOR BACT AND LAER. NOW  
11 I'M GOING TO INCREASE THOSE 100 TONS PER YEAR EMISSIONS  
12 ALLOWABLE TO 400 TONS PER YEAR EMISSIONS. BECAUSE MY  
13 PERMIT SAID THAT I CAN ONLY OPERATE 1,000 HOURS, NOW I'M  
14 GOING TO INCREASE 1,000 HOURS TO 4,000 HOURS. YOU WILL  
15 COMPLETELY EXEMPT THEM FROM REVIEW BECAUSE IT'S CLEARLY  
16 BACT. BUT FOUR TIMES MORE EMISSIONS WOULD HAVE FOUR  
17 TIMES MORE IMPACT ON THE ENVIRONMENT.

18 **MR. SOLOMON:** BUT WHAT IS THE DIFFERENCE  
19 BETWEEN THAT AND YOUR POTENTIAL-TO-POTENTIAL TEST?

20 **MS. ATAY:** IT VARIES QUITE SIGNIFICANT  
21 BECAUSE IN THIS CASE I'M TALKING ABOUT BEING BOTH EQUAL  
22 TO ALLOWABLE AND ACTUAL. IF THEY ARE GOING TO STAY  
23 WITHIN THE 100 TONS PER YEAR, THEY'RE GOING TO BE

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1 POTENTIAL-TO-POTENTIAL, DELTA IS ZERO, NO EMISSION  
2 INCREASE. BUT THE POTENTIAL, THE ALLOWABLE, AND THE  
3 ACTUAL WHICH IS EQUAL TO EACH OTHER, 100 TONS PER YEAR  
4 IS GOING TO GO TO 400 TONS PER YEAR. IN THIS CASE THEY  
5 WILL BE SUBJECT TO REVIEW, BOTH FROM AN AIR QUALITY AND  
6 A TECHNOLOGY PERSPECTIVE.

7 **MR. RAHER:** I THINK IT MIGHT BE HELPFUL,  
8 ICLAL, YOU KNOW, IF YOU COULD IN YOUR COMPARISON ALSO  
9 TAKE A LOOK AT THE CLEAN UNIT PROPOSAL.

10 **MS. ATAY:** YES, I WILL PUT SOME EXAMPLES IN  
11 THERE --

12 **MR. RAHER:** OKAY.

13 **MS. ATAY:** -- TO ILLUSTRATE WHAT WE MEAN.

14 **MR. RAHER:** RIGHT. I THINK IT WILL REFRESH  
15 EVERYONE'S RECOLLECTION AS TO WHAT YOU WERE TALKING  
16 ABOUT TODAY AND HELP US LOOK AT BOTH OF THESE PROGRAMS.

17 **MS. ATAY:** OKAY.

18 **MR. RAHER:** THANK YOU.

19 YEAH, DENNIS?

20 **MR. CRUMPLER:** ICLAL -- THIS IS  
21 DENNIS CRUMPLER -- I ALSO HAVE ONE MORE QUESTION. IN  
22 YOUR ANALYSIS WOULD YOU PLEASE, IF YOU CAN, EXPLAIN HOW  
23 YOU TREAT SOURCES THAT MAY BE GRANDFATHERED OR HAVE

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1 NEVER GOTTEN PERMITS, FOR EXAMPLE, AND FOR HOW THE STATE  
2 HANDLES THE AIR QUALITY ANALYSIS WITH RESPECT TO THOSE  
3 SOURCES IN PROSPECTIVE PERMITTING ACTIONS? IN OTHER  
4 WORDS, WHEN THAT SOURCE GOES FORWARD OR PROPOSES A  
5 PROJECT, HOW WOULD THE STATE HANDLE THE  
6 POTENTIAL-TO-POTENTIAL TEST THERE?

7 **MS. ATAY:** OKAY. THAT GOES A LITTLE BIT  
8 INTO DIFFERENT ISSUES WHERE WE WILL BE COMMENTING AS  
9 WELL. THERE ARE A LOT OF EXCLUSIONS PROVIDED FOR IN  
10 HERE. EVEN THOUGH I WOULD SUPPORT EXCLUDING PERMIT  
11 APPLICANTS FROM MANY OF THE ADMINISTRATIVE BURDENS OF  
12 THE NSR PROGRAM, I REALLY WOULD BE RELUCTANT TO SUPPORT  
13 NOT LOOKING INTO AIR QUALITY IMPACTS OR INCREMENT  
14 ANALYSIS, AND I WOULD ALSO BE RELUCTANT TO SUPPORT -- IF  
15 SOMEBODY IS MAKING AN INVESTMENT, CAPITAL INVESTMENT, IN  
16 THEIR FACILITY, REPLACING EQUIPMENT AND REPAIRING  
17 EQUIPMENT AND PUTTING IN A NEW INCREMENT -- NOT TO USE  
18 CURRENT TECHNOLOGY, TODAY'S AVAILABLE DEMONSTRATED  
19 TECHNOLOGY TO DO THAT.

20 AND I DON'T THINK ANY OF THE INDUSTRY PEOPLE  
21 WOULD OBJECT TO THAT. THEY'RE SPENDING THE MONEY; WHY  
22 NOT USE THE GOOD STUFF THAN USE TO BAD STUFF INSTEAD.

23 **MR. RAHER:** BOB BEASLEY?

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1                   **MR. BEASLEY:**   **THERE HAVE BEEN A NUMBER OF**  
2 **COURT CASES RECENTLY ADDRESSING THE ISSUE AS TO WHETHER**  
3 **OR NOT** LIMITS HAVE TO FEDERALLY ENFORCEABLE, AND I KNOW  
4 EPA IS STILL TRYING TO DEAL WITH HOW TO HANDLE THAT  
5 ISSUE.

6                   THE PROPOSED LANGUAGE IN THE REGULATION DOES  
7 USE THE TERM "FEDERALLY ENFORCEABLE" A NUMBER OF TIMES,  
8 AND I THINK IT'S IMPORTANT THAT IN THIS PROCESS THAT ALL  
9 BE SORTED OUT; AND THAT THOSE CASES WHERE IT CAN'T BE  
10 SUPPORTED TO KEEP THAT LANGUAGE THERE, THAT THE  
11 "FEDERALLY ENFORCEABLE" PART BE STRICKEN, PERHAPS  
12 REPLACED WITH "PRACTICALLY ENFORCEABLE."

13                  **MR. RAHER:**   OKAY.   WE WILL LEAVE THAT TO THE  
14 EPA LAWYERS TO SORT OUT FOR US.

15                  RICH?

16                  **MR. FISHER:**   I JUST WANT TO GO ON RECORD BY  
17 SAYING THAT I THINK THE POTENTIAL-TO-POTENTIAL TEST  
18 MAKES SENSE FROM THE FORESTERS' PERSPECTIVE.   I'M  
19 RICH FISHER, WITH THE FOREST SERVICE.   AND I THINK THE  
20 PAL'S MAKE SENSE AS WELL, BUT I THINK IT'S IMPORTANT  
21 THAT WE ADDRESS, WHEN CONSIDERING A PLANTWIDE  
22 APPLICABILITY LIMIT, ADDRESS -- AGAIN, TO ADDRESS  
23 JOHN BUNYAK'S EARLIER COMMENT -- THAT WE CONSIDER THE

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1 EFFECTS OF CHANGING SOMETHING IN THE PAL ON THE HURD OR  
2 ON THE CLASS I AREAS.

3 AND IF THE EMISSIONS, THE STACK HEIGHTS  
4 CHANGE, AND THE OPERATING CONDITIONS OF THE UNITS AS  
5 THEY ARE MANIPULATED ON THE PAL CHANGE -- THEN, PERHAPS,  
6 WE OUGHT TO BE LOOKING AT WHAT KIND OF EFFECTS OR  
7 IMPACTS THAT HAS FAR AFIELD, DOWNWIND. THAT'S THE  
8 EXTENT OF MY COMMENTS.

9 **MR. RAHER:** OKAY. ANY OTHER -- ERNIE?

10 **MR. ROSENBERG:** JUST IN GENERAL IN TERMS OF  
11 THE DISCUSSION WE'VE HAD, I THINK IT'S VERY IMPORTANT  
12 FOR EPA, IN LOOKING AT THESE COMMENTS, AND THE OTHER  
13 COMMENTERS TO BE AWARE OF THE FACT THAT AVOIDING OR  
14 INSTALLING TECHNOLOGY IS OFTEN NOT THE ISSUE. IF THERE  
15 WERE A WAY TO INSTALL THE TECHNOLOGY WHEN YOU'RE DOING  
16 SOMETHING NEW WITHOUT INCURRING ALL THE DELAYS AND  
17 BURDENS OF THE PERMITTING PROCESS, THAT WOULD BE  
18 ACCEPTABLE IN A LOT OF CASES.

19 THE PROBLEM IN MANY CASES THAT MAKES  
20 FACILITIES LOOK FOR, YOU KNOW, ESCAPES CHUTES FROM THE  
21 SYSTEM IS NOT THAT THEY'RE UNWILLING TO PUT IN CONTROLS,  
22 IT'S JUST THAT THEY CAN'T AFFORD THE DELAY THAT'S  
23 INVOLVED IN NEW SOURCE REVIEW PROCESS. SO AS WE GO

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1 THROUGH THIS PROCESS, LET'S LOOK FOR -- AND I REALIZE IN  
2 THE STRUCTURE OF THE *CLEAN AIR ACT* THIS IS DIFFERENT,  
3 DIFFICULT -- BUT LET'S LOOK FOR OPPORTUNITIES WHERE YOU  
4 CAN ACKNOWLEDGE YOU'VE ALREADY GOT THE CONTROL.

5 THAT'S WHY I THINK THE CLEAN UNIT EXCLUSION  
6 IS SO IMPORTANT, BECAUSE IT GIVES A FACILITY AN  
7 OPPORTUNITY TO BUY FLEXIBILITY AND RAPID RESPONSE TO ITS  
8 MARKETS BY PUTTING IN GOOD CONTROLS, WHICH I THINK IS A  
9 WIN-WIN SITUATION FOR EVERYBODY.

10 **MR. RAHER:** BILL?

11 **MR. BECKER:** I APOLOGIZE, PAT. I'M NOT --

12 **MR. RAHER:** WELL, THEN WE'RE GOING TO CUT  
13 YOU OFF.

14 **MR. BECKER:** -- I'M GOING TO TAKE THE HOOK.

15 I THOUGHT THAT IS EXACTLY WHAT -- I THINK  
16 YOU'RE ABSOLUTELY RIGHT, ERNIE. YOU'RE ABSOLUTELY  
17 RIGHT. WHAT WE'VE LEARNED FROM INDUSTRY -- WHAT I'VE  
18 LEARNED FROM INDUSTRY IS THAT MOST TIMES CERTAINTY AND  
19 QUICK DECISIONS IS MUCH MORE IMPORTANT THAN STRINGENCY  
20 OF REGULATION, AND I USED TO WORK FOR INDUSTRY, AND I  
21 KNOW THIS. AND THAT'S WHY I THOUGHT THAT THE STATES AND  
22 LOCALITIES AGREEING TO A MANDATORY REQUIREMENT TO MAKE  
23 IT -- TO PROVIDE THE DATABASE TO MAKE QUICK DECISIONS

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1 QUICKER AND EASIER WAS A GOOD TRADE TO ENSURE THAT WE  
2 HAD THOSE VERY GOOD DECISIONS THAT YOU'RE AGREEING TO  
3 FOLLOW AS A TRADE FOR QUICK DECISIONS. THE GOOD  
4 DECISIONS ARE THE TRADE FOR QUICK DECISIONS.

5 AND THAT'S WHY I WAS SO DISAPPOINTED TO HEAR  
6 THAT NOT EVERYONE FEELS THAT WAY, AND I THINK -- I THINK  
7 THE COMMONALITY WE HAVE HERE IS WE WILL GIVE YOU  
8 CERTAINTY AND WE WILL GIVE YOU QUICK DECISIONS, GIVE US  
9 THE BEST DECISIONS; AND IF YOU ARRIVE A SECOND BEST, AT  
10 LEAST GO THROUGH THE SAME KIND OF PROCESS.

11 **MR. BEASLEY:** COULD I? COULD I JUST ADD  
12 SOMETHING TO THAT? I REALLY DON'T -- I DON'T DISAGREE  
13 WITH YOU, BILL, WHICH IS PROBABLY THE FIRST YOU'LL EVER  
14 HEAR AND MAYBE THE LAST TIME YOU'LL HEAR THAT. BUT --

15 **MR. BECKER:** THEN LET'S MOVE ON.

16 **MR. BEASLEY:** NO. BUT THE RIGIDITY OF  
17 PUTTING A REQUIREMENT IN THE FEDERAL SYSTEM MEANS  
18 ENFORCING A CHOICE AT THE FRONT END WHEN YOU'RE  
19 DESIGNING THE SYSTEM IS THE PROBLEM. THERE ARE SOME  
20 SOURCES AT SOME TIMES IN THEIR ECONOMIC LIFE WHERE SPEED  
21 IS IMPORTANT. THERE ARE SOME SOURCES WHERE AT POINTS IN  
22 THEIR ECONOMIC LIFE AVOIDING A BIG HIT IN TERMS OF  
23 CAPITAL EXPENSES AT THAT POINT IS IMPORTANT. ONCE

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1 AGAIN, THERE'S NO GOOD ONE-SIZE-FITS-ALL FIX HERE.

2 AS FAR AS THE DISCUSSION OF TOP-DOWN BACT  
3 AND THE USE OF GOOD CONTROLS, I DIDN'T HEAR PEOPLE  
4 SAYING THAT THEY WEREN'T WILLING TO START WITH LOOKING  
5 AT GOOD CONTROLS. I HEARD PEOPLE SAYING DON'T FORCE US  
6 TO STOP THERE IF THERE'S -- IF YOU'RE MAKING A STUPID  
7 DECISION IN TERMS OF INCREMENTAL COST-EFFECTIVENESS.

8 **MR. BECKER:** I DIDN'T HEAR THE SAME, BUT WE  
9 CAN TALK ABOUT THAT LATER.

10 **MR. RAHER:** OKAY. IF THERE ARE NO OTHER  
11 GENERAL CLOSING COMMENTS FROM THE COMMITTEE MEMBERS ON  
12 WHAT WE DISCUSSED THIS MORNING, ARE THERE ANY -- IS  
13 THERE ANYBODY IN THE PUBLIC AUDIENCE THAT WOULD LIKE TO  
14 MAKE A COMMENT ON ANY OF THE -- ON THE ISSUES THAT WERE  
15 DISCUSSED?

16 ALL RIGHT. LET'S MOVE ON THEN TO THE  
17 DISCUSSION WITH RESPECT TO CLASS I PROTECTION  
18 REQUIREMENTS. AGAIN, I WILL TRY TO BRIEFLY GIVE YOU A  
19 SNAPSHOT OF THE OVERALL ISSUES THAT CAME UP YESTERDAY  
20 WITH RESPECT TO CLASS I.

21 I THINK YOU CAN DIVIDE IT INTO -- INTO TWO  
22 CATEGORIES. THE FIRST ONE WAS, OBVIOUSLY, THE FEDERAL  
23 LAND MANAGERS, I THINK, APPRECIATED THE RECOGNITION THAT

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1 THE PACKAGE GIVES TO THE DIFFICULTY AND COMPLEXITIES  
2 THAT THEY HAVE WITH DEALING WITH THEIR OBLIGATIONS.

3 ON THE OTHER HAND, THOSE INDIVIDUALS THAT  
4 WERE, THE PERMITTEES HAVING TO DEAL WITH THIS, WERE  
5 EXTREMELY CONCERNED AND DO NOT BELIEVE THAT THE PACKAGE  
6 ADEQUATELY ADDRESSES THE FACT THAT THERE APPEARS TO BE  
7 NO CHECK OR BALANCE ON THE POTENTIAL DELAY THAT THE  
8 PACKAGE CAN CAUSE FROM WHAT WAS CHARACTERIZED AS  
9 "UNBRIDLED DISCRETION" TO CAUSE CONTINUAL DELAYS IN  
10 REVIEWS.

11 AND I THINK THAT THERE WERE MANY PEOPLE WHO  
12 RAISED ISSUES AS TO THE LEGAL SUFFICIENCY OF THE ISSUES  
13 AS PRESENTED IN THE OVERALL PACKAGE.

14 THERE WERE A NUMBER OF REQUESTS THAT THE  
15 CLASS I PROVISIONS OF THIS PACKAGE BE SEVERED, AND THERE  
16 WERE VERY FEW COMMENTS WHICH ACTUALLY IDENTIFIED  
17 CURRENTLY AVAILABLE MEANS FOR CORRECTING THE ISSUES THAT  
18 WERE IDENTIFIED AS TROUBLESOME.

19 WE DIDN'T HEAR, BUT MAYBE JOHN PAUL AND BILL  
20 AND OTHERS FROM THE STATES CAN ADDRESS WHETHER OR NOT  
21 THEY BELIEVE THAT THE CLASS I PROVISIONS WOULD ALSO  
22 CAUSE INCREASED BURDEN ON THE AMOUNT OF WORK, TIME,  
23 EXPENDITURES THAT THAT WOULD HAVE TO HAVE SIMILAR TO THE

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1 OTHER NEW SOURCE REVIEWS, BUT I THINK IT DOES HOLD --  
2 OBVIOUSLY, IF THE COMMENTS ARE CORRECT, IT DOES GO BACK  
3 TO THE STATE PERMITTERS AS TO WHAT'S GOING TO HAPPEN.

4 THAT'S A PRETTY QUICK SUMMARY OF THE ISSUES.  
5 ANYBODY FROM EPA WANT TO SORT OF ADDRESS THE OVERALL  
6 GOALS THAT THE AGENCY HAD WITH RESPECT TO PUTTING OUT  
7 THIS PORTION OF THE PACKAGE?

8 **MR. DEROECK:** I'D JUST LIKE TO MAKE A MOTION  
9 THAT WE ACCEPT THE ENTIRE CLASS I PROCEDURE AS PROPOSED.

10 **MR. RAHER:** THAT'S A -- WE DON'T HAVE VOTING  
11 PROCEDURES HERE, BUT IF WE DID, WE COULD DEBATE THAT.

12 **MR. DEROECK:** JUST TO ADD TO WHAT PAT HAS  
13 SAID, WE WORKED THROUGH THE CLASS I PROCESS WITH SEVERAL  
14 WORKING GROUPS. AND AS THE PROCESS EVOLVED, CONSENSUS  
15 WAS REACHED ON CONCEPTS, BUT I THINK IT'S FAIR TO SAY  
16 THAT IN MOST CASES CONSENSUS WAS NEVER REACHED ON THE  
17 EXACT WAY TO ADDRESS OR RESOLVE -- ADDRESS THOSE  
18 CONCEPTS. AND SO WE TOOK IT UPON OURSELVES, NATURALLY,  
19 TO PUT ON PAPER A PROCEDURE THAT WOULD DEAL WITH  
20 CONCEPTUAL CONSENSUS, BUT AS WE FOUND AS WE WENT ALONG,  
21 THERE WAS DISAGREEMENT FROM BOTH SIDES AS TO HOW -- HOW  
22 WE CHOSE TO DEAL WITH THOSE CONCEPTS, AND I GUESS THAT'S  
23 WHERE WE ARE TODAY.

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1 WE DID TRY TO ADDRESS THE CONCERNS THAT  
2 FOCUSED ON THE FACT THAT THE EXISTING PROCESS WAS  
3 AMBIGUOUS. THE PROCEDURES, IN FACT, DIFFERED FROM --  
4 BETWEEN THE PART 51 AND THE PART 52, AND THERE WAS A  
5 CLEAR LACK OF ROLES AND AUTHORITY: NOT JUST ON THE  
6 FEDERAL LAND MANAGER'S PART, BUT AS TO WHO WAS REQUIRED  
7 TO DO WHAT AND WHO COULD REQUIRE WHO TO DO WHAT.

8 AND THERE WAS A GENERAL CONCERN THAT THE  
9 PROCESS WAS NOT SUFFICIENTLY LOADED UP FRONT, SO TO  
10 SPEAK, SO THAT INFORMATION COULD BE SHARED AND PROCESSED  
11 IN A TIMELY WAY SO THAT DECISIONS COULD BE MADE IN A  
12 TIMELY WAY. AND THERE WAS A LACK OF COORDINATION SO  
13 THAT OFTENTIMES THE PROCESS DRAGGED ON, OR IT WAS SAID  
14 OFTENTIMES THAT THE FEDERAL LAND MANAGER DIDN'T ENTER  
15 INTO THE -- ENTER ONTO THE SCENE UNTIL THE LAST MINUTE,  
16 AND THAT IN ITSELF DELAYED THE PROCESS FOR QUITE SOME  
17 TIME.

18 SO WE DID ADDRESS THOSE ISSUES IN THE  
19 PACKAGE: TRYING TO ADDRESS THE AMBIGUITY, TRYING TO PUT  
20 A PROCEDURE IN PLACE THAT WE BELIEVE REFLECTED THE  
21 INTENT OF CONGRESS AND THE STATUTE. AND WE TRIED TO  
22 IDENTIFY ROLES AND AREAS OF AUTHORITY. AND BY THE WAY,  
23 MY PERSONAL BELIEF, AND IT WAS OUR INTENT, WAS THAT WE

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1 DID REFLECT THE LEGISLATIVE HISTORY AND THE STATUTE IN  
2 TRYING TO PRODUCE IN THE PACKAGE AN UNDERSTANDING THAT  
3 THE PERMITTING AGENCY OR THE PERMITTING AUTHORITY IS THE  
4 CAPTAIN OF THE SHIP, SO TO SPEAK, AND THEY DO MAKE --  
5 THEY DO HAVE THE BOTTOM-LINE AUTHORITY TO MAKE DECISIONS  
6 AS THE PROCESS GOES ON AND THAT THE FEDERAL LAND MANAGER  
7 HAS A ROLE IN THAT, AND THERE IS A CORE COORDINATION  
8 RESPONSIBILITY BUT THAT THE PERMITTING AUTHORITY DOES,  
9 INDEED, HAVE THAT AUTHORITY AND RIGHT TO MAKE THE  
10 DECISIONS AS THE PROCEDURE PURSUES.

11 **MR. RAHER:** AND YOU -- AND FROM THE AGENCY'S  
12 STANDPOINT, YOU WERE ATTEMPTING TO ADDRESS BY  
13 ELIMINATING AMBIGUITY AND THE FRONT LOADING AND THE  
14 COORDINATION PROCESS, THE WHOLE QUESTION OF DELAY? THAT  
15 WAS ONE OF YOUR GOALS, CORRECT?

16 **MR. DEROECK:** YES. BY PUTTING IN THERE  
17 SPECIFIC STEPS WHERE CERTAIN THINGS HAD TO BE ADDRESSED  
18 -- TIME SCHEDULES FOR ADDRESSING THEM, POINTS WHERE  
19 COORDINATION NEEDED TO TAKE PLACE, AND THEN A DECISION  
20 COULD BE MADE, AND LOADING ALL THESE THINGS UP FRONT  
21 WHERE THE INFORMATION WAS AVAILABLE EARLY, WHERE  
22 DECISIONS WERE MADE AT APPROPRIATE TIMES, THAT WE  
23 WOULDN'T HAVE TO DEAL WITH THESE AFTER THE FACT SORT OF

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1 TYPE DECISION-MAKING DILEMMAS THAT WERE COMING UP UNDER  
2 HISTORICAL PSD PERMIT DETERMINATIONS.

3 THERE WERE -- THERE APPEARED TO BE, AT  
4 LEAST, MISCONCEPTIONS ABOUT WHAT THE PROGRAM WOULD TURN  
5 OUT TO BE AS A RESULT OF THE PROPOSAL, AS I UNDERSTOOD  
6 THE COMMENTS YESTERDAY, AND PERHAPS SOME OF THOSE ARE  
7 WHERE WE CAN START TODAY.

8 THE PURPOSE OR INTENT WAS NOT TO TURN TO  
9 STATUTE ON ITS HEAD, AS ONE COMMENT SAID, BUT TO FOLLOW  
10 THE STATUTE IN REQUIRING, FOR ONE THING, THAT A NOTICE  
11 FROM THE FEDERAL LAND MANAGER OR OTHER FEDERAL OFFICIAL  
12 NEEDED TO BE SUBMITTED IN WRITING, AND WE SAID BEFORE  
13 THE -- BEFORE THE COMPLETION DETERMINATION WAS MADE IN  
14 ORDER TO ALLEGE AN ADVERSE OR POTENTIAL ADVERSE IMPACT ,  
15 AND THAT WOULD TRIGGER A CLASS I ANALYSIS. AND THAT  
16 CLASS I ANALYSIS WOULD THEN PLACE THE BURDEN ON THE  
17 PERMITTING AUTHORITY -- I'M SORRY, THE PERMITTEE -- TO  
18 AN INCREMENT ANALYSIS AND THAT WAS CLEARLY THE INTENT OF  
19 THE ACT TO SHOW THAT THERE WAS NO INCREMENT VIOLATION ON  
20 THE PART OF THE PERMITTEE.

21 AGAIN, IN THE ABSENCE OF THAT NOTICE, THERE  
22 WOULD BE NO REQUIREMENT TO DO A CLASS I INCREMENT  
23 ANALYSIS, AND THAT WAS THE TRIGGER FOR IT. THAT WAS

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1 WRITTEN IN THE STATUTE. IT WAS NOT IN OUR REGULATIONS  
2 BEFORE THAT POINT, AND SO OUR INTENT THERE WAS TO BE  
3 PARTICULARLY CONSISTENT WITH THE *CLEAN AIR ACT* IN  
4 ESTABLISHING THAT MECHANISM THAT WOULD TRIGGER A CLASS I  
5 ANALYSIS.

6 AND MAYBE WE CAN START WITH THAT PARTICULAR  
7 ISSUE.

8 **MR. RAHER:** WELL, IT MIGHT BE HELPFUL IF  
9 THERE WERE ANY OTHER AREAS OF CLARIFICATION THAT WE GET  
10 THEM SORT OF ALL OUT ON THE TABLE SO THAT PEOPLE CAN  
11 LOOK AT THE PACKAGE AS A WHOLE.

12 **MR. DEROECK:** OKAY. THERE WAS A COMMENT  
13 THAT THE FEDERAL LAND MANAGER'S AUTHORITY APPEARED TO BE  
14 ARBITRARY AND OVERWHELMING. I FORGET WHAT THE VARIOUS  
15 WORDS WERE. ABSOLUTE. AGAIN, THAT WAS NOT OUR INTENT.  
16 OUR INTENT WAS TO DEFINE THOSE POINTS IN THE PROCESS  
17 WHERE THE FEDERAL LAND MANAGER'S ROLE WAS APPROPRIATE  
18 AND NECESSARY, AND THAT INVOLVED PREAPPLICATION INPUT.  
19 IT INVOLVED COMPLETION DETERMINATION INPUT. IT INVOLVED  
20 ANALYTICAL DETERMINATION INPUT AND THE RIGHTS AND  
21 ABILITIES TO COMMENT ON THE PERMITTING AUTHORITY'S FINAL  
22 DETERMINATION. I THINK THOSE ARE ALL CONSISTENT WITH  
23 THE *ACT*, ALTHOUGH THEY MIGHT NOT HAVE BEEN SPELLED OUT

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1       PRECISELY BY THE *ACT*.

2                       AGAIN, EACH STEP OF THE WAY THE PERMITTING  
3       AUTHORITY HAS THE RIGHT AND THE RESPONSIBILITY TO MAKE  
4       THE ULTIMATE DECISION AS TO HOW AND WHEN TO PROCEED AS  
5       LONG AS THEY CONSULT WITH THE FEDERAL LAND MANAGER ON  
6       POINTS OF DISPUTE AND ADDRESS THE CONCERNS THAT THE  
7       FEDERAL LAND MANAGER HAS IN SHAPE OR FORM.

8                       ANOTHER COMMENT WAS THAT THERE COULD BE  
9       UNNECESSARY DELAYS IN THE PROCEDURE, AND, AGAIN, THAT  
10      WAS REALLY THE OPPOSITE OF OUR INTENT IN THAT WE  
11      INTENDED MANY OF THE PROCEDURES TO TAKE PLACE AS QUICKLY  
12      AS POSSIBLE IN THE PERMITTING PROCESS SO THAT THE  
13      INFORMATION NECESSARY TO DO AN ANALYSIS COULD BE  
14      PROVIDED UP FRONT, THE FEDERAL LAND MANAGER'S CONCERNS  
15      COULD BE EXPRESSED UP FRONT, AND THE ANALYSIS WOULD  
16      PROCEED AT THE SAME TIME THAT THE REST OF THE PERMIT  
17      ANALYSIS WOULD SO THAT THERE WOULDN'T BE A NEED FOR A  
18      SEPARATE CLASS I ANALYSIS AFTER THE REST OF THE PERMIT  
19      HAD ALREADY BEEN PROCESSED AND A DETERMINATION WAS  
20      IMMINENT.

21                      THERE WAS A COMMENT CONCERNING THE FACT THAT  
22      WE WERE EXTENDING THE COMPLETION DETERMINATION PROCESS  
23      BY AT LEAST SIXTY DAYS, AND THE PROPOSED PROCEDURE

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1 ACTUALLY SAYS IT ALLOWS THE FEDERAL LAND MANAGER THIRTY  
2 DAYS TO REVIEW AN APPLICATION AND TO RESPOND TO THE  
3 PERMITTING AUTHORITY AS TO WHETHER THEY BELIEVE THE  
4 PERMIT WAS COMPLETE WITH RESPECT TO CLASS I INFORMATION,  
5 BUT I THINK THAT IS A POINT OF CLARIFICATION. OUR  
6 INTENT WAS TO PROVIDE A THIRTY-DAY PERIOD OF REVIEW  
7 PRIOR TO A COMPLETENESS DETERMINATION.

8 AND THAT'S -- OUR UNDERSTANDING WAS THAT  
9 ALSO THAT OFTENTIMES THAT IS A STANDARD PERIOD OF TIME  
10 FOR COMPLETENESS DETERMINATIONS. IT MAY VARY FROM SOME  
11 -- IN SOME STATES, BUT THE THIRTY DAYS WAS NOT AN  
12 UNREASONABLE PERIOD OF TIME TO MAKE THAT TYPE OF  
13 DETERMINATION.

14 ANOTHER COMMENT WAS THAT IT -- THE APPROACH  
15 WE CHOSE REVERSED THE BURDEN FROM THE FEDERAL LAND  
16 MANAGER TO THE APPLICANT, AND, AGAIN, THAT WAS NOT OUR  
17 INTENT NOR DO I BELIEVE THAT THAT IS OUTCOME IN THAT THE  
18 BURDEN IS ON THE FEDERAL LAND MANAGER TO MAKE THE  
19 INITIAL FINDING OF POTENTIAL ADVERSE IMPACT WHICH  
20 TRIGGERS THE CLASS I ANALYSIS IN THE FIRST PLACE.

21 THE BURDEN IS THEN RIGHTFULLY ON THE  
22 APPLICANT TO SHOW THAT THE CLASS I INCREMENTS WOULD NOT  
23 BE VIOLATED. IF THEY CAN SHOW THAT, THEN THAT'S A

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1 DETERMINATION THEY NEED TO MAKE TO THE PERMITTING  
2 AUTHORITY. IF THAT CAN BE DEMONSTRATED, THEN THE BURDEN  
3 IS NOT ON THE APPLICANT TO MAKE A FURTHER FINDING UNLESS  
4 THE FEDERAL LAND -- WELL, THEN THE FEDERAL LAND MANAGER  
5 HAS TO SHOW THAT THERE WOULD, INDEED, BE AN ADVERSE  
6 IMPACT.

7 SO I THINK THAT PRETTY MUCH COVERS MOST OF  
8 THE COMMENTS INVOLVING THE --

9 **MR. RAHER:** ALL I WOULD ADD TO THAT IS --  
10 AND I APOLOGIZE. I DON'T ACTUALLY RECALL WHO BROUGHT  
11 THIS UP IN THE HEARING YESTERDAY, BUT THERE WAS A  
12 REFERENCE TO A CLASS I PROGRAM THAT IS BEING USED BY THE  
13 STATE OF OREGON AS WELL AS -- JOHN PAUL, WAS THAT YOUR  
14 REFERENCE? --

15 **MR. JOHN PAUL:** (NODDED AFFIRMATIVELY)

16 **MR. RAHER:** -- TO THE STATE OF OREGON AND  
17 ALSO WITH RESPECT TO THE SOUTH COAST AIR QUALITY  
18 MANAGEMENT DISTRIBUTION AS POSSIBLE ALTERNATIVE PROGRAMS  
19 TO THE EXTENT THAT PARTIES FELT THAT THIS PROPOSAL WAS  
20 TOO STRINGENT OR NOT ACCEPTABLE.

21 AND, JOHN PAUL, I DON'T KNOW IF YOU CAN GIVE  
22 US ANY MORE OF AN --

23 **MR. JOHN PAUL:** YEAH, LET ME --

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1                   **MR. RAHER:** -- INPUT ON THAT.

2                   **MR. JOHN PAUL:** SURE. LET ME JUST SAY THAT  
3 IN OUR CONFERENCE CALLS ON THIS, THAT BOTH OF THOSE  
4 INDICATED THAT THEY HAD A VERY GOOD WORKING RELATIONSHIP  
5 WITH THEIR FEDERAL LAND MANAGERS. AND WHAT WE -- WHAT  
6 WE'RE ASKING THEM TO DO IS TO PROVIDE THE BASIS FOR THAT  
7 WITH THE AGENCY AND TO REVIEW THE PROPOSAL AS TO HOW  
8 THEY FEEL THAT WOULD AFFECT THAT RELATIONSHIP THAT THEY  
9 HAVE WITH THE FEDERAL LAND MANAGERS.

10                   SO IT'S NOT TO SAY THAT THEY NECESSARILY  
11 ENDORSED EVERYTHING THAT'S IN THE PROPOSAL. IT'S JUST  
12 TO SAY THAT THOSE ARE TWO AGENCIES THAT WE'VE HEARD FROM  
13 THAT HAVE A GOOD WORKING RELATIONSHIP THAT WE WILL GO TO  
14 TO SUPPLEMENT OUR COMMENT AND TO GIVE YOU THE, YOU KNOW,  
15 THE BENEFIT OF WHAT IT IS THAT WORKS REAL WELL THERE.

16                   **MR. RAHER:** AND ALSO AS LONG AS THAT  
17 MICROPHONE -- CAN YOU GIVE US ANY MORE INPUT IN TERMS OF  
18 THE DISCUSSIONS AMONG THE STATES AS TO IN THEIR REVIEW  
19 OF THIS PORTION OF THE PACKAGE WHAT PROJECTED IMPACTS  
20 THEY THOUGHT THEY MIGHT SEE IN TERMS OF WORKLOAD, ET  
21 CETERA, SIMILAR TO THE NSR PORTION?

22                   **MR. JOHN PAUL:** YES. AND THAT WAS ONE  
23 WHERE, OBVIOUSLY, WE HAD VARYING OPINIONS ON THAT. WE

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1 HAVE SOME STATES THAT ARE OPPOSED TO THIS, AND WHAT  
2 WE'RE DOING IS ENCOURAGING THOSE STATES TO MAKE THEIR  
3 COMMENTS KNOWN, YOU KNOW, TO EPA. SO WE REALLY ARE  
4 PRETTY MUCH NEUTRAL ON THE PROPOSAL AS AN ASSOCIATION.  
5 WE'VE GOT STRONG FEELINGS BOTH WAYS. WE WANT TO GIVE  
6 THE AGENCY THE BENEFIT OF THE PROGRAMS THAT FEEL THAT  
7 THEY HAVE THE GOOD RELATIONSHIP AND HOPE THAT WE CAN  
8 BUILD ON THOSE.

9 **MR. RAHER:** OKAY. WE'VE HEARD NOW BOTH FROM  
10 THE AGENCY IN TERMS OF CLARIFICATION OF SOME OF THE  
11 POINTS THAT THEY HEARD THE OTHER DAY AS WELL AS WHAT  
12 THEY INTENDED TO DO IN ATTEMPTING TO ADDRESS A STATUTORY  
13 PROVISION THEY WERE TRYING TO IMPLEMENT.

14 WHAT ARE COMMENTS THAT THE MEMBERS OF THE  
15 FACA MAY HAVE WITH RESPECT TO, NOW, THE CLASS I PORTION  
16 OF THE PACKAGE?

17 MIKE?

18 **MR. BARR:** I HAVE A QUESTION FOR DAN ABOUT  
19 THE WHAT I THOUGHT WAS A CONSENSUS BEFORE. I'M JUST  
20 READING FROM ONE OF THE DOCUMENTS THAT WAS GENERATED  
21 BEFORE THAT SAID THAT THERE APPEARED TO BE CONSENSUS,  
22 WITHIN THAT WORKGROUP I GUESS YOU WERE TALKING ABOUT,  
23 THAT THE "FLM'S UNDERTAKE THE INITIAL TASKS OF LISTING

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1 THE RESOURCES THAT ARE RESPONSIBLE FOR THEIR AREAS BEING  
2 SET ASIDE BY CONGRESS; SECONDLY, IDENTIFYING WHAT  
3 RECEPTORS WITHIN THEIR AREAS ARE RESPONSIVE TO AIR  
4 QUALITY CHANGES; THIRD, SPECIFYING HOW THOSE RECEPTORS  
5 ARE IMPACTED BY CHANGES IN AIR QUALITY; AND, FOUR,  
6 OUTLINING CRITICALLY IMPORTANT METHODS FOR ASSESSING  
7 THOSE EFFECTS."

8 DO YOU THINK YOUR PROPOSAL CARRIES OUT THAT  
9 CONSENSUS OF THE WORKGROUP?

10 **MR. DEROECK:** I THINK IT ADDRESSED IT, BUT  
11 IT ALSO RECOGNIZED THAT WE COULDN'T SAY ULTIMATELY THAT  
12 UNTIL EVERYTHING IS IDENTIFIED AND ADDRESSED DOWN TO THE  
13 FINAL DETAIL THAT YOU COULDN'T MAKE AN AQRV ASSESSMENT  
14 OR THERE COULDN'T BE AN ADVERSE IMPACT.

15 **MR. BARR:** WHAT HAPPENED TO THE IDEA THAT  
16 THE FLM SHOULD HAVE SOME AFFIRMATIVE RESPONSIBILITY -- I  
17 THINK THAT'S THE TERM IN THE STATUTE -- TO ENGAGE IN A  
18 PROCESS OF IDENTIFYING THE AIR QUALITY RELATED VALUES UP  
19 FRONT, PREFERABLY THROUGH A RULEMAKING, SO THAT THE  
20 RULES OF THE GAME WOULD BE CLEAR?

21 **MR. DEROECK:** WELL, WE STOPPED SHORT OF  
22 RULEMAKING, BUT WE DID SAY THAT THEY SHOULD -- DURING  
23 THE PREAPPLICATION MEETING -- THEY SHOULD IDENTIFY ALL

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1 AQRV'S THAT THEY WERE CONCERNED ABOUT. THEY SHOULD  
2 UNDERSTAND WHAT POLLUTANTS WOULD BE EMITTED BY THIS  
3 PARTICULAR SOURCE AND WHETHER THERE WAS EVEN A  
4 RELATIONSHIP BETWEEN THOSE POLLUTANTS AND THE AQRV'S OF  
5 CONCERN, THAT IT WAS TO THEIR ADVANTAGE TO IDENTIFY  
6 THESE AQRV'S UP FRONT AND TO, IN THEIR WRITTEN NOTICE  
7 THEY HAD TO IDENTIFY THE SPECIFIC AQRV'S OF CONCERN, THE  
8 POLLUTANTS THAT WERE TO BE EMITTED, AND THE RELATIONSHIP  
9 BETWEEN THE TWO AS PART OF THE WRITTEN NOTICE, AND THAT  
10 WAS WHERE THE APPLICANT HAD TO FOCUS THEIR CLASS I  
11 ANALYSIS.

12 THAT WAS THE INTENT, THAT ALL OF THAT BE  
13 UNDERSTOOD UP FRONT AND THAT THE CLASS I ANALYSIS WOULD  
14 NOT GO BEYOND THE ADVERSE -- POTENTIAL ADVERSE IMPACTS,  
15 OR LET ALLEGATIONS THAT WERE MADE IN THAT WRITTEN  
16 NOTICE.

17 **MR. BARR:** IS IT YOUR INTENT THAT THAT HAS  
18 TO BE DONE CASE BY CASE, PROJECT BY PROJECT, PARK BY  
19 PARK, AREA BY AREA?

20 **MR. DEROECK:** THAT'S PRETTY MUCH WHERE WE  
21 STAND RIGHT NOW: IN LIGHT OF THE PRESENT KNOWLEDGE AND  
22 INFORMATION AVAILABLE, THAT IF WE WAITED FOR SOME --  
23 FIRST OF ALL, I'M NOT SURE A NATIONAL AQRV POLICY IS

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1 APPROPRIATE, BUT I DON'T THINK IT'S POSSIBLE RIGHT NOW.  
2 AND WE DID NOT BELIEVE THAT THE PROGRAM SHOULD BE HELD  
3 ON HOLD UNTIL WE KNEW EVERYTHING WE NEEDED TO KNOW ABOUT  
4 EACH AQRV.

5 **MR. RAHER:** MAYBE WE CAN HEAR FROM OREGON  
6 AND GET A BETTER IDEA.

7 JOHN?

8 **MR. RUSCIGNO:** I UNFORTUNATELY WON'T BE ABLE  
9 TO GIVE YOU ALL THE DETAIL OF OUR PROGRAM -- I'M NOT THE  
10 EXPERT ON CLASS I FOR OUR STATE -- BUT WE HAVE A GOOD  
11 RELATIONSHIP, AND IT WORKS. IT'S NOT TO SAY WE ALWAYS  
12 AGREE, BUT WE WORK TOGETHER. WE GET TOGETHER IN  
13 PREAPPLICATION MEETINGS. WE ARE ABLE TO GET ADDITIONAL  
14 INFORMATION ABOUT POTENTIAL IMPACTS.

15 WHAT BOTHERS ME IS THE PRESCRIPTIVE NATURE  
16 OF THE PROPOSAL. OUR UNDERLYING RULE IS THAT -- THAT  
17 MAKES A GOOD WORKING PROGRAM IS NOT NEARLY AS  
18 PRESCRIPTIVE AS THIS. AND JUST BEING SO PRESCRIPTIVE,  
19 IT -- TO ME IT -- THERE'S A GREATER LIKELIHOOD OF  
20 LENGTHENING THE PROCESS, I THINK.

21 **MS. WEGMAN:** JOHN, IS YOUR PROCESS FRONT-END  
22 LOADED THE WAY THIS ONE WASN'T TRYING TO BE?

23 **MR. RUSCIGNO:** NO. NO, IT'S NOT. AND ONE

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1 THAT BOTHERED ME IN THIS FRONT-END LOADING, WE HEAR A  
2 LOT OF RUMORS ABOUT POTENTIAL SOURCES THAT MAY BE COMING  
3 INTO OUR STATE, SOME NEAR CLASS I AREAS. AND IF I HAVE  
4 TO NOTIFY THE FEDERAL LAND MANAGER FOR EVERY RUMOR I  
5 HEAR, THAT BECOMES UNWIELDY. SO WE TYPICALLY DO IT WHEN  
6 WE GET A COMPLETE APPLICATION IN.

7 BUT IN MOST OF THE MAJOR SOURCES, THE  
8 FEDERAL LAND MANAGER HEARS THE SAME RUMORS WE DO. SO HE  
9 HAS THAT INFORMATION. SO I'M A LITTLE WARY OF BUILDING  
10 THE COMPLETENESS -- COMPLETENESS DETERMINATION WITH THE  
11 FEDERAL LAND MANAGER. I THINK THAT COULD LENGTHEN OUT  
12 THE PROCESS. WE DON'T HAVE IT, AND IT SEEMS TO WORK  
13 WITHOUT THAT.

14 **MS. WEGMAN:** SO YOU DON'T TALK TO THE FLM'S,  
15 AS FAR AS YOU KNOW, UNTIL AFTER THE COMPLETENESS  
16 DETERMINATION IS MADE?

17 **MR. RUSCIGNO:** SOMETIMES WE TALK TO THEM,  
18 BUT IT'S VERY -- IT'S AN INFORMAL ONE.

19 **MS. WEGMAN:** YEAH.

20 **MR. RUSCIGNO:** THEY'LL HEAR ABOUT IT, ASK US  
21 WHAT WE KNOW ABOUT IT. IF -- THEY'LL HEAR WE HAVE AN  
22 APPLICATION IN AND ASK US QUESTIONS ABOUT IT, AND WE  
23 TALK WITH THEM AND SOMETIMES WILL BRING THE PERMITTEE IN

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1 ALSO, BUT THERE'S NOT A FORMAL ROLE OF THE FEDERAL LAND  
2 MANAGER IN THE COMPLETENESS DETERMINATION.

3 **MR. RAHER:** KAREN?

4 **MS. MALKIN:** A COUPLE POINTS. I DON'T THINK  
5 THERE'S ANY MYSTERY OF AIR QUALITY RELATED VALUES ARE.  
6 IT JUST -- THE CONFUSION -- WHEN WE KNOW THEY'RE  
7 VISIBILITY, SOILS, STREAMS, RESOURCES IN THE PARK. WHAT  
8 I THINK YOU'RE REALLY GETTING AT, MIKE, WAS YOU WANT TO  
9 KNOW SPECIFIC CASE -- YOU WANT -- YOU KNOW -- WANT TO  
10 KNOW THE SPECIFIC POLLUTANT-LOADING NUMBERS, OR YOU  
11 WANT -- THAT'S THE KIND OF NUMBER YOU WANT. YOU WANT  
12 IMPACT NUMBERS. YOU DON'T -- BECAUSE I THINK THE AQRV'S  
13 ARE KNOWN.

14 AND ALL I CAN SAY, AND WE'VE SAID IT BEFORE,  
15 I MEAN, WE'D LOVE TO KNOW -- WE'D LOVE TO HAVE SOME  
16 MAGIC NUMBERS AND KNOW THAT THESE ARE THE NUMBERS THAT  
17 ARE PROTECTIVE. BUT IT'S JUST NOT THAT SIMPLE, AND  
18 CONGRESS RECOGNIZED THAT, AND I'M JUST GOING TO -- IF  
19 YOU BEAR WITH ME -- GIVE A BRIEF EXCERPT FROM THE  
20 LEGISLATIVE HISTORY.

21 IT SAYS, "EACH CASE OF SUSPECTED CLASS I  
22 INTRUSION MUST BE ANALYZED ON AN INDIVIDUAL BASIS WITH  
23 THE DECISION ON WHETHER OR NOT A PERMIT IS ISSUED

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1 RESTING WITH THE STATE. THE FEDERAL LAND MANAGER HOLDS  
2 A POWERFUL TOOL. HE IS REQUIRED TO PROTECT FEDERAL  
3 LANDS FROM DETERIORATION OF AN ESTABLISHED VALUE EVEN  
4 WHERE CLASS I NUMBERS ARE NOT EXCEEDED."

5 SO IT'S -- IT IS -- IT IS A CASE-BY-CASE  
6 DETERMINATION, AND I THINK THIS PROCESS HAS BEEN SET  
7 OUT -- I MEAN, I'D BE KIDDING YOU IF IT DOESN'T PUT --  
8 IT IS MORE FORMAL, AS JOHN POINTED OUT, AND IT PUTS SOME  
9 VERY TIGHT TIME BURDENS ON THE FEDERAL LAND MANAGER  
10 WHICH -- AND WE KIND OF HAD TO SWALLOW HARD TO LIVE WITH  
11 THE SEVEN DAYS TO REVIEW AN ELECTRONIC BULLETIN BOARD,  
12 WHICH WE ALL HOPE AND PRAY IS GOING TO BE UP AND RUNNING  
13 AND UP-TO-DATE, TO REQUEST A PSD PERMIT APPLICATION,  
14 WHEN NOW WE'RE SUPPOSED TO GET THEM ROUTINELY? I MEAN,  
15 WE DON'T ALWAYS, TRUE, BUT WE'RE SUPPOSED TO BE GETTING  
16 THEM. SO THAT'S JUST ONE EXAMPLE.

17 THE NOTIFICATION WE TALKED ABOUT AND  
18 PRELIMINARY ADVERSE IMPACT. I MEAN THERE'S A LOT MORE  
19 PAPERWORK BURDENS ON US UNDER SOME VERY SPECIFIC TIME  
20 FRAMES, BUT, YOU KNOW, PEOPLE WANTED MORE CERTAINTY AND  
21 MORE UP-FRONT KNOWLEDGE, AND THIS PACKAGE CERTAINLY DOES  
22 THAT. SO I JUST WANT TO MAKE IT CLEAR THAT I THINK, YOU  
23 KNOW, EPA HAS REALLY -- I DON'T ENVY THE JOB THEY'VE HAD

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1 TRYING TO BALANCE ALL THE DIFFERENT CONSIDERATIONS.

2 **MR. RAHER:** I THINK IT WOULD BE HELPFUL FOR  
3 PEOPLE TO ADDRESS THE ASSUMPTION THAT KAREN HAS PUT OUT  
4 THERE THAT WE ALL KNOW WHAT THE AQRV'S ARE. THAT'S A  
5 REAL PIVOTAL ISSUE HERE THAT IS IMPORTANT.

6 MIKE?

7 **MR. BARR:** I THINK IT WOULD BE VERY HELPFUL,  
8 KAREN, JUST TO HAVE A LIST OF SOME EXAMPLES OF WHAT THEY  
9 ARE AND HOW THEY'VE BEEN QUANTIFIED AND MIGHT BE  
10 MEASURED OR ASSESSED. IF PEOPLE KNOW WHAT THEY ARE OR  
11 IF THEY ARE AVAILABLE IN SOME SOURCES ALREADY, I THINK  
12 THAT WOULD BE EXTREMELY HELPFUL IF YOU COULD PROVIDE  
13 THAT.

14 **MS. MALKIN:** OKAY. AGAIN, I GUESS WE'RE --  
15 I'M NOT COMMUNICATING THIS CLEARLY. THE -- WHEN -- THE  
16 TERM "VALUES" DOES NOT MEAN A NUMBER. OKAY? VISIBILITY  
17 IS AN AIR QUALITY RELATED VALUE. VISIBILITY IS NOT A  
18 NUMBER. THAT'S A RESOURCE WITHIN OUR PARKS AND WITHIN  
19 OUR FORESTS THAT IS SET ASIDE TO BE PROTECTED. PEOPLE  
20 COME TO THE NATIONAL PARKS TO BREATHE CLEAN AIR, TO SEE  
21 HEALTHY TREES AND VEGETATION AND WILDLIFE, AND TO SEE  
22 THE MAGNIFICENT, CLEAR VISTAS. NOW THAT'S PART OF THE  
23 VISIBILITY ASPECT.

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1 THE VEGETATION, THAT'S ANOTHER AQRV, BUT  
2 THAT'S DIFFERENT FROM AN IMPACT NUMBER AND WHAT'S AN  
3 ADVERSE IMPACT WHICH IS, I THINK, IS WHAT YOU WERE --  
4 WHAT YOU'RE GETTING AT. AND THAT'S THE KIND OF  
5 INFORMATION THAT -- YOU KNOW, POLLUTANT-LOADINGS -- THAT  
6 WE'VE BEEN RESEARCHING, AND WE HAVE SOME KNOWLEDGE OF  
7 BUT CERTAINLY DO NOT HAVE COMPLETE KNOWLEDGE. AND IT IS  
8 A CASE-BY-CASE DETERMINATION, AS THE LAW REQUIRES.

9 **MS. WEGMAN:** KAREN, COULD I JUST ASK YOU TO  
10 ADDRESS WHAT JOHN RUSCIGNO SAID. DO YOU HAVE ANY  
11 KNOWLEDGE -- I MEAN, IT SOUNDS LIKE THE OREGON PROGRAM  
12 IS LESS PRESCRIPTIVE, YET IT'S WORKING OUT. DO YOU HAVE  
13 ANY KNOWLEDGE OF WHETHER THAT IS THE CASE IN OREGON OR  
14 WHETHER YOU HAVE HAD PROBLEMS WITH OTHER STATES? I'M  
15 JUST CURIOUS. THERE'S A DIFFERENCE OF --

16 **MS. MALKIN:** I REALLY DON'T --

17 **MS. WEGMAN:** -- IMPRESSION HERE.

18 **MS. MALKIN:** MAYBE I'LL DEFER TO JOHN. I  
19 REALLY DON'T HAVE ANY -- I HAVEN'T HAD ANY PERSONAL  
20 KNOWLEDGE OF WHAT THE OREGON --

21 **MS. WEGMAN:** I GUESS WHAT I'M TRYING TO GET  
22 AT -- AND MAYBE YOU AND JOHN CAN ADDRESS THIS A LITTLE  
23 BIT -- IS, I MEAN, WE HAVE LAID OUT A FAIRLY CLEAR AND,

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1 SOME MIGHT ARGUE, CERTAINLY PRESCRIPTIVE PROGRAM FOR HOW  
2 TO GET THIS NOTIFICATION TO OCCUR. I GUESS WHAT I'M  
3 WONDERING, GIVEN WHAT JOHN HAS SAID AND PERHAPS WHAT  
4 JOHN PAUL MAY FIND OUT AS WELL, MAYBE THAT LEVEL OF  
5 PRESCRIPTION ISN'T NECESSARY, AND I'M TRYING TO GET A  
6 READ FROM YOU ON THAT.

7 **MR. BUNYAK:** I'LL TRY TO ADDRESS THAT,  
8 LYDIA.

9 **MS. WEGMAN:** OKAY.

10 **MR. BUNYAK:** THIS IS JOHN BUNYAK, PARK  
11 SERVICE. I THINK OVERALL THERE ARE A LOT OF STATES THAT  
12 PROVIDE US WITH THE PROPER NOTIFICATION AND SEND US  
13 APPLICATIONS AND INVITE US TO PREAPPLICATION MEETINGS  
14 AND KEEP US IN THE LOOP. SO, I MEAN, IT'S NOT A TOTAL  
15 DISASTER IN THAT AREA. BUT THERE ARE -- ON THE FLIP  
16 SIDE OF THAT, THERE ARE OCCASIONS WHERE WE DON'T HEAR OF  
17 APPLICATIONS. AND, YOU KNOW, YEARS AGO BACK IN 1990 --  
18 WELL, VIRGINIA IS AN EXAMPLE OF WHERE THERE WERE FIFTEEN  
19 OR TWENTY -- I THINK FIFTEEN COGENERATION UTILITY-TYPE  
20 SOURCES THAT WERE UNDERGOING PSD REVIEW, AND A LOT OF  
21 THOSE SOURCES WERE BETWEEN 100 AND 200 KILOMETERS, AND  
22 WE WEREN'T EVEN NOTIFIED OF THOSE TYPE SOURCES. AND  
23 ONCE WE DID, WE WERE ALARMED OF THE POTENTIAL IMPACTS OF

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1 THOSE SOURCES, AND WE LOOKED AT THEM AND GOT INTO THE  
2 *FEDERAL REGISTER* NOTICE THE ADVERSE IMPACT DETERMINATION  
3 PROCESS AND SO FORTH.

4 SO I THINK IN GENERAL THERE ARE SOME STATES  
5 OUT THERE THAT WE WORK WELL WITH. THERE ARE OTHERS THAT  
6 WE JUST DON'T HAVE THAT COOPERATIVE RELATIONSHIP.

7 **MS. WEGMAN:** THANKS.

8 **MR. RAHER:** JOHN?

9 **MR. DANIEL:** WELL, I GUESS MAYBE VIRGINIA  
10 DID TRIGGER ALL OF THIS MESS TO START WITH. THAT MIGHT  
11 BE THE POLITE WAY TO PUT IT. --

12 **MR. RAHER:** COULD YOU USE YOUR MICROPHONE,  
13 JOHN, --

14 **MR. DANIEL:** YEAH.

15 **MR. RAHER:** -- AND GET A LITTLE CLOSER?

16 **MR. DANIEL:** WE'VE GOT A MEMORANDUM OF  
17 AGREEMENT WITH BOTH THE NATIONAL -- SHENANDOAH NATIONAL  
18 PARK LAND MANAGER AND ALSO THE JAMES RIVER FAC LAND  
19 MANAGER, AND I THINK WE HAVE A GOOD WORKING RELATIONSHIP  
20 WITH BOTH OF THEM. THAT DOESN'T MEAN, HOWEVER, THAT THE  
21 PERMITTING PROCESS DOESN'T GET VERY CONTENTIOUS AND  
22 TIME-CONSUMING.

23 AND FOR ANY STATE THAT THINKS IT'S NOT GOING

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1 TO BE TIME-CONSUMING, THEN I'VE GOT NEWS FOR YOU. IF  
2 YOU'VE GOT A CLASS I AREA, AND YOU GET INVOLVED IN THIS,  
3 IT'S GOING TO TAKE A LOT OF TIME TO DEAL WITH ALL OF THE  
4 ISSUES THAT GET RAISED. SO IT'S -- IT'S NOT A REAL  
5 SMOOTH PROCESS, BUT I THINK WE DO HAVE A GOOD WORKING  
6 RELATIONSHIP WITH THE LAND MANAGERS, BUT IT GETS VERY  
7 CONTENTIOUS AT TIMES, ALSO.

8 **MR. DEROECK:** JOHN, DOES THE PROCEDURE  
9 THAT'S PROPOSED CREATE MORE DELAYS, OR DO YOU SEE WHERE  
10 IT ADDRESSES SOME OF THE PROBLEMS THAT YOU'VE HAD IN THE  
11 PAST?

12 **MR. DANIEL:** I DON'T THINK WHAT YOU HAVE  
13 PROPOSED IS THAT MUCH DIFFERENT THAN WHAT WE ARE ALREADY  
14 DOING. AS SOON AS WE KNOW THAT A SOURCE IS GOING TO BE  
15 PSD ANYWHERE IN THE STATE, WHETHER IT'S WITHIN  
16 100 KILOMETERS OR 200 KILOMETERS OR ANYWHERE, WE LET THE  
17 LAND MANAGERS KNOW THAT. OBVIOUSLY, IF IT'S CLOSE IN,  
18 THEN THERE'S A LOT MORE DETAIL WORK THAT HAS TO BE DONE  
19 WITH THE LAND MANAGERS.

20 THE ONE THING THAT WE DO LIKE IN THIS  
21 PROPOSAL IS EPA'S PROPOSED LEVELS OF SIGNIFICANCE  
22 COMPARED TO WHAT THE LAND MANAGERS HAVE PROPOSED. THESE  
23 ARE VERY CLOSE TO WHAT WE SUGGESTED TO EPA A LONG TIME

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1 AGO AS A WAY TO DEAL WITH WHAT IS INSIGNIFICANT. SO I  
2 THINK OUR CURRENT PROCESS IS -- TRACKS PRETTY CLOSE WITH  
3 WHAT YOU'VE GOT IN HERE.

4 **MR. RAHER:** OKAY.

5 ICLAL?

6 **MS. ATAY:** JUST -- IT'S ICLAL ATAY, FROM NEW  
7 JERSEY. THE EPA JUST FII (SIC). IN NEW JERSEY WE WORK  
8 CLOSELY WITH THE FEDERAL LAND MANAGER. WHEN WE RECEIVE  
9 A MAJOR APPLICATION, WE DO SEND A COPY OF THE  
10 APPLICATION TO THE FEDERAL LAND MANAGER AS SOON AS WE  
11 RECEIVE IT, AND THEN THE PERMIT REVIEWER IDENTIFIES THE  
12 FEDERAL LAND MANAGER -- THE PERSON IN THE FEDERAL LAND  
13 MANAGER'S OFFICE WHO WILL BE WORKING ON THAT  
14 APPLICATION, AND THEY DO COMMUNICATE OVER THE PHONE TO  
15 IDENTIFY THEIR CONCERNS. HOWEVER, WE HAVE FOUND OUT  
16 THAT THE DELAY MOST OF THE TIME IS CAUSED BY THE DILEMMA  
17 THAT THE FEDERAL LAND MANAGER FACES -- THE FACT THAT  
18 THERE ARE NO VALUES.

19 THE APPLICATION COMES IN. WE KNOW WHAT THE  
20 AIR QUALITY IMPACTS ARE OF THAT SPECIFIC APPLICANT.  
21 WHAT'S NOT KNOWN IS WHAT'S THE CURRENT LOADING OF  
22 POLLUTANTS AND OTHER THINGS THAT AFFECT VEGETATION,  
23 VISIBILITY, AND OTHER AQRV'S AND THIS ADDITIONAL

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1 IMPACT -- WHETHER THIS ADDITIONAL IMPACT WOULD BE AN  
2 ADVERSE IMPACT OR NOT AN ADVERSE IMPACT. AND TO  
3 IDENTIFY THE CURRENT LOADING IN THE AREA IS A LONG-TIME  
4 STUDY THAT IS NOT REASONABLE FOR A SIGNIFICANT -- ONE  
5 SINGLE APPLICANT TO BEAR THE BURDEN OF. SO WE HAVE COME  
6 UP WITH AN AGREEMENT WITH THE FEDERAL LAND MANAGER IN  
7 OUR AREA THAT IF ANY NEW FACILITY COMES IN, AND THEY  
8 MINIMIZE THEIR IMPACTS, THEY MINIMIZE -- THEY APPLY BEST  
9 AVAILABLE CONTROL TECHNOLOGY, THE PERMITTING CAN PROCEED  
10 IF THEY CONTRIBUTE A CERTAIN AMOUNT OF MONEY THAT WOULD  
11 ALLOW FEDERAL LAND MANAGER TO CONDUCT STUDIES TO  
12 IDENTIFY WHAT THE LOADING IS TO COME UP WITH THESE  
13 NUMBERS WHAT THE LOADING IS SO THAT IN THE FUTURE THEY  
14 WILL BE ABLE TO SAY, OKAY, THIS IS THE LOADING IN THE  
15 AREA AND WHATEVER ADDITIONAL IMPACT COMES UP THAT MAY BE  
16 ADVERSE AND NOT ADVERSE.

17 AND THAT HAS BEEN A VERY STREAMLINED  
18 PROCESS. WE WORK WELL BETWEEN THE APPLICANT, THE  
19 AGENCY -- PERMITTING AGENCY -- AND FEDERAL LAND MANAGER.

20 **MR. RAHER:** ICLAL, DO YOU HAVE ANY ROUGH  
21 ESTIMATE AS TO WHAT THIS CONTRIBUTION COSTS?

22 **MS. ATAY:** WELL, I BELIEVE WE HAVE PERMITTED  
23 FOUR FACILITIES UNDER THIS AGREEMENT, AND EACH FACILITY

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1 CONTRIBUTED \$50,000 TOWARDS THIS STUDY.

2 **MR. RAHER:** OKAY.

3 **MS. WEGMAN:** ICLAL, AND DO YOU HAVE ANY IDEA  
4 WHAT'S HAPPENED TO THE MONEY? HAVE THE FLM'S BEEN DOING  
5 STUDIES OR?

6 **MS. ATAY:** WE ARE IN THE PROCESS CONDUCTING  
7 -- TALKING TO FEDERAL LAND MANAGER TO GIVE US SOME  
8 INFORMATION ON THE PROCESS OF THE STUDIES AND THE  
9 INFORMATION THAT HAS BEEN COLLECTED AS A RESULT OF THAT.

10 **MS. WEGMAN:** AND WHEN DID THIS PROGRAM  
11 START?

12 **MS. ATAY:** I BELIEVE IT HAS BEEN FOUR YEARS.

13 **MR. RAHER:** HENRY?

14 **MR. NICKEL:** YES. ONE THING I WOULD BE  
15 INTERESTED IN SEEING FROM THE PARK SERVICE ON THIS WHOLE  
16 QUESTION OF AIR QUALITY RELATED VALUES IS EXAMPLES OF  
17 WHAT KINDS OF ADVERSE EFFECTS ARE ACTUALLY CAUSED BY  
18 POLLUTANT LOADINGS THAT ARE LOWER THAN THE CLASS I  
19 INCREMENTS. I MEAN, THAT'S WHAT WE'RE TALKING ABOUT  
20 HERE. WE'RE TALKING ABOUT EMISSIONS THAT COME INTO A  
21 PARK, AND THOSE EMISSIONS WOULD COMPLY WITH THE CLASS I  
22 INCREMENTS. WE'RE TALKING ABOUT A TRIVIAL LEVEL OF  
23 POLLUTION.

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1                   AND I WOULD BE VERY INTERESTED IN  
2 UNDERSTANDING WHERE THAT KIND OF POLLUTION CAUSES AN  
3 ADVERSE EFFECT, AND I'M DISTINGUISHING CAUSING AN  
4 ADVERSE EFFECT IN THAT CONCENTRATION FROM CONTRIBUTING  
5 TO AN EXISTING ADVERSE EFFECT. OBVIOUSLY, THERE ARE  
6 IMPAIRMENTS IN VISIBILITY THAT ARE CAUSED BY EXISTING  
7 SOURCES, AND ANY SOURCE THAT LOCATES WITHIN A GOOD  
8 DISTANCE FROM THE PARK MAY CONTRIBUTE, YOU KNOW, A  
9 MICROGRAM TO THE CURRENT LOADINGS OF THE PARK, BUT IT  
10 CAN'T BE SAID THAT THAT CAUSES A NEW IMPAIRMENT IN  
11 VISIBILITY THAT IS ADVERSE.

12                   SO I WOULD BE INTERESTED IN BOTH  
13 UNDERSTANDING BETTER WHAT THESE OTHER AIR QUALITY  
14 RELATED VALUES ARE AND, SECOND, HOW THE RATHER TRIVIAL  
15 AMOUNT OF POLLUTION THAT COMES IN WHEN PEOPLE ARE  
16 ALREADY IN COMPLIANCE WITH THE CLASS I AREAS COULD IN  
17 AND OF ITSELF CAUSE AN ADVERSE EFFECT.

18                   **MR. RAHER:** OH, JOHN?

19                   **MR. BUNYAK:** I'D LIKE TO ADDRESS SOME OF  
20 THOSE CONCERNS. THERE SEEMS TO BE A FUNDAMENTAL  
21 MISUNDERSTANDING WITH TRYING TO TIE INCREMENTS TO  
22 EFFECTS ON AIR QUALITY RELATED VALUES. THE INCREMENTS  
23 FOR SO<sub>2</sub> AND NO<sub>2</sub> AND PM, SOME OF THE PROBLEMS WE'RE

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1 SEEING ARE SULFATE DEPOSITION, NITRATE DEPOSITION,  
2 CHANGES IN VISIBILITY, WHICH CAN'T BE MEASURED BY  
3 LOOKING AT A SMALL INCREASE IN SO<sup>2</sup>.

4 WE JUST -- IT SEEMS REASONABLE THAT YOU  
5 COULD HAVE A SMALL SO<sub>2</sub> IMPACT, YET HAVE A SIGNIFICANT  
6 SULFATE CONCERN BECAUSE ALL THE SO<sub>2</sub> CONVERTED TO  
7 SULFATES. SO FROM AN INCREMENT STANDPOINT, YOU'D HAVE A  
8 VERY SMALL SO<sub>2</sub> CONTRIBUTION. YET FROM AN AIR QUALITY  
9 EFFECTS STANDPOINT, YOU COULD HAVE SIGNIFICANT EFFECTS  
10 WITH RESPECT TO SULFATE AND NITRATE DEPOSITION.

11 **MR. RAHER:** JOHN? (SIC)

12 **MR. NICKEL:** BUT BEAR IN MIND, IT'S ALL OF  
13 THE -- ALL OF THE SULFATE -- SULFUR COMPOUNDS ARE  
14 MEASURED IN DETERMINING WHETHER OR NOT YOU'RE IN  
15 COMPLIANCE WITH THE INCREMENT, AND I UNDERSTAND THAT  
16 THERE ARE EFFECTS THAT ARE POTENTIALLY OCCURRING AS A  
17 RESULT OF DIFFERENT FORMS OF THE POLLUTANTS.

18 BUT MY QUESTION IS GIVEN THE KIND OF -- THE  
19 AMOUNT OF POLLUTION THAT COMES IN WHEN PEOPLE APPLYING  
20 WITH THE INCREMENTS, WHICH MEANS THAT THEY'RE VERY LOW  
21 SULFUR EMITTERS, THEY'RE VERY LOW NO<sub>2</sub> EMITTERS, THEY'RE  
22 VERY LOW PARTICULATE EMITTERS -- CAN YOU GIVE ME, AND  
23 NOT TODAY BUT IT WOULD BE VERY USEFUL IN TERMS OF

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1 EVALUATING THESE PROTOCOLS IS EXAMPLES OF HOW THAT KIND  
2 OF POLLUTION IN AND OF ITSELF CAUSES AN ADVERSE EFFECT.

3 **MR. RAHER:** ALSO, JOHN, AND MAYBE BETWEEN  
4 YOU AND KAREN AND RICH, YOU KNOW, WHAT STRIKES ME HERE  
5 IS BOTH WHAT YOU AND KAREN SAID AND WHAT JOHN DANIEL HAS  
6 SAID AND OREGON. IT'S SURPRISING. WE SEEM TO HAVE --  
7 WE HAVE OREGON. WE HAVE THE SOUTH COAST. WE NOW HAVE  
8 VIRGINIA THAT SEEMS TO HAVE DEVELOPED A GOOD WORKING  
9 RELATIONSHIP. WE HAVE NEW JERSEY.

10 HAVE WE CREATED A POTENTIAL FEDERAL PROGRAM  
11 HERE TO ADDRESS AN ISSUE THAT'S NOT AN ISSUE BECAUSE THE  
12 PARK SERVICE, INTERIOR, FOREST SERVICE, ET CETERA, NOW  
13 HAS FOR, WHAT ARE YOUR OWN REASONS, DEVELOPED THESE  
14 RELATIONSHIPS WITH THE INDIVIDUAL STATES WHERE THE MAJOR  
15 CLASS I AREAS ARE?

16 I MEAN NEW JERSEY IS HANDLING IT ONE WAY.  
17 VIRGINIA IS HANDLING IT ANOTHER WAY. OREGON IS HANDLING  
18 IT ANOTHER WAY. IS THERE A PROBLEM OUT THERE THAT IS SO  
19 PERVASIVE THAT IT DOES REQUIRE THE PROPOSAL THAT'S OUT  
20 THERE? YOU MIGHT -- IF YOU CAN IDENTIFY THE STATES OR  
21 LOCALITIES OR CLASS I AREAS THAT SEEM TO HAVE THAT, YOU  
22 KNOW, MAYBE THAT'S A RELEVANT QUESTION FOR US TO ASK.

23 **MR. BUNYAK:** WELL, SOME OF THOSE STATES YOU

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1 IDENTIFIED IT'S UNFORTUNATE THAT IT TOOK CONTROVERSY  
2 OVER AN ADVERSE --

3 **MR. RAHER:** RIGHT. RIGHT.

4 **MR. BUNYAK:** -- ACTION TO GET INVOLVED. I  
5 MEAN, YOU MENTIONED VIRGINIA WHERE WE HAD OUR ADVERSE  
6 IMPACT DETERMINATION THERE. WE'RE GOING THROUGH A  
7 SIMILAR MEMORANDUM OF AGREEMENT WITH TENNESSEE THAT'S  
8 KIND OF A FALLOUT OF THE *TENN. ELECTRICAL* APPEAL THAT WE  
9 HAD THERE, --

10 **MR. RAHER:** RIGHT.

11 **MR. BUNYAK:** -- SO IT SEEMS LIKE IT HAS  
12 TAKEN SOME ADVERSE ACTIONS IN ORDER TO GET THAT NEXT  
13 STEP.

14 AND WHAT -- I VIEW THE PROPOSAL AS A WAY TO  
15 MAYBE CIRCUMVENT THAT AND THEN TRY TO GET THE PROCEDURES  
16 IN PLACE SO THAT YOU DON'T HAVE TO GO THROUGH THAT  
17 INITIAL ADVERSARIAL-TYPE ACTION.

18 **MR. RAHER:** OKAY.

19 JOHN, YOU HAD A COMMENT?

20 **MR. RUSCIGNO:** I JUST WANTED TO ADD A LITTLE  
21 BIT ABOUT OUR PROGRAM. IT'S A GOOD WORKING  
22 RELATIONSHIP, BUT IT DOES GET CONTENTIOUS AT TIMES.  
23 WE'VE HAD SIMILAR EXPERIENCES TO NEW JERSEY. THE

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1 FEDERAL LAND MANAGER COMES AND IS TWISTING OUR ARM,  
2 USUALLY ON VISIBILITY ISSUES, AND THEY WANT THE  
3 PERMITTEE OR THE APPLICANT TO INSTALL SOME MONITORS UP  
4 IN THE WILDERNESS AREA.

5 AND WE'RE ALWAYS IN THE POSITION OF HAVING  
6 TO JUDGE IS THIS REALLY A POTENTIAL IMPACT OR NOT.  
7 SOMETIMES THE PERMITTEE STEPS IN AND SAYS FORGET IT.  
8 I'LL JUST PUT UP THE MONITORS TO SAVE TIME, AND WE LET  
9 IT -- AND THAT'S THE WAY IT HAPPENS. OTHER TIMES  
10 PERMITTEES OR THE APPLICANT SAYS I DON'T THINK THERE'S A  
11 GOOD CASE THERE, AND WE AGREE, AND IT DOESN'T GO IN. WE  
12 RETAIN THE RIGHT TO MAKE THAT FINAL DECISION, AND IT  
13 SEEMS TO WORK.

14 THE FEDERAL LAND MANAGER IN OUR AREA MAYBE  
15 WANTS MORE AUTHORITY IN THAT DECISION, BUT UNDER THE  
16 CURRENT SYSTEM HE DOESN'T HAVE IT.

17 **MR. RAHER:** I THINK WHAT DAN WAS SAYING IS  
18 CERTAINLY THE PROPOSAL DOESN'T UNDERCUT THAT CONCEPT AT  
19 ALL. IT STILL LEAVES IT WITH THE DECISION AT THE STATE  
20 -- AT THE STATE LEVEL AND YOUR CONTROL.

21 I GUESS THE QUESTION I WAS TRYING TO ASK IS,  
22 YOU KNOW, EVERYBODY'S GOT THIS INFORMAL -- AND, JOHN,  
23 YOU'RE RIGHT, AND YOU'VE HAD TO JUMP ON SOME PEOPLE,

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1 BUT, YOU KNOW, IF THE PROCESS -- ALTHOUGH IT MAY BE  
2 DIFFERENT IN EACH AREA, IT'S LIKE MIKE BARR SAID. YOU  
3 KNOW, NOT -- OR ERNIE. NOT ONE SIZE FITS ALL. MAYBE  
4 THE SAME IS TRUE WITH CLASS I, AND WE SHOULD AT LEAST  
5 LOOK AT THAT IN VIEW OF SOME OF THE COMMENTS WE'VE HAD.

6 RICH, YOUR CARD?

7 **MR. FISHER:** WHAT STRIKES ME, I GUESS, MOST  
8 ABOUT THIS WHOLE CONVERSATION IS THAT WE'VE BEEN DOWN  
9 THIS ROAD BEFORE. ALL OF US, I THINK, AT THE TABLE HAVE  
10 HEARD THESE SAME DISCUSSIONS THREE YEARS FOR MANY, MANY  
11 MEETINGS, AND I GUESS I'M JUST SURPRISED AT THE OUTSET  
12 ABOUT THE DETAILED DISCUSSION AND THE POINTS BEING  
13 BROUGHT UP BECAUSE I THOUGHT WE PUT A LOT OF THESE  
14 THINGS TO BED.

15 WE IN THE FOREST SERVICE DISCUSSED SOME OF  
16 THE THINGS THAT WE HAVE DONE OVER THE YEARS, AND WE  
17 DISCUSSED THAT, I THINK, THREE YEARS AGO. SO, AGAIN,  
18 I'M SURPRISED AT MR. NICKEL'S COMMENT ABOUT SHOW US.  
19 SHOW US WHAT YOU'VE GOT. CLEARLY, THAT'S ON THE TABLE  
20 IN THE RECORD FOR THIS MEETING.

21 EPA, AS MR. BARR POINTED OUT, DID NOT ADOPT  
22 ALL THE WORKGROUP RECOMMENDATIONS, AND I THINK HE WAS  
23 REFERRING TO THE WORKGROUP THAT I WAS A PART OF, BUT

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1 THAT'S OKAY. I MEAN, IT'S EPA'S DISCRETION TO PICK AND  
2 CHOOSE WHAT IT WANTED OUT OF THE WORKGROUP THAT -- THE  
3 WORKGROUPS' PRODUCTS THAT CAME OUT OF THIS MEETING. EPA  
4 SELECTED SOME OF THE THINGS, AND THAT WAS GOOD, AND  
5 DISCARDED SOME OF THE OTHER THINGS AND THAT WAS OKAY.  
6 I'M SURE THEY DID THAT WITH OTHER WORKGROUP OUTPUTS AS  
7 WELL.

8 AND SO IN SUMMARY AS FAR AS WORKGROUP  
9 OUTPUT, I'M SATISFIED ON THE PART OF THE FOREST SERVICE  
10 THAT WHAT HAS BEEN INCLUDED IS JUST FINE. IT COULD HAVE  
11 GONE FURTHER, BUT IT'S OKAY THE WAY IT IS.

12 WITH REGARD TO THE LENGTH OF TIME IT TAKES  
13 TO PROTECT THE CITIZENS' PUBLIC LANDS, IT IS NOT A  
14 SIMPLE PROCESS, AS PEOPLE HAVE POINTED OUT, AND IT TAKES  
15 SOME TIME. WE HAVE GONE THROUGH THE PUBLIC PROCESS IN  
16 HAVING PUBLIC MEETINGS WHICH ASK CITIZENS, ASK INDUSTRY,  
17 ASK ENVIRONMENTAL GROUPS/ADVOCACY GROUPS, ASK STATE  
18 ORGANIZATIONS -- THEY HAVE ALL PARTICIPATED IN THESE  
19 MEETINGS -- JUST WHAT IT IS THEY WANT TO PROTECT, I.E.,  
20 SPECIFICALLY, WHAT THE AQRV IS AND WHAT LEVEL.

21 SO WE HAVE GOTTEN FEEDBACK FROM THOSE WHO  
22 ARE AFFECTED SPECIFICALLY AROUND THESE PARTICULAR  
23 CLASS I AREAS THAT WE MANAGE, 88 OF THEM, WHAT IT IS

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1 THEY WANT TO PROTECT. IT IS UPON THAT ADVICE AND  
2 RECOMMENDATION THAT WE ARE ATTEMPTING TO ASSEMBLE  
3 INFORMATION THAT OUR DECISION-MAKERS CAN MAKE A JUDGMENT  
4 ON. SO WE FEEL WE'VE GONE THROUGH A PROCESS WHICH  
5 ILLUMINATES AS MUCH AS POSSIBLE WHAT THE ISSUES ARE,  
6 WHAT THE AQRV'S ARE, AND HOW WE CAN GO ABOUT ADDRESSING  
7 THEM.

8 STILL IT LEAVES A LOT TO BE DETERMINED. AS  
9 KAREN WAS POINTING OUT, IT IS NOT AN EXACT SCIENCE. IT  
10 IS A BIOLOGICAL SCIENCE IN MOST CASES, AND IT'S A VERY  
11 DIFFICULT THING TO DETERMINE.

12 I GUESS ONE THING I WOULD BRING UP WITH  
13 REGARD TO THE ISSUE ABOUT IT'S SMALL -- YOU KNOW, AQRV  
14 -- RATHER THE RESOURCES ARE SMALL ISSUE, SMALL ISSUES --  
15 YOU KNOW, SMALL POTATOES -- WITH REGARD TO THE EXISTING  
16 SOURCES AND THE EXISTING BURDEN OUT THERE. I WOULD  
17 ENCOURAGE EPA TO MAKE SURE THAT THE BATON -- THE MESSAGE  
18 HAS BEEN PASSED FROM THIS FACA GROUP TO THE OTHER  
19 EXISTING FACA GROUP ADDRESSING EXISTING SOURCES AND  
20 REGIONAL HAZE, PARTICULATE, AND OZONE.

21 THAT, INDEED, WE ARE CONCERNED THAT EXISTING  
22 SOURCES ARE A BIG PART OF THE PROBLEM IN ADDRESSING  
23 CLASS I AREAS AND THAT THERE NEEDS TO BE SOME MARRIAGE

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1 BETWEEN RECOMMENDATIONS THAT COME OUT OF THIS GROUP AND  
2 IMPLEMENTATION OF ITEMS THAT THEY GENERATE. AND FROM  
3 WHAT I HAVE SEEN IN A BRIEF TWO-HOUR SESSION YESTERDAY  
4 AT ONE OF THEIR WORKING GROUPS, IT'S REALLY NOT BEING  
5 ADDRESSED AS, PROBABLY, AS MUCH AS MANY OF US WOULD LIKE  
6 TO SEE HERE.

7 **MR. RAHER:** OKAY. ICLAL?

8 **MS. ATAY:** ICLAL ATAY, FROM NEW JERSEY DEP.  
9 I HAVE A SIMPLE QUESTION ON COMPLETENESS. IN THE  
10 PAST -- IN CURRENT RULES A COMPLETENESS DETERMINATION IS  
11 BEING MADE BY THE PERMITTING AGENCY SOLELY. THE  
12 PROPOSED RULES INDICATE THAT THE COMPLETENESS  
13 DETERMINATION WILL BE MADE BY THE PERMITTING AGENCY AND  
14 COMPLETENESS DETERMINATION WILL BE MADE BY THE FEDERAL  
15 LAND MANAGER.

16 AND WHAT CONSTITUTES A COMPLETE APPLICATION,  
17 THE CRITERIA, IS LISTED -- IS OUTLINED IN THE RULES.  
18 THE FACT THAT YOU HAVE A BACT ANALYSIS, AIR QUALITY  
19 IMPACT ANALYSIS, VISIBILITY ANALYSIS, INCREMENT ANALYSIS  
20 IS OUTLINED IN THE RULES. I'M QUESTIONING WHETHER IS  
21 THIS AN APPROPRIATE USE OF RESOURCES TO HAVE DOUBLE  
22 COMPLETENESS REVIEW.

23 **MR. DEROECK:** WE DIDN'T SEE IT --

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1                   **MS. ATAY:**    THANK YOU.

2                   **MR. DEROECK:**  WE DIDN'T SEE IT AS A DOUBLE  
3                   OR A DUPLICATIVE REVIEW.  WE SAW IT AS THE PERMIT  
4                   COULDN'T BE CONSIDERED COMPLETE IF IT DIDN'T ADDRESS  
5                   CLASS I ISSUES.

6                   **MS. ATAY:**  WELL, THE PERMITTING AGENCY HAS  
7                   BEEN ADDRESSING THEM UNTIL NOW TO MAKE SURE THAT THE  
8                   VISIBILITY ANALYSIS WAS THERE, THE IMPACT ANALYSIS WAS  
9                   DONE.  WE WOULD NEED TO CLARIFY IF THERE IS SOMETHING  
10                  ADDITION -- IN ADDRESS TO THOSE THAT THE FEDERAL LAND  
11                  MANAGER WOULD MAKE SO THAT IT WOULD BE CLEAR TO THE  
12                  APPLICANTS AND THE PERMITTING AGENCY WHAT ADDITIONAL  
13                  ITEMS IS BEING LOOKED AT.

14                  **MR. DEROECK:**  WELL, THE INTENT, AGAIN, WAS  
15                  THE PROVIDE THE APPLICANT WITH, FIRST OF ALL, THE CLAIM  
16                  THAT THERE WOULD -- THAT THERE WAS A POTENTIAL ADVERSE  
17                  IMPACT AND WHAT THE POTENTIAL ADVERSE IMPACTS WERE SO  
18                  THEY KNEW WHAT INFORMATION WOULD BE EXPECTED OF THEM IN  
19                  THE APPLICATION IN TERMS OF PROJECTING ANY PREDICTED  
20                  POLLUTANT IMPACTS AS FAR AWAY AS THAT CLASS I AREA WAS.  
21                  THOSE WERE THE IMPACTS THAT NEEDED TO BE ADDRESSED IN  
22                  THE APPLICATION.

23                                    THE PERMITTING AUTHORITY CONTINUES TO MAKE

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1 THE COMPLETENESS DETERMINATION, BUT THE FEDERAL LAND  
2 MANAGER HAS THE OPPORTUNITY TO PROVIDE INPUT INTO THAT  
3 FROM THEIR PERSPECTIVE. BUT THEY DON'T MAKE THE  
4 COMPLETENESS DETERMINATION. THEIR INPUT HAS TO BE  
5 CONSIDERED AND CONSULTATION IS EXPECTED IF THERE'S  
6 DIFFERENCES OF OPINION, BUT THE PERMITTING AUTHORITY  
7 STILL MAKES THE COMPLETENESS DETERMINATION.

8 BUT IT NEEDS TO CONSIDER WHAT IT BELIEVES TO  
9 BE SUFFICIENT CLASS I INFORMATION TO ADDRESS THE  
10 CONCERNS THAT WERE ALLEGED BY THE WRITTEN NOTICE THAT'S  
11 REQUIRED PRIOR TO THAT DETERMINATION --

12 **MR. RAHER:** ICLAL, DO YOU WANT TO --

13 **MR. DEROECK:** -- RATHER THAN WAITING --

14 **MR. RAHER:** YOU CAN GO AHEAD.

15 **MR. DEROECK:** -- RATHER THAN WAITING TILL  
16 PUBLIC COMMENT PERIOD OR SOME PERIOD WELL INTO THE  
17 ANALYTICAL PROCESS TO FIND OUT THAT THE FEDERAL LAND  
18 MANAGER HAS A CONCERN, AND THE APPLICANT NEVER EVEN WAS  
19 AWARE OF IT AND CERTAINLY DIDN'T ATTEMPT TO ADDRESS IT  
20 BECAUSE THEY DIDN'T KNOW IT EXISTED.

21 **MS. ATAY:** WELL, I THINK TO FOLLOW UP ON  
22 THAT, IT NEEDS TO BE CLARIFIED A LITTLE BIT IN THE RULES  
23 BECAUSE IT'S NOT CLEAR TO ME READING THEM. FOR EXAMPLE,

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1 IF I'M LOOKING INTO A BACT ANALYSIS, IF THE APPLICANT  
2 SUBMITTED A BACT ANALYSIS SUFFICIENT ENOUGH, I MAY HAVE  
3 ADDITIONAL INFORMATION REQUEST FROM THEM, HOWEVER, I  
4 WILL STILL CALL THE APPLICATION COMPLETE AND START THE  
5 REVIEW PROCESS.

6 AND IF THEY SUBMITTED A VISIBILITY ANALYSIS  
7 AND ALL THE IMPACT ANALYSES THAT WOULD BE NECESSARY FOR  
8 THE FEDERAL LAND MANAGER, I WOULD STILL CALL THE  
9 APPLICATION COMPLETE, BUT I WOULD GET FEDERAL LAND  
10 MANAGER'S INPUT. I WOULD ASSURE THAT DURING THE  
11 TECHNICAL REVIEW PROCESS FEDERAL LAND MANAGER'S CONCERNS  
12 ARE ADDRESSED. I WILL NOT GO TO PUBLIC COMMENT UNTIL  
13 THEY ARE DONE SO, BUT I WILL START THE REVIEW.

14 IT APPEARS TO ME RIGHT NOW FROM THE  
15 APPLICATION I CANNOT CALL THE APPLICATION COMPLETE UNTIL  
16 THE FEDERAL LAND MANAGER TELLS ME I DON'T NEED ANY MORE  
17 INFORMATION, WHICH WASN'T THE CASE IN THE PAST.

18 **MR. RAHER:** OKAY. I THINK THAT'S A POINT  
19 THAT THE AGENCY NEEDS TO LOOK AT FROM AN OPERATIONAL  
20 STANDPOINT.

21 DAVID?

22 **MR. HAWKINS:** YEAH, DAVE HAWKINS. I JUST  
23 WANTED TO SPEAK TO THAT BECAUSE IT -- ACTUALLY, I THINK

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1 THE PROPOSED TEXT OF THE RULE DOES NOT HAVE THE RESULT  
2 THAT ICLAL INDICATED. IT REQUIRES THAT THE PERMIT --  
3 THE FEDERAL LAND MANAGER HAVE A THIRTY-DAY PERIOD TO  
4 PROVIDE COMMENTS ON -- FROM THE INITIAL RECEIPT OF THE  
5 APPLICATION -- TO PROVIDE COMMENTS WITH RESPECT TO  
6 COMPLETENESS, THAT THE PERMITTING AUTHORITY NEEDS TO  
7 CONSIDER THOSE COMMENTS, AND THAT THE PERMITTING  
8 AUTHORITY NEEDS TO COMMUNICATE WITH OR CONSULT WITH THE  
9 FLM IF THE PERMITTING AUTHORITY DISAGREES WITH AN FLM  
10 VIEW ABOUT COMPLETENESS.

11 SO THAT ISN'T REQUIRING A DOUBLE SIGN-OFF.  
12 IT'S REQUIRING A COMMUNICATION PROCESS TO OCCUR AT THIS  
13 EARLY STAGE SO THAT IT DOESN'T HAVE TO OCCUR LATER ON.  
14 I THINK THAT THE TEXT OF THE REGULATION DOESN'T DISPLACE  
15 THE PERMITTING AUTHORITY'S DECISION TO CALL SOMETHING  
16 COMPLETE. SO I THINK THE, YOU KNOW, THE OUTCOME IS IF  
17 YOU AND THE FEDERAL LAND MANAGER HAVE A DISAGREEMENT,  
18 AND YOU THINK THAT THE PERMIT SHOULD BE REGARDED AS  
19 COMPLETE, THIS RULE ALLOWS YOU TO DO THAT, BUT IT  
20 REQUIRES THAT YOU HAVE GIVEN THE FLM AN OPPORTUNITY TO  
21 STATE HIS OR HER VIEWS AND THAT YOU HAVE INFORMED THE  
22 FLM THAT, WELL, YOU SAID YOU DON'T THINK IT'S COMPLETE  
23 FOR THIS REASON, BUT I THINK IT IS COMPLETE, AND I PLAN

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1 TO MAKE IT COMPLETE. SO IT REALLY DOESN'T REQUIRE  
2 CONCURRENCE BY THE FLM IN THAT CONCLUSION. IT ONLY  
3 REQUIRES THAT THE FLM BE CONSULTED AND INFORMED. THAT'S  
4 THE WAY I READ IT.

5 **MR. RAHER:** I THINK, OBVIOUSLY, WE HAVE  
6 SOMEONE WHO AT LEAST HAS READ IT A LITTLE DIFFERENTLY,  
7 SO THE AGENCY SHOULD PROBABLY TRY TO CONSIDER ADDRESSING  
8 THAT.

9 KAREN?

10 **MS. MALKIN:** WELL, ICLAL, IF I UNDERSTOOD  
11 YOU CORRECTLY, YOU SAID THAT YOU WOULD CALL AN  
12 APPLICATION COMPLETE EVEN THOUGH THE FEDERAL LAND  
13 MANAGER MIGHT NEED SOME ADDITIONAL INFORMATION IN ORDER  
14 TO DO OUR DETERMINATION ON ADVERSE IMPACT FOR AQRV'S,  
15 BUT YOU WOULD STILL HAVE THE WORK DONE. YOU WOULD GET  
16 THAT INFORMATION LATER EVEN THOUGH YOU'RE CALLING THE  
17 APPLICATION COMPLETE.

18 WELL, UNFORTUNATELY, IT'S BEEN OUR  
19 EXPERIENCE THAT OTHER STATES DON'T DO THAT. IN YOUR  
20 CASE IT'S SORT OF A SEMANTIC GAME. WE'RE STILL GETTING  
21 THE INFORMATION. EVEN THOUGH YOU CALLED THE APPLICATION  
22 COMPLETE, YOU'RE ASKING FOR NEW INFORMATION, AND IT WILL  
23 BE ADDED INTO THE PERMIT APPLICATION. SO IT'S THERE.

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1 BUT THESE PROCEDURES SORT OF HELP SET  
2 EVERYTHING OUT AND MAKE IT CLEAR FOR EVERYONE UP FRONT,  
3 THAT THEY UNDERSTAND THAT THERE WILL NEED TO BE SOME --  
4 THERE ARE SOME INFORMATIONAL NEEDS REGARDING IMPACTS TO  
5 AQRV'S IF THEY'RE LOCATING NEAR A CLASS I AREA. AND IT  
6 JUST SETS IT OUT AND MAKE -- AND PUTS EVERYTHING UP  
7 FRONT AND CLEAR.

8 AND I THINK IT'S BEEN SAID BEFORE: THESE  
9 PROCEDURES ARE REFLECTED IN A NUMBER OF EPA POLICY MEMOS  
10 AND DRAFT MANUALS, GUIDANCE, AND SO FORTH THAT HAVE BEEN  
11 ISSUED OVER THE YEARS, AND IT'S JUST PUTTING IT IN ONE  
12 PLACE. THERE ARE, AS I MENTIONED EARLIER, SOME SPECIFIC  
13 TIME LIMITATIONS, YOU KNOW, IN PARTICULAR PUT ON THE  
14 FEDERAL LAND MANAGER WHICH, YOU KNOW, WILL BE DIFFICULT  
15 BUT YET FOR THE CLARITY AND CONSISTENCY, YOU KNOW, I  
16 THINK IT'S A GOOD ATTEMPT TO GET -- TO GET US INTO A  
17 CONSISTENT PROCESS SO YOU DON'T HAVE PEOPLE SHOPPING --  
18 FORUM SHOPPING.

19 **MR. RAHER:** ARE THERE ANY FURTHER COMMENTS  
20 WITH RESPECT TO THE CLASS I ISSUES OF THE PACKAGE?  
21 WITH CAN GIVE THE -- DAVID.

22 **MR. HAWKINS:** YEAH, THIS IS A COMMENT  
23 INSPIRED BY A NUMBER OF THE STATEMENTS AT YESTERDAY'S

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1 PUBLIC HEARING. I WAS -- I WAS SOMEWHAT SURPRISED BY  
2 THE VEHEMENCE OF THE OPPOSITION TO THE CLASS I PROPOSALS  
3 IN THIS RULEMAKING BY MOST OF THE INDUSTRY PEOPLE WHO  
4 SPOKE, AND AT LEAST IT APPEARS TO ME TO BE BASED ON A  
5 MISREADING OF WHAT'S IN THE PROPOSAL. THERE WERE A  
6 NUMBER OF CHARACTERIZATIONS ABOUT HOW THIS SOMEHOW GIVES  
7 FEDERAL LAND MANAGERS FINAL SAY OVER THE ISSUANCE OF  
8 PERMITS AND SIMILAR TYPES OF COMMENTS.

9 AND I REALLY DON'T THINK THAT IS THE CASE,  
10 AND IF THERE'S A MISUNDERSTANDING -- EITHER ON MY PART  
11 OR ON THE PART OF THE OPPONENTS -- I THINK IT WOULD BE  
12 USEFUL TO HAVE SOME DISCUSSION TO TRY TO CLARIFY THAT  
13 UNDERSTANDING BECAUSE THIS IS AN IMPORTANT PART OF THE  
14 PROPOSAL.

15 WHEN WE STARTED THIS COMMITTEE,  
16 SUBCOMMITTEE, FOUR YEARS, ONE OF THE FIRST THINGS WE  
17 DISCUSSED WAS THE FACT THAT WE HAD AN INADEQUATE SYSTEM  
18 FOR PROTECTING CLASS I RESOURCES, AND I THINK THERE WAS  
19 GENERAL ACKNOWLEDGEMENT THAT THERE WAS ADVERSE IMPACT  
20 OCCURRING. AND THEN THERE WAS A LOT OF DISCUSSION BACK  
21 AND FORTH ABOUT WHETHER IT WAS EXISTING SOURCES OR NEW  
22 SOURCES, AND THERE -- OBVIOUSLY, THIS RULEMAKING DOES  
23 NOT HAVE ANY -- IT DOESN'T ADVANCE THE AGENDA WHATSOEVER

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1 ON DEALING WITH WHAT EVERYBODY HAS STATED IS A PROBLEM;  
2 AND THAT IS THE IMPACT OF EXISTING SOURCES. SO IT DOES  
3 TRY TO AMELIORATE THE SITUATION WITH RESPECT TO NEW  
4 SOURCES AND YET RECOMMENDATIONS WERE MADE YESTERDAY THAT  
5 EVEN THAT SHOULD BE DROPPED FROM THIS REFORM EXERCISE,  
6 WHICH WOULD BE VERY OBJECTIONABLE FROM OUR STANDPOINT.

7 AND IF THAT'S BASED ON SOME SORT OF  
8 MISUNDERSTANDING OF WHAT THESE PROVISIONS ACTUALLY  
9 REQUIRE, I THINK IT'S IMPORTANT TO CLARIFY THAT. IF  
10 IT'S BASED ON A CORRECT UNDERSTANDING AND SIMPLY A  
11 DISAGREEMENT ABOUT WHAT THE AGENCY IS TRYING TO DO, EVEN  
12 THOUGH IT'S CORRECTLY UNDERSTOOD, THAT'S IMPORTANT TO  
13 KNOW THAT TOO.

14 **MR. RAHER:** AND I THINK THAT'S AN IMPORTANT  
15 POINT BECAUSE, OBVIOUSLY, ONE OF THE ISSUES THAT I HEARD  
16 YESTERDAY DURING THE HEARING WAS THE QUESTION THAT THE  
17 COMPLETENESS DETERMINATION COULD, IN EFFECT, BE HELD UP  
18 FOREVER. AND I THINK I HEARD YOU SAY, DAVID, THAT UNDER  
19 YOUR READING THAT HAS TO BE AT LEAST A CONSULTATION, BUT  
20 IF THE STATE PERMITTING AUTHORITY DEEMS THE INFORMATION,  
21 ALL THE INFORMATION NECESSARY, THAT THAT IS THEIR  
22 DECISION.

23 **MR. HAWKINS:** YEAH, IT'S A SHORT PROVISION.

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1 IT SAYS, "CONSULT WITH THE FEDERAL LAND MANAGER ABOUT  
2 ANY INCONSISTENCY BETWEEN THE DETERMINATION BY THE  
3 PERMITTING AUTHORITY AND THE FEDERAL LAND MANAGER'S  
4 RECOMMENDATION."

5 **MR. RAHER:** RIGHT.

6 OKAY. WELL, IF THERE ARE SOME ISSUES ABOUT  
7 THAT THAT MEMBERS HERE FROM INDUSTRY WOULD LIKE TO  
8 ADDRESS, I THINK IT WOULD BE HELPFUL.

9 BILL?

10 **MR. PEDERSEN:** YES. I HAVE READ THESE  
11 CLASS I AREA PROVISIONS, AND I DO NOT THINK I  
12 MISUNDERSTOOD THEM. I THINK MY PROFESSIONAL COMPLIMENTS  
13 TO WHOEVER IT WAS WHO WROTE THEM BECAUSE THEY HAVE A --  
14 THEY HAVE A VERY CONSISTENT THEME. IF THERE -- THERE IS  
15 SOMETHING OF AN AIR OF TWO DIFFERENT MESSAGES IN THE  
16 DESCRIPTIONS OF WHAT THIS THING NOMINALLY SAYS AND HOW  
17 IT REALLY WORK.

18 I WOULD DESCRIBE IT AS HAVING BEEN  
19 CONSTRUCTED WITH A LOT OF CARE TO MAXIMIZE THE POWER OF  
20 THE FEDERAL LAND MANAGER TO ASSERT WHATEVER THEY WANT  
21 AND GET WHATEVER RESULT THEY WANT AND TO DO SO BASICALLY  
22 BY USING THE INERTIA OF THE SYSTEM AND BY EMPOWERING THE  
23 FEDERAL LAND MANAGER TO RAISE UNDOCUMENTED CONCERNS. SO

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1 THAT AT EVERY POINT IN THE PERMIT PROCESSING SYSTEM, THE  
2 FEDERAL LAND MANAGER CAN RAISE A CONCERN WITHOUT MUCH OF  
3 AN OBLIGATION TO SUPPORT IT, AND THEN THE PERMITTING  
4 PROCESS HAS TO STOP, AND IT HAS TO CONSIDER WHETHER THAT  
5 CONCERN IS JUSTIFIED OR NOT.

6 AND QUITE PREDICTABLY, THE RESULT WILL BE  
7 THAT EITHER PEOPLE WITH GIVE UP ON THESE PROJECTS, OR  
8 THEY WILL BUY OFF THE FLM IN ONE WAY OR ANOTHER EVEN  
9 WHEN THERE IS NO TECHNICAL JUSTIFICATION FOR BELIEVING  
10 THAT THIS PARTICULAR SOURCE HAS ANY ADVERSE IMPACT.

11 I MEAN, GO THROUGH THE COUNT. THE FEDERAL  
12 LAND MANAGER HAS, AT A MINIMUM, A VERY STRONG VOICE IN  
13 THE COMPLETENESS DETERMINATIONS. SO IT WILL BE  
14 DIFFICULT TO MAKE A COMPLETENESS DETERMINATION OVER THE  
15 FLM'S OBJECTION. THE PREAMBLE SAYS SOMETHING LIKE WHEN  
16 THE FLM ASKS FOR MORE DATA, ONLY IF THERE IS NO  
17 POTENTIAL LINKAGE BETWEEN THE EMISSIONS AND THE AIR  
18 QUALITY VALUE THAT'S ASSERTED TO BE IN DANGER CAN --  
19 SHOULD THAT REQUEST BE DENIED.

20 THEN YOU -- AND WE'VE HEARD ABOUT THE  
21 RESTRICTIVE DEADLINES THAT ARE IN THE PROPOSAL, BUT THE  
22 PROPOSAL IS EQUALLY CLEAR THAT THE FLM CAN COME LATER  
23 AND RAISE CONCERNS THAT WERE NOT RAISED DURING THE

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1 WINDOW PERIOD WITHOUT BEING PREJUDICED IN ANY WAY BY  
2 HAVING FAILED TO RAISE THEM.

3 AND FINALLY WHEN IT COMES TIME TO THE  
4 INSTALLATION -- THE ACTUAL QUESTION OF CONTROLS, MANY  
5 STEPS LATER, THE PACKAGE SAYS THAT THE STATE SHALL DEFER  
6 TO THE FLM'S EXPERTISE ON THESE ISSUES, INCLUDING, I  
7 SUPPOSE, AIR QUALITY MODELING ISSUES ON WHICH THEY ARE  
8 NOT EXPERT OR NO MORE EXPERT. AND THEN IT HAS TO TOUCH  
9 A NUMBER OF BASES IF IT DISAGREES. AND, AGAIN, IT'S  
10 NOMINALLY TRUE THAT IF YOU TOUCH ALL THE BASES YOU CAN  
11 DISAGREE.

12 BUT AT EVERY STAGE THERE IS A WEIGHT ON THE  
13 SCALE IN FAVOR OF THE FLM AND AGAINST ANYONE WHO WANTS  
14 TO DISAGREE WITH THE FLM.

15 NOW YOU COUPLE THAT WITH THE OTHER THEME OF  
16 THE PACKAGE, WHICH IS ABSOLUTELY NO REAL BURDEN OF  
17 JUSTIFICATION ON THE FLM. THE PACKAGE DOES NOT MENTION  
18 ANY REAL PHYSICAL TECHNICAL AIR QUALITY RELATED VALUES.  
19 IT MENTIONS VISIBILITY A COUPLE OF TIMES BECAUSE THAT IS  
20 MENTIONED IN THE *CLEAN AIR ACT*, AND SO THE FLM HAS  
21 COMPLETE FREEDOM TO SAY WE THOUGHT OF THIS, WE THOUGHT  
22 OF THAT, WE NOW DECIDED THAT WE SHOULD -- WE SHOULD --  
23 WE SHOULD HAVE A TIGHTER FOCUS ON THIS PROBLEM.

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1                   AND I THINK THAT ALL OF THIS IS PARTICULARLY  
2 TROUBLESOME PRECISELY BECAUSE AIR QUALITY RELATED VALUES  
3 ARE A REAL ISSUE. THIS IS NOT A CONCERN THAT'S GOING TO  
4 GO AWAY. BUT NO ONE HAS DENIED THAT NEW SOURCES ARE A  
5 TINY PART OF THE AIR QUALITY VALUES PROBLEM.

6                   AS LONG AS WE HAVE A SYSTEM THAT FOCUSES ON  
7 EXISTING -- ON NEW SOURCES LIKE THIS AND AS LONG AS WE  
8 HAVE A REAL CONCERN AND AS LONG AS WE HAVE SUCH  
9 ARBITRARY POWER ON THE FLM, WE CAN PREDICT -- AND  
10 CERTAINLY WE CAN FEAR -- THAT PERMIT APPLICANTS WILL GET  
11 HIT AGAIN AND AGAIN AND AGAIN AND AGAIN IF THIS RULE IS  
12 PROMULGATED SIMPLY BECAUSE THEY ARE THE ONLY TARGET OUT  
13 THERE.

14                   **MR. RAHER:** JOHN?

15                   **MR. BUNYAK:** I'D LIKE TO MAKE ONE COMMENT ON  
16 THE NOTIFICATION PROVISIONS IN THE PROPOSAL. IT'S TRUE  
17 THAT THE APPLICANT DOESN'T HAVE TO INCLUDE A CLASS I  
18 INCREMENT ANALYSIS OR OTHER IMPACTS ANALYSIS UNLESS THE  
19 FEDERAL LAND MANAGER LINKS THE PROPOSED EMISSIONS TO  
20 SOME PRELIMINARY IMPACT DETERMINATION.

21                   I GUESS I JUST WANTED TO MAKE THE POINT THAT  
22 IF TIMING IS CRUCIAL AND IF THE FEDERAL LAND MANAGER HAS  
23 ALREADY GONE ON RECORD AS MAKING A PRELIMINARY ADVERSE

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1 IMPACT DETERMINATION WITH RESPECT TO SOME OTHER  
2 APPLICATION, I THINK IT WOULD BEHOOVE THE APPLICANT TO  
3 STICK THAT STUFF IN THERE RATHER THAN WAITING FOR US TO  
4 CERTIFY THE NEED FOR THAT.

5 I GUESS -- AND THEN ONE -- A COUPLE OF  
6 EDITORIAL COMMENTS TO ADDRESS BILL'S CONCERN THERE, AND  
7 I THINK FROM OUR STANDPOINT WE LOOK AT ROLE OF  
8 AFFIRMATIVE RESPONSIBILITY. WE TAKE THAT ROLE VERY  
9 SERIOUSLY, AND I'M NOT GOING TO APOLOGIZE FOR THE NEED  
10 TO HAVE ADEQUATE INFORMATION TO DO OUR JOB.

11 IT'S OUR ROLE TO PROTECT THE CLASS I  
12 AREAS -- THE GRAND CANYON, THE GREAT SMOKEY MOUNTAINS,  
13 SHENANDOAH NATIONAL PARK, AND SO FORTH -- FOR THE  
14 BENEFIT OF EVERYBODY. IT'S NOT JOHN BUNYAK'S CLASS I  
15 AREAS; IT'S ALL OF OUR CLASS I AREAS.

16 THANKS.

17 **MR. RAHER:** DAVID?

18 **MR. HAWKINS:** WELL, I JUST WANT TO MENTION A  
19 COUPLE OF PROVISIONS THAT ARE IN THE ACTUAL RULE IN  
20 RESPONSE TO BILL PEDERSEN'S CONCLUSIONS. FIRST, THERE  
21 IS A DEFINITION OF "AIR QUALITY RELATED VALUE" THAT  
22 SPECIFICALLY LISTS "VISIBILITY OR A SCENIC, CULTURAL,  
23 PHYSICAL, BIOLOGICAL, ECOLOGICAL, OR RECREATIONAL

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1 RESOURCE THAT MAY BE AFFECTED BY A CHANGE IN AIR  
2 QUALITY." AND SO THERE IS A SPECIFIC DEFINITION.  
3 PERHAPS IT ISN'T AS SPECIFIC AS BILL WOULD LIKE, BUT I  
4 DIDN'T WANT TO LEAVE THE IMPRESSION THAT THERE WAS NO  
5 LISTING OF THE TYPES OF RESOURCES THAT WERE CONSIDERED  
6 IN THE RULE.

7 SECOND, WITH RESPECT TO THE FLM'S ABILITY TO  
8 STOP THE PROCESS WITH ESSENTIALLY NO INFORMATION, I'M  
9 SURE THERE ARE A LOT MORE REFERENCES BUT JUST A COUPLE  
10 THAT ARE WORTH POINTING OUT: ONE IS THAT THE FLM IS  
11 REQUIRED, IF REQUESTED, TO PROVIDE ALL AVAILABLE  
12 INFORMATION ABOUT AIR QUALITY RELATED VALUES AND METHODS  
13 TO ANALYZE POTENTIAL IMPACTS. IT IS ALSO REQUIRED TO  
14 PROVIDE ITS COMMENTS WITH RESPECT TO COMPLETENESS IF IT  
15 WANTS TO CREATE AN OBLIGATION ON THE PART OF THE  
16 PERMITTING AUTHORITY TO CONSIDER THEM OR TO CONSULT.

17 AND IT IS -- IF IT WANTS TO ASSERT THE  
18 POSSIBILITY OF AN ADVERSE IMPACT, IT IS REQUIRED TO  
19 SUBMIT "A DEMONSTRATION THAT A PROPOSED MAJOR SOURCE OR  
20 A MAJOR MODIFICATION WILL HAVE AN ADVERSE IMPACT ON AIR  
21 QUALITY RELATED VALUES AFTER HAVING IDENTIFIED WHAT  
22 THOSE SPECIFIC VALUES ARE IN AN INITIAL NOTIFICATION."

23 SO I THINK THAT TO CHARACTERIZE THIS AS

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1 ALLOWING SORT OF THE NEAREST ASSERTION THAT, GEE, THERE  
2 MAY BE SOME PROBLEM DOESN'T CORRECTLY CHARACTERIZE THE  
3 PROPOSED RULE.

4 **MR. RAHER:** ANY OTHER COMMENTS ON THE  
5 CLASS I PORTION OF THE PACKAGE?

6 LYDIA?

7 **MS. WEGMAN:** I WOULD ASK BILL AND OTHER  
8 INDUSTRY FOLKS WHO REALLY HAVE OBJECTIONS TO THIS THAT  
9 IT WOULD BE HELPFUL TO US, RATHER THAN GETTING SWEEPING  
10 DENUNCIATIONS OF THE PACKAGE, EVEN THOUGH THAT MAY BE  
11 WHAT YOU WOULD FEEL, IF WE COULD GET SOME MORE SPECIFIC  
12 SUGGESTIONS FOR HOW WE MIGHT BALANCE THESE CONCERNS THAT  
13 YOU HAVE WITH THOSE OF THE FLM'S. I MEAN, I THINK WE  
14 CLEARLY ARE TRYING TO ADDRESS THE NEEDS OF THE FLM'S  
15 WITHOUT TRYING TO OVERLY BURDEN YOU, AND IT WOULD BE  
16 HELPFUL TO KNOW FROM YOU -- NOT NECESSARILY TODAY,  
17 ALTHOUGH IF YOU WANT TO IT'S FINE -- WHAT ELEMENTS OF  
18 OUR EFFORTS TO GIVE THE FLM'S MORE UP-FRONT NOTIFICATION  
19 AND INVOLVEMENT MAKE SOME SENSE AND ARE WORKABLE AS  
20 OPPOSED TO THOSE WHICH ARE PROBLEMATIC.

21 **MR. PEDERSEN:** I THINK -- I THINK THAT THE  
22 DIRECTION OF SUCH A FIX IS CLEAR; AND THAT IS,  
23 PARTICULARLY IN A SITUATION WHERE THE NEW SOURCES ARE A

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1 SMALL PART OF THE PROBLEM AND WHERE THERE IS THIS GREAT  
2 CONCERN ABOUT ARBITRARY POWER, WHAT WE WOULD LIKE TO SEE  
3 IS FIXES THAT PUT A GREATER BURDEN OF JUSTIFICATION --  
4 AND I MEAN AN EXPLICIT BURDEN OF JUSTIFICATION -- ON THE  
5 FLM TO ASSERT WHAT THE VALUE IS, WHAT -- HOW IT CAN BE  
6 QUANTIFIED IN NUMBERS THAT RELATE TO THE POLLUTION, AND  
7 WHETHER THE IMPACT OF THIS NEW SOURCE WILL BE  
8 SIGNIFICANT IN A CAUSATION SENSE AS HENRY SAID.

9 A COUPLE OF POINTS -- THEY AREN'T NEW -- THE  
10 MODELS USED FOR MAKING THESE PROJECTIONS SHOULD BE  
11 GUIDANCE MODELS. THE AIR QUALITY RELATED VALUES SHOULD  
12 BE DEFINED IN ADVANCE IN SOME MANNER AND SHOULD HAVE  
13 SOME TYPE OF QUANTITATIVE SUPPORT, AND THERE SHOULD BE  
14 *DE MINIMUS* LEVELS FOR AIR QUALITY RELATED VALUES BELOW  
15 WHICH YOU DON'T HAVE TO WORRY ABOUT IT.

16 AT PRESENT THE PACKAGE SAYS, WELL, AIR  
17 QUALITY RELATED VALUES ARE TOO INCHOATE. WE COULDN'T --  
18 WE COULDN'T PRESUME TO SET -- WE, EPA, COULDN'T PRESUME  
19 TO SET *DE MINIMUS* LEVELS, AND THE FLM ISN'T OBLIGED TO  
20 SET THEM. I DON'T BUY THE NOTION THAT VISIBILITY IS A  
21 VALUE; IT'S NOT A NUMBER. I MEAN GOOD HEALTH IS A  
22 VALUE, TOO, BUT WHEN YOU GO TO THE DOCTOR, HE SAYS THIS  
23 NUMBER. YOU LOSE TWENTY POUNDS. YOU GET YOUR

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1 CHOLESTEROL DOWN. THAT'S WHAT REGULATION IS ABOUT.

2 **MR. RAHER:** DAVID?

3 **MR. HAWKINS:** I THINK KAREN WAS UP.

4 **MR. RAHER:** OH, I'M SORRY, KAREN. I DIDN'T  
5 SEE YOUR CARD.

6 **MS. MALKIN:** I'D JUST LIKE TO ASK BILL A  
7 QUESTION. YOU SAY YOU WANT TO HAVE *DE MINIMUS* THRESHOLD  
8 LEVELS FOR AQRV'S. WELL, HOW DO YOU TELL -- ALL THOSE  
9 LITTLE *DE MINIMUS* LEVELS ADD UP TO A BIG, CUMULATIVE  
10 IMPACT OVER TIME. AND AS JOHN BUNYAK AND OTHERS HAVE  
11 POINTED OUT, YOU KNOW, THESE ARE NOT THE FLM'S CLASS I  
12 AREAS. THESE ARE SET ASIDE FOR FUTURE GENERATIONS,  
13 AREAS TO BE TREASURED BY THE WORLD OVER, AND HOW DO YOU  
14 ADDRESS THAT CUMULATIVE ISSUE?

15 **MR. PEDERSEN:** I THINK WE SHOULD ADDRESS IT  
16 THROUGH A PROGRAM THAT ADDRESSES ALL SOURCES: LARGE,  
17 SMALL, EXISTING, OR NO. THEN WE WOULD -- THEN WE WOULD  
18 HAVE SOME KIND OF AN AUTOMATIC CHECK ON WHETHER THE  
19 REGULATION WAS REASONABLE OR WHETHER WE WERE JUST  
20 BEATING UP ON ONE CLASS OF SOURCES BECAUSE THEY WERE  
21 ALREADY IN THE SYSTEM.

22 **MS. MALKIN:** WELL, COULD YOU ELABORATE ON  
23 THAT? WHAT SORT OF PROGRAM WOULD THAT BE? AND HOW

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1 COULD YOU --

2 **MR. PEDERSEN:** I CAN'T GO ANY FURTHER RIGHT  
3 NOW.

4 **MR. RAHER:** DAVID?

5 **MR. HAWKINS:** WELL, BILL HAS JUST SPOKEN TO  
6 THE CONCERN THAT I WANTED TO ADDRESS AS WELL. THE  
7 PROPOSAL THAT THERE BE A SHIFTING OF THE BURDEN OF PROOF  
8 TO A GREATER DEGREE THAN THIS RULE ESTABLISH, YOU KNOW,  
9 MIGHT BE -- MIGHT BE A USEFUL PROPOSAL FOR A FULLY  
10 INTEGRATED SYSTEM AT SOME POINT IN THE FUTURE WHEN WE'VE  
11 GOT A FUNCTIONING PROGRAM THAT DEALS WITH THE ADVERSE  
12 IMPACTS THAT ARE BEING CREATED BY THE NEW SOURCES.

13 BUT TO SUGGEST THAT WE SHOULD ESTABLISH A  
14 VERY HIGH BURDEN OF PROOF AND, IN EFFECT, REQUIRE A  
15 CATALOG OF WHAT IS CURRENTLY UNCATALOGABLE (SIC) BUT,  
16 NONETHELESS, EVENTUALLY DAMAGED IS, IN SOME CASES  
17 IRREVERSIBLY BY INCREASED AIR POLLUTION -- TO REQUIRE  
18 THOSE THINGS NOW AND SAY LATER ON WE WILL ADDRESS WHAT  
19 HAS BEEN IDENTIFIED AS ONE OF THE MAJOR PROBLEMS OF  
20 THOSE ADVERSE IMPACTS, I THINK, IS A PROBLEM IN  
21 SEQUENCING. IT'S, YOU KNOW, A LITTLE LIKE TELLING THE  
22 GUY IN THE PLANE, JUMP, WE'LL SEND YOU THE PARACHUTE  
23 LATER.

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1                   **MR. RAHER:** ALL RIGHT, WITH THAT EXAMPLE ARE  
2 THERE ANY FURTHER DISCUSSIONS ON THE CLASS I ISSUES?

3                   WE CAN -- I WILL GIVE YOU THE OPTION I WAS  
4 GOING TO GIVE YOU A FEW MINUTES AGO. IT'S EVEN MORE  
5 RELEVANT NOW. WE CAN EITHER TAKE A BREAK, WHICH WILL  
6 PUT US VERY, VERY CLOSE TO 4:00 OR 4:30, OR WE CAN MOVE  
7 IMMEDIATELY TO MISCELLANEOUS REFORMS IN THE *CLEAN AIR*  
8 *ACT* IMPLEMENTATION REVISIONS AND DECIDE WHETHER OR NOT  
9 THERE ARE ANY COMMENTS ON THOSE BY ANYBODY HERE. THERE  
10 WERE NOT EXTENSIVE COMMENTS YESTERDAY AT THE HEARING, SO  
11 THERE'S NOTHING TO REPORT FROM THAT STANDPOINT AT THE  
12 HEARING. THERE MAY BE IN THE WRITTEN COMMENTS.

13                   IF THERE ARE ANY SPECIFIC COMMENTS FROM THE  
14 COMMITTEE MEMBERS, I THINK THIS WOULD BE THE APPROPRIATE  
15 TIME. IF THERE ARE TONS OF THEM, WE'LL TAKE A SHORT  
16 BREAK. IF THERE ARE NOT, WE MAY BE ABLE TO WRAP UP  
17 FASTER.

18                   DAVID?

19                   **MR. HAWKINS:** THE ONE COMMENT THAT I WANTED  
20 TO FLAG WAS MY COMMENT AT YESTERDAY'S HEARING ABOUT THE  
21 SHUTDOWN CREDIT ISSUE. I DON'T KNOW IF THAT'S SUPPOSED  
22 TO BE COVERED IN THE MISCELLANEOUS.

23                   **MR. RAHER:** ACTUALLY, YOU'RE RIGHT. IT IS.

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1 WHY DON'T YOU GO AHEAD AND ADDRESS THAT ISSUE BECAUSE I  
2 THINK IT'S APPROPRIATE.

3 **MR. HAWKINS:** SURE, AND I'LL DO IT QUICKLY  
4 BECAUSE I WOULD ALSO ENDORSE WRAPPING UP.

5 THE PROPOSAL HAS ALTERNATIVES FOR EXPANDING  
6 THE USE OF SHUTDOWN CREDITS IN THE -- IN NONATTAINMENT  
7 AREAS FOR OFFSET -- FOR PURPOSES OF SATISFYING OFFSETS.  
8 THIS HAS LONG BEEN A CONCERN OF THE ENVIRONMENTAL  
9 COMMUNITY. THE AGENCY'S RATIONALE FOR SUPPORTING AN  
10 EXPANSION OF THE USE OF THESE OFFSET CREDITS IS  
11 ESSENTIALLY PREMISED ON THE FACT THAT THE 1990  
12 *AMENDMENTS*, AS WRITTEN, HAVE A NUMBER OF SPECIFIC  
13 PROVISIONS WHICH, IF IMPLEMENTED, WOULD PROVIDE GREATER  
14 SECURITY THAT THE USE OF OFFSET -- OF SHUTDOWN CREDITS  
15 WOULDN'T DETERIORATE AIR QUALITY IN PLACES THAT NEED TO  
16 IMPROVE IT.

17 THE ONLY PROBLEM WITH THAT ANALYSIS IS THAT  
18 IT IGNORES THE FACTS ON THE GROUND. IT IGNORES THE  
19 FACTS THAT THE VERY PROVISIONS THAT ARE POINTED TO AS  
20 ENSURING A GREATER SENSE OF CONFIDENCE THAT THE STATES  
21 WILL ACTUALLY GET THE WORK DONE ON TIME, THAT THOSE VERY  
22 PROVISIONS HAVEN'T BEEN IMPLEMENTED ON TIME. AND I  
23 THINK THAT IT WOULD BE A REALLY PRETTY STRANGE DEFENSE

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1 IF, PERHAPS, A YEAR FROM NOW OR WHENEVER THIS RULE GOES  
2 FINAL IF THE AGENCY IS IN THE POSITION OF HAVING THAT  
3 KIND OF A RATIONALE AT A POINT WHEN THOSE THINGS STILL  
4 HAVEN'T BEEN IMPLEMENTED AND YET POINTING TO IT AS SORT  
5 OF SAFETY NET.

6 SO I THINK THE AGENCY NEEDS TO EVALUATE THIS  
7 GIVEN THE FACTS THAT EXIST, NOT GIVEN THE STRUCTURE OF A  
8 LAW THAT HASN'T BEEN IMPLEMENTED ON SCHEDULE.

9 **MR. SOLOMON:** DAVID, THERE ARE TWO OPTIONS  
10 WITHIN THE PACKAGE FOR TREATING PRIOR SHUTDOWNS. I  
11 ASSUME YOUR CONCERNS ARE EQUAL OF TERMS OF BOTH OF THEM,  
12 OR DO YOU FIND ONE TO BE LESS EGREGIOUS THAN THE OTHER?

13 **MR. HAWKINS:** WELL, AS MY COLLEAGUE TO MY  
14 LEFT CAN VOUCH, FOR A COUPLE OF YEARS NOW WE HAVE BEEN  
15 HEARING FROM THE STATE AGENCIES THAT THEY ARE FACING THE  
16 IMPOSSIBLE TASK OF IDENTIFYING THE EMISSION REDUCTIONS  
17 NEEDED NOT ONLY TO DEMONSTRATE ATTAINMENT, BUT TO EVEN  
18 DEMONSTRATE COMPLIANCE WITH THE MINIMUM EMISSION  
19 REDUCTION MEASURES NEEDED TO SATISFY THE 15 PERCENT OR  
20 THE 3 PERCENT PER YEAR. THAT HAS BEEN A CONSTANT  
21 REFRAIN, WHICH HAS BEEN BASICALLY ENDORSED AND ACCEPTED  
22 BY THE AGENCY IN GIVING MORE TIME TO DO THESE JOBS.

23 TO SAY THAT WE CAN, THEREFORE, ALLOW

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1 REDUCTIONS IN EMISSIONS WHICH HAVE BEEN IDENTIFIED TO  
2 INSTEAD OF CONTRIBUTING TO MEETING EITHER ONE OF THOSE  
3 OBJECTIVES, EITHER A SET OF REQUIREMENTS TO DEMONSTRATE  
4 ATTAINMENT OR CONTRIBUTING TOWARD THE MINIMUM EMISSION  
5 REDUCTIONS, TO SAY WE CAN TAKE THOSE REDUCTIONS WHICH  
6 HAVE OCCURRED AND INSTEAD DEDICATE THEM TO ALLOW  
7 CONSTRUCTION OF A NEW FACILITY THAT IS LESS  
8 WELL-CONTROLLED THAN IT OTHERWISE WOULD HAVE TO BE  
9 BECAUSE YOU COULD TAKE THOSE POUNDS OR TONS AND USE THEM  
10 TO OFFSET THE EMISSIONS WHICH ARE GREATER THAN THEY  
11 OTHERWISE WOULD BE, I THINK, SIMPLY REFLECTS AN  
12 INCREDIBLE DISCONNECT BETWEEN THESE TWO COMPONENTS OF  
13 THE PROGRAM.

14 IT DOESN'T REFLECT THE FACT THAT THESE  
15 OFFSET TRANSACTIONS CAN HELP CONTRIBUTE TOWARD PROGRESS  
16 ON A GOAL THAT WE WOEFULLY BEHIND ON. SO, YES, I HAVE  
17 PROBLEMS WITH ANY EXPANSION OF THE SHUTDOWN CREDIT  
18 POLICY.

19 **MR. RAHER:** BERNIE?

20 I'M SORRY, CHUCK. DO YOU WANT TO STAY ON  
21 THAT ISSUE?

22 **MR. KNAUSS:** I JUST WANT TO CLARIFY. THE  
23 STATES CAN MAINTAIN THE CURRENT RESTRICTIONS, RIGHT,

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1 DAVID? THE TWO ALTERNATIVES THAT ARE LAID THERE ARE AT  
2 THE OPTION OF THE STATE, BUT AS I READ THE PROPOSAL, THE  
3 STATES COULD MAINTAIN THE RESTRICTIONS AS --

4 **MR. SOLOMON:** IF THE STATE WANTED TO BE MORE  
5 STRINGENT AND DISALLOW ANY USE OF PRIOR SHUTDOWNS, THAT  
6 WOULD BE ACCEPTABLE TO US.

7 **MR. KNAUSS:** RIGHT.

8 **MR. RAHER:** I THINK I KNOW WHAT YOUR ANSWER  
9 IS GOING TO BE, BUT GO AHEAD, DAVID.

10 **MR. HAWKINS:** I HAVE A HARD TIME REGARDING  
11 THAT AS A SERIOUS RESPONSE. I MEAN THE FACT IS THAT  
12 WHILE THE STATES HAVE THE THEORETICAL POTENTIAL, THERE  
13 ARE MANY PEOPLE AROUND THIS TABLE WHO WOULD BE IN WITH  
14 BOTH GUNS BLAZING ARGUING THAT THE STATES SHOULD NOT  
15 EXERCISE THAT AUTHORITY IF THEY SOUGHT TO DO SO.

16 **MR. SOLOMON:** RIGHT. AND WE RECOGNIZE THERE  
17 ARE MANY STATES WHO REGULATE -- WHO ARE NOT ALLOWED TO  
18 BE MORE STRINGENT BY THEIR OWN STATE LAW THAN THE  
19 FEDERAL RULES.

20 **MR. RAHER:** BERNIE.

21 **MR. BERNIE PAUL:** BERNIE PAUL, WITH ELI  
22 LILLY. I HAVE A CLARIFYING QUESTION REGARDING A CLASS  
23 OF COMPOUNDS. I'M NOT SURE WHETHER THEY WOULD BE

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1 CONSIDERED REGULATED AIR POLLUTANTS OR NOT. I  
2 APPRECIATE THE FACT THAT THERE IS A PROPOSAL TO CREATE A  
3 SIGNIFICANT MODIFICATION DEFINITION FOR "OZONE-DEPLETING  
4 SUBSTANCES" AND THE REMOVAL OF THE HAP COMPOUNDS THAT  
5 FORMERLY HAD SIGNIFICANT MODIFICATION DEFINITIONS.

6 THERE'S A GROUP OF COMPOUNDS OUT THERE UNDER  
7 THE SNAP PROGRAM, WHICH IS UNDER TITLE VI DEALING WITH  
8 ALTERNATIVES TO OZONE-DEPLETING SUBSTANCES. SINCE THEY  
9 ARE IN THE REGULATIONS, I'M NOT SURE WHETHER THEY ARE  
10 REGULATED AIR POLLUTANTS OR NOT, AND I WOULD LIKE THE  
11 AGENCY TO TAKE A LOOK AT THAT TO MAKE SURE THAT WE  
12 AREN'T SOMEHOW THROWING THOSE COMPOUNDS INTO THE PSD  
13 PROGRAM INADVERTENTLY. ONE, IN PARTICULAR, IS AMMONIA.  
14 IT IS A VOC, SO IT'S NEVER BEEN IN THERE BEFORE, BUT IT  
15 IS SNAP COMPOUND.

16 **MR. RAHER:** ALL RIGHT. I DON'T -- I DON'T  
17 THINK THE AGENCY WAS INTENDING TO DO THAT, BUT YOU'VE  
18 RAISED THE POINT. THAT'S EXACTLY WHAT A FACA IS ALL  
19 ABOUT, TO RAISE THOSE KINDS OF ISSUES FROM THE OUTSIDE  
20 AND ASK THE AGENCY TO BE SURE THAT THAT'S THE SITUATION.

21 JOHN?

22 **MR. TROUT:** GETTING BACK TO THE SHUTDOWN  
23 CREDITS, THE STAPPA/ALAPCO DRAFT COMMENTS AT THIS POINT

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1 ARE GOING TO SUGGEST THAT ALTERNATIVE (2) BE ADOPTED.  
2 NOTWITHSTANDING THE TRUTH THAT THERE ARE SOME  
3 NONATTAINMENT AREAS THAT ARE HAVING TROUBLE WITH THEIR  
4 ATTAINMENT DEMONSTRATES, WHAT WE'RE GOING TO SUGGEST IS  
5 THAT THESE SHUTDOWN CREDITS, THESE REDUCTIONS, ARE  
6 REALLY PART OF THE TOTAL AIR RESOURCE, AND WE BELIEVE  
7 THAT THE STATES AND LOCALS SHOULD BE HELD RESPONSIBLE  
8 AND ACCOUNTABLE FOR DEALING WITH THAT AIR RESOURCE,  
9 COMING UP WITH ATTAINMENT PLANS THAT ARE WORKABLE, AND  
10 ALSO ALLOWING THE OPPORTUNITY FOR ECONOMIC DEVELOPMENT.

11 ONE OF THE -- THE NEWER CONCEPTS WHICH WE  
12 CLEARLY HAVE SEEN IN THE LOUISVILLE AREA IS THE  
13 JOBS-PER-TON CONCEPT, AND, BELIEVE ME, THE ECONOMIC  
14 DEVELOPMENT FOLKS HAVE TOLD COMPANIES THAT THE  
15 JOBS-PER-TON WAS NOT HIGH ENOUGH AND SAID WE DON'T  
16 REALLY HAVE A PLACE FOR YOU HERE.

17 SO THE MESSAGE IS COMING ACROSS. WE ARE  
18 LOOKING AT THESE AS A RESOURCE. AND, YES, THEY CAN BE  
19 USED FOR ECONOMIC DEVELOPMENT OR FOR SOLVING  
20 NONATTAINMENT PROBLEMS. BUT WE BELIEVE THAT THE STATE  
21 OR LOCALS SHOULD HAVE THE OPPORTUNITY TO DECIDE HOW THEY  
22 WANT TO USE THAT RESOURCE.

23 **MR. RAHER:** ANY OTHER -- PRAVEEN?

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1                   **MR. AMAR:** A CLARIFYING QUESTION WITH  
2 RESPECT TO NUMBER 9 HERE, THE "MAJOR THRESHOLD VALUES."  
3 AND I'M WONDERING, ARE WE GOING TO TAKE ADVANTAGE OF THE  
4 TIMING. I HEARD YESTERDAY THAT WE GO THROUGH NSR  
5 PROCESS EVERY FIFTEEN YEARS, SO THE ISSUE OF FINE  
6 PARTICLE STANDARD-SETTING BY EPA MAY HAPPEN NEXT YEAR,  
7 AND I SEE THE LANGUAGE WITH RESPECT TO THRESHOLD FOR  
8 PM-10. BUT HOW DOES ONE HANDLE NOW, KNOWING WHAT MIGHT  
9 HAPPEN NEXT YEAR, WHAT TO DO FOR THE PRECURSORS FOR FINE  
10 PARTICLES? THAT COULD BECOME A VERY MAJOR ISSUE, AND  
11 THERE'S NO REFERENCE AT THIS TIME HERE TO FINE  
12 PARTICLES.

13                   **MR. RAHER:** ANY THOUGHTS BY THE AGENCY WITH  
14 REGARD TO THAT?

15                   **MR. DEROECK:** WELL, THERE IS A FACA PROCESS  
16 GOING ON NOW DEALING WITH FINE PARTICLES, OBVIOUSLY, AND  
17 WE ARE CONTRIBUTING TO THE -- BOTH THE INTERIM AND THE  
18 LONG-TERM POLICY THAT WILL BE USED TO IMPLEMENT THAT.

19                   **MR. AMAR:** SO WOULD WE HAVE TIME TO HAVE  
20 THAT KIND OF RESOLUTION TO SHOW UP IN THE LANGUAGE HERE  
21 NEXT YEAR?

22                   **MS. WEGMAN:** I THINK IT WILL DEPEND ON THE  
23 TIMING OF THE FACA PROCESS, --

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1                   **MR. AMAR:** OF COURSE.

2                   **MS. WEGMAN:** -- YOU KNOW. IF WE GET A  
3 RECOMMENDATION, WHICH WE HOPE TO, FROM THE FACA BEFORE,  
4 WELL-BEFORE, THIS PACKAGE GOES FINAL, THEN WE COULD TRY  
5 TO FOLD SOMETHING INTO IT. I THINK IT'S PREMATURE AT  
6 THIS POINT. AS DAN SAYS, WE'RE TRYING TO SORT IT OUT IN  
7 THE FACA PROCESS, BUT WE COULD FOLD IT IN IF WE GET  
8 SOMETHING SOON.

9                   **MR. AMAR:** IF THE TIMING IS RIGHT.

10                  **MS. WEGMAN:** RIGHT.

11                  **MR. DEROECK:** RIGHT.

12                  **MR. RAHER:** IF NOT THOUGH, OBVIOUSLY,  
13 SOMETHING --

14                  **MR. AMAR:** WE WILL BE IN THE YEAR 2005 --

15                  **MR. RAHER:** RIGHT.

16                  **MR. AMAR:** -- FIGURING OUT WHAT PM-2.5  
17 MEANS.

18                  **MR. RAHER:** RIGHT.

19                  **MS. WEGMAN:** NO, I THINK WE'LL PROBABLY  
20 FIGURE IT OUT A LITTLE BEFORE THEN.

21                  **MR. RAHER:** ANY OTHER GENERAL COMMENTS FROM  
22 THE COMMITTEE MEMBERS, EITHER ON MISCELLANEOUS ISSUES OR  
23 THE *CLEAN AIR ACT* IMPLEMENTING REVISIONS?

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KAREN?

**MS. MALKIN: JUST A FEW MISCELLANEOUS COMMENTS. THERE WERE A NUMBER OF REFERENCES** THROUGHOUT THE DAY TO THE PROBLEM OF EXISTING SOURCES. WE DID HAVE AN EXISTING SOURCES WORKGROUP, AND, AS I RECALL, THERE WERE SOME EFFORTS AND SOME POINTS THAT WE HAD CONSENSUS ON.

AND ONE WAS BEING -- WAS ON INCREMENT TRACKING AND THAT THERE NEEDS -- THAT NEEDS TO BE DONE CUMULATIVELY, CONSISTENTLY ACROSS THE BOARD, AND WE NEED SOME GUIDANCE ON HOW TO DO THAT. SOME STATES ARE DOING IT FAIRLY WELL, AND OTHERS ARE JUST SORT OF TURNING THE OTHER WAY. AND THAT WHEN INCREMENT IS, IN FACT, VIOLATED, THERE WOULD BE SIP CALLS. SO I WOULD ASK EPA TO RECONSIDER THAT AND HOW THAT COULD BE WORKED INTO THIS PACKAGE.

AND THE OTHER POINT IS REALLY A QUESTION. RICH MENTIONED THAT WE SAT IN ON PART OF THE FACA WORKGROUP MEETING YESTERDAY PERTAINING TO NEW SOURCE REVIEW OR, I GUESS, NEW SOURCE ISSUES, AND THAT GROUP SEEMS TO BE UNDER THE IMPRESSION THAT THEY'RE GOING TO TURN OVER A FRAMEWORK OF A NEW PROGRAM OVER TO US, THIS SUBCOMMITTEE, TO WORK OUT THE DETAILS, AND I DIDN'T

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1 THINK WE WERE MEETING AGAIN. I JUST WANTED TO GET A  
2 CLARIFICATION ON THAT.

3 **MS. WEGMAN:** I'M GOING TO HAVE TO GET A  
4 CLARIFICATION. I NOTED RICH'S COMMENT THERE, AND I'M  
5 GOING TO HAVE TO TALK TO THEM. BUT WHICH GROUP WERE YOU  
6 TALKING WITH YESTERDAY, RICH? OR YOU CAN TELL ME  
7 AFTERWARDS.

8 **MR. FISHER:** FAC PROGRAMS --

9 **MS. WEGMAN:** FAC PROGRAMS.

10 **MS. MALKIN:** YEAH, AND IT'S A NEW SOURCES  
11 SUBGROUP OF THAT.

12 **MS. WEGMAN:** RIGHT.

13 **MS. MALKIN:** YEAH.

14 **MR. DEROECK:** THIS WAS A WORKING GROUP, AND  
15 THEY WILL BE PRESENTING RECOMMENDATIONS TO THEIR  
16 SUBCOMMITTEE. SO, I MEAN, AT THIS POINT IT'S EVEN  
17 ANYTHING OFFICIAL.

18 **MS. WEGMAN:** YEAH, BUT WE WILL FOLLOW UP,  
19 RICH, AND TRY TO SEE WHERE IT'S GOING.

20 **MR. RAHER:** ALL RIGHT. ANY OTHER GENERAL  
21 COMMENTS?

22 JOHN, IS YOUR SIGN UP OR DOWN?

23 **MR. TROUT:** OH, I'M SORRY.

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1                   **MR. RAHER:** THAT'S ALL RIGHT. WE'RE  
2 FORMALISTIC ON THESE SIGNS HERE.

3                   IF THERE ARE NO ADDITIONAL COMMENTS FROM THE  
4 COMMITTEE MEMBERS, ARE THERE ANY COMMENTS FROM THE  
5 PUBLIC IN THE AUDIENCE WITH RESPECT TO ANY OF THE ISSUES  
6 THAT HAVE BEEN DISCUSSED TODAY OR ANY OF THE ISSUES IN  
7 THE PACKAGE?

8                   YES, SIR. IF YOU COULD, IDENTIFY YOURSELF  
9 FOR THE --

10                  **MR. BESSETTE:** MY NAME IS BOB BESSETTE. I'M  
11 WITH THE COUNCIL OF INDUSTRY BOILER OWNERS.

12                  ONE QUESTION. I'VE LEARNED SOME THINGS.  
13 I'M JUST NEW TO WASHINGTON, SO I'M SORT OF NEW AT THIS.  
14 I'M A COUNTRY BOY. BUT I WAS DRIVING DOWN ON FOURTEENTH  
15 STREET ONE DAY --

16                  **MR. RAHER:** THAT'S NOT THE COUNTRY, BOB.

17                  **MR. BESSETTE:** NO. I LEARNED SOMETHING.  
18 TWO PEOPLE CAME UP TO ME, ONE WITH A SQUIRT BOTTLE AND A  
19 SQUEEGEE, AND THEY KNOCKED ON MY WINDOW. THEY ASKED ME  
20 IF I WANTED TO WASH MY WINDOW. I JUST HAD MY CAR  
21 CLEANED THAT MORNING, BUT I SAID, "NO, MY WINDOW IS  
22 CLEAN."

23                  HE KNOCKED AGAIN, AND HE SAYS, "ARE YOU

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1 SURE?" AND HE SAID, "MY BUDDY IS STANDING OVER THERE."  
2 AND I LOOKED OVER AND I SEEN "MY BUDDY" WITH  
3 A BAT. I SAID, "YEAH. HOW MUCH?"  
4 HE SAID, "TWO BUCKS."  
5 I SAID, "DO IT."  
6 IF I CAN -- IF YOU CAN WRITE INTO THIS  
7 REGULATION THAT FOR \$50,000, THAT SAME EXTORTION MONEY,  
8 THAT I CAN TAKE CARE OF THE FLM VERSUS AN UNKNOWN EFFECT  
9 -- AN UNKNOWN, UNDEFINED EFFECT -- ON ME AND MY  
10 POTENTIAL TO IMPACT MY FACILITY IN THE FUTURE, I WOULD  
11 BE VERY, VERY HAPPY. BECAUSE ANYTIME WE CAN MAKE A  
12 DECISION BASED ON FACT, WE CAN MOVE THE COUNTRY FORWARD,  
13 AND I CAN MOVE THE PLANTS FORWARD. WHEN I DON'T HAVE  
14 THOSE FACTS, WHEN I DON'T HAVE THEM, YOU STOP EVERYTHING  
15 FLAT.

16 THANKS.

17 **MR. RAHER:** ALL RIGHT. WE'LL PUT THAT NOT  
18 THE TABLE FOR EPA AND ENSURE YOUR -- FOR GENERAL  
19 COUNSEL'S OFFICE TO DISCUSS.

20 YES, SIR.

21 **MR. EMERY:** YES, SIR. MY NAME IS  
22 DAVID EMERY. I'M WITH PHILLIPS PETROLEUM. I TESTIFIED  
23 YESTERDAY ON BEHALF OF API ABOUT THE CLASS I AREAS

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1 AMONGST OTHER DETAILS, AND I'VE HEARD A NUMBER OF THINGS  
2 HERE WHICH WERE VERY NEW TO ME. I MUST ADMIT THAT I  
3 HAVE NOT BEEN PART OF THIS PROCESS FOR TWO OR THREE  
4 YEARS OR THE FOUR YEARS, APPARENTLY, THAT YOU'VE ALL  
5 ENJOYED WORKING ON THIS ISSUE. BUT I HAVE -- YEAH, I  
6 DON'T KNOW IF ANYBODY'S ENJOYING THIS TOO MUCH.

7 I HAVE READ THE RULE, AND THERE WAS A COUPLE  
8 OF THINGS THAT I WANTED TO SAY ON BEHALF OF API, OR AT  
9 LEAST ON BEHALF OF MYSELF HERE, AND, FIRST, TO EPA. YOU  
10 TALKED A NUMBER OF TIMES ABOUT YOUR "INTENT" IN THE  
11 CLASS I AREA, AND I WANT TO TELL YOU NO ONE THINKS THAT  
12 YOU'RE INTENDING TO DO SOMETHING WRONG, OR WE'RE NOT  
13 TRYING TO ASCRIBE EVIL INTENT TO YOUR WRITING THE RULE.  
14 WHAT WE SAID YESTERDAY MEANS THAT WE READ THE RULE, AND  
15 OUR READING OF THE RULE SHOWS THAT IT'S ABSOLUTELY AN  
16 UNWORKABLE PROGRAM. I DON'T THINK THAT WAS YOUR INTENT.  
17 WE THINK THAT'S THE WAY IT IS.

18 I'D ALSO LIKE TO SAY THAT I'M NOT PERSUADED  
19 BY MR. HAWKINS TELLING US THAT WE JUST MISREAD THE RULE,  
20 AND I DON'T THINK I'D BE EMPLOYED VERY LONG IF I LET  
21 NRCD LAWYERS READ THE RULES FOR MY COMPANY. ALTHOUGH  
22 I'M SURE HE HAS MORE KNOWLEDGE ABOUT THIS THAN MYSELF,  
23 IT STILL -- WE HAVE TO GO OFF OUR READING OF THE RULE,

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1 AND ALL THE INDUSTRY REPRESENTATIVES THAT I'VE TALKED TO  
2 READ THE RULE APPROXIMATELY THE SAME WAY: THAT IT IS  
3 UNWORKABLE.

4 I DON'T THINK THE AQRV'S ARE DEFINED.  
5 THINGS LIKE IT'S A STREAM, IT'S A BENEFIT OF VISIBILITY,  
6 OR AIR QUALITY VALUE OR WHATEVER IS -- THAT'S NOT A GOOD  
7 DEFINITION TO ME. I CAN'T MAKE A DECISION OFF THAT.  
8 THIS IS A TERRIBLE RULE FOR INDUSTRY. I DON'T KNOW HOW  
9 ANYBODY COULD SAY I CAN GET A PERMIT AT THIS TIME TO PUT  
10 THIS PLANT IN WITH THE WAY THIS RULE IS WRITTEN. AND IN  
11 THAT KIND OF SCENARIO, I DON'T KNOW HOW YOU CAN GO  
12 FORWARD. I STILL THINK IT'S AN UNWORKABLE RULE.

13 ONE NOTE THAT I DID HEAR TODAY, WHICH I  
14 THOUGHT WAS GOOD, WAS THAT WE DON'T NEED THIS RULE.  
15 PEOPLE, STATES -- OREGON, NEW JERSEY, SOUTH COAST,  
16 VIRGINIA, TENNESSEE -- THEY ALL HAVE WORKABLE PROGRAMS  
17 RIGHT NOW WITHOUT THIS COMPLEX RULE THAT NOBODY CAN  
18 UNDERSTAND, AND WE COULD ARGUE ABOUT, FOR A LONG TIME,  
19 ABOUT WHAT IT ACTUALLY MEANS. AND WE'LL PROBABLY ARGUE  
20 ABOUT IT IN A COURT IF IT ACTUALLY GOES FORWARD, BUT  
21 THAT'S NOT GOING TO HELP ANYBODY. THIS IS JUST A  
22 TERRIBLE RULE FOR INDUSTRY, IN MY OPINION.

23 **MR. RAHER:** THANK YOU.

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1 ANY ADDITIONAL COMMENTS?

2 YES, SIR.

3 **MR. LUND:** YES, MY NAME IS STEVE LUND, AND  
4 I'M WITH CAROLINA POWER AND LIGHT. RIGHT NOW WE'RE  
5 DEEPLY INVOLVED IN DOING SOME CLASS I MODELING ANALYSES  
6 AND TRYING TO MEET THOSE REQUIREMENTS. A COUPLE OF  
7 THINGS THAT KIND COME UP DURING THIS PROCESS, AND I  
8 THINK THEY'RE IN THE ORIGINAL PSD APPLICATION OR WHEN  
9 THE PSD APPLICATION OR REGULATIONS WERE FIRST DEVELOPED.

10 MY FIRST STEP AS A MODELER IS USUALLY TO  
11 WORK WITH A COMPANY, WHETHER IT'S CP&L OR SOMEBODY ELSE,  
12 TO DO A SITING ANALYSIS. I COULD TAKE THE CURRENT PSD  
13 REGULATIONS, MODEL MY PLAN, AND BASICALLY TELL MY  
14 CLIENT -- WHETHER IT'S CP&L OR SOME OTHER CLIENT -- THAT  
15 THE FACILITY COULD GO IN. WE'RE GOING TO MEET PSD  
16 INCREMENTS. WE'RE GOING TO MEET AIR QUALITY STANDARDS.  
17 WE COULD DO THAT ALL UP FRONT AS A PLANNING OPTION, JUST  
18 AS THERE ARE SEVERAL OTHER THINGS IN THE ENVIRONMENTAL  
19 FIELD THAT GET LOOKED AT.

20 WITH THIS CLASS I ISSUE WE'RE REALLY STUCK  
21 BECAUSE, ESSENTIALLY, I STILL CAN GO AND MODEL  
22 INCREMENTS, AND I CAN STILL MODEL NAQS, BUT FOR AIR  
23 QUALITY RELATED VALUES THE COST OF DOING THAT IS JUST

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1 ALMOST PROHIBITIVE. AND I'D JUST LIKE TO HAVE THAT  
2 THROWN OUT THAT, YOU KNOW, IF A REGULATION IS OUT THERE,  
3 IT OUGHT TO BE USABLE AT THE FRONT END SO I COULD ADVISE  
4 MANAGEMENT WHETHER IT WOULD WORK OR NOT.

5 **MS. WEGMAN:** IF I COULD JUST ASK YOU, THE  
6 COST IS PROHIBITIVE -- THE COST IS PROHIBITIVE BECAUSE  
7 IT'S NOT CLEAR UP FRONT, AND YOU HAVE TO KEEP GOING  
8 BACK, OR --

9 **MR. LUND:** RIGHT NOW --

10 **MS. WEGMAN:** -- YOU KNOW WHAT THE AQRV IS?

11 **MR. LUND:** RIGHT NOW I'M RUNNING A  
12 MEASA-PUFF. I'M TRYING TO SET UP A MEASA-PUFF TO DO  
13 SOME MEASA-PUFF MODELING FOR A FACILITY AND FOR NO-LIFE  
14 FOR TWELVE SERVICE STATIONS, SIX UPPER AIR STATIONS --  
15 GETTING ALL THE DATA, REDUCING THE DATA, Q.A.-ING THE  
16 DATA, PUTTING IT ALL TOGETHER IN A FORMAT THAT THE MODEL  
17 WOULD EVEN USE HAS JUST TAKEN MONTHS UPON MONTHS OF  
18 EFFORT ON OUR PART.

19 AND CP&L IS IN A POSITION -- APPARENTLY,  
20 BECAUSE I'M DOING IT -- TO ABSORB THAT EFFORT, BUT I  
21 CAN'T SEE THAT HAPPENING FOR MOST PSD CLIENTS. IF I --  
22 I USED TO WORK IN CONSULTING, AND IF I COSTED OUT MY  
23 TIME FOR THE EFFORT THAT I'M GOING THROUGH RIGHT NOW, IT

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1 WOULD JUST BE -- IT WOULD BE \$100,000. THIS \$50,000 I  
2 HEARD IS ALMOST -- THAT'S GREAT, YOU KNOW? I WOULD TEND  
3 TO AGREE TO SOME OTHER PEOPLE AND ANSWER "THAT'S A  
4 DEAL." AND, PLUS, YOU KNOW, YOU HAVE CERTAIN CERTAINTY.

5 AND I THINK INDUSTRY, IN GENERAL, WORKS --  
6 WOULD WORK BETTER WITH THIS CERTAINTY THAT A REGULATION  
7 COULD PROVIDE. RIGHT NOW THE CLASS I ISSUE IS OUT  
8 THERE; THE CERTAINTY ISN'T THERE. SO -- THAT'S THE END  
9 OF MY COMMENT.

10 **MR. RAHER:** KAREN, I THINK YOU OUGHT TO GO  
11 BACK AND TAKE A LOOK THAT NEW JERSEY PROGRAM, THE  
12 \$50,000 A PERMIT. WE MAY HAVE RESOLVED THIS ISSUE.

13 ARE THERE ANY OTHER COMMENTS FROM THE  
14 PUBLIC?

15 **MS. MALKIN:** I JUST WANT TO CLARIFY. THAT'S  
16 A FISH AND WILDLIFE SERVICE PROGRAM THAT WAS SET UP FOR,  
17 YOU KNOW FOR A SPECIFIC CLASS I AREA WHERE THERE SOME  
18 SPECIFIC RESEARCH NEEDS. YOU KNOW, AND WE'RE -- THERE  
19 HAVE BEEN A LOT OF RESEARCHES TO EXTORTION AND SO FORTH,  
20 AND THAT IS NOT AT ALL WHAT WE'RE ABOUT. I MEAN OUR JOB  
21 IS TO PROTECT THE CLASS I AREAS, AND IT IS HARD TO DO  
22 WHEN YOU DON'T HAVE THE INFORMATION, AND YET YOU CAN SEE  
23 EFFECTS. AND WE ALL HAVE EYES. WE CAN GO OUT THERE.

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1 WE CAN, YOU KNOW, SEE THE MOTTLING ON THE VEGETATION.  
2 WE CAN SEE THE VISIBILITY IMPAIRMENT.

3 BUT, YOU KNOW, THAT INTUITIVE OR VISUAL  
4 KNOWLEDGE DOESN'T TELL US, YOU KNOW, WHAT THE EXACT  
5 POLLUTANT LOADING IS THAT CAUSED THAT. SO, YOU KNOW. --

6 **MR. RAHER:** WELL, I THINK SOME OF THESE  
7 GENTLEMEN ARE ATTEMPTING TO SAY THAT THEY DON'T KNOW HOW  
8 THEY CAN INDIVIDUALLY CARRY IT. YOU'RE THE FEDERAL  
9 GOVERNMENT, AND YOU CAN'T CARRY IT. AND I THINK THE  
10 REFERENCE WHETHER WE CREDIT \$50,000 OR NOT, I THINK THAT  
11 REFERENCE IS TO TRY TO DEVELOP A PROGRAM THAT SOMEHOW,  
12 AS A NATIONAL ASSET, IS NATIONALLY PROTECTED RATHER THAN  
13 LOOKING AT INDIVIDUAL SOURCES AS THEY GO THROUGH A  
14 PERMIT PROCESS TO ATTEMPT TO ADDRESS.

15 AND I THINK THAT IS WHAT NEW JERSEY HAS  
16 SAID, IN A SENSE, THAT THIS IS A WAY TO DO THAT, AND I  
17 JUST COMMEND EVERYBODY. WE MAY LAUGH AT THIS. WE MAY  
18 LOOK AT IT. BUT, YOU KNOW, LET'S -- WE'RE TRYING TO BE  
19 CREATE HERE. A FACA DOESN'T NECESSARILY HAVE TO  
20 RECOMMEND SOMETHING THAT WE ALL KNOW IS INTUITIVELY  
21 CORRECT. MAYBE SOMEONE JUST OUT OF THE AUDIENCE HAS  
22 SAID TO US A PROGRAM THAT COULD WORK, AND I DON'T KNOW  
23 IF NUMBER IS \$50,000 OR IF IT'S \$60,000 OR IF IT'S EVEN

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1 POSSIBLE, BUT I CERTAINLY WOULDN'T SUGGEST THAT THIS  
2 AGENCY NOT LOOK AT IT WHEN THEY GO BACK.

3 AND AS ANOTHER FEDERAL AGENCY AND AS THE  
4 OTHER FEDERAL LAND MANAGERS HERE, I WOULD ASK YOU TO DO  
5 THE SAME THING IN YOUR MANAGEMENT BECAUSE I THINK IT'S  
6 AN INTERESTING CONCEPT THAT SOMEONE SITTING OUT THERE  
7 ALL DAY LONG LISTENING TO US HAS COME TO.

8 YES, SIR?

9 MR. NIZAKA: **THANK YOU. MY NAME IS**  
10 **MARK NIZAKA. I REPRESENT THE PRINTING INDUSTRY THROUGH**  
11 **A GROUP KNOWN AS THE ENVIRONMENTAL CONSERVATION BOARD OF**  
12 **THE GRAPHIC COMMUNICATIONS INDUSTRIES. TWO -- A COMMENT**  
13 **OR A CLARIFYING QUESTION AND THEN ONE FURTHER QUESTION.**

14 I THINK I HEARD YOU SAY A FEW MINUTES AGO  
15 THAT YOU WOULD TRY TO COORDINATE THE EFFORTS OF THIS  
16 FACA WITH THE OTHER FACA, WHICH HAS BEEN CONVENED ON THE  
17 REGIONAL HAZE, FINE PARTICULATE, AND OZONE. DID I HEAR  
18 THAT CORRECTLY?

19 MS. WEGMAN: UH-HUH (YES). YES.

20 MR. NIZAKA: OKAY, THANK YOU. ALTHOUGH I  
21 ASSUME THAT THAT FACA HAS JUST RECENTLY BEEN CONVENED  
22 AND IS NOT NEARLY AS FAR ALONG AS THESE EFFORTS, CAN YOU  
23 GIVE ME A LITTLE FURTHER EXPLANATION AS TO HOW THAT

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1 COORDINATION MIGHT TAKE PLACE?

2           **MS. WEGMAN:** WELL, THAT FACA WAS CONVENED  
3 EARLIER THIS YEAR, AND IT'S TRYING TO MOVE FAIRLY  
4 QUICKLY, ACTUALLY, ON PARTICULATE MATTER AND OZONE.  
5 PAT RAHER IS CLOSELY INVOLVED WITH IT AS, I THINK, SOME  
6 OTHER PEOPLE MAY BE. AND WHAT I WILL DO, MY OFFICE --  
7 THE OFFICE OF AIR QUALITY PLANNING AND STANDARDS -- IS  
8 BASICALLY RUNNING BOTH OF THESE FACAS AND SO I WILL GO  
9 BACK AND SPEAK WITH THE FOLKS MORE CLOSELY INVOLVED WITH  
10 THE PARTICULATE AND OZONE FACA AND SEE WHAT WE CAN DO TO  
11 COORDINATE US.

12           AS DAN SAYS, HE ACTUALLY -- DAN DEROECK IS  
13 INVOLVED IN BOTH THIS AND THE OTHER NSR ISSUES, SO IT'S  
14 NOT AS THOUGH WE HAVE A COMPLETE WALL OF SEPARATION  
15 HERE. WE ARE TRYING TO DO SOME COORDINATION, BUT I WILL  
16 BE SURE TO GO BACK AND DO THAT.

17           **MR. NIZAKA:** THANK YOU. THE OTHER QUESTION  
18 IS THIS. AN OBSERVATION FIRST AND THEN THE QUESTION, I  
19 GUESS. IN LOOKING AROUND THE TABLE AND OBSERVING WHERE  
20 YOU ALL ARE FROM, THE GROUPS YOU REPRESENT, IT SEEMS  
21 THAT THERE'S A LARGE FOCUS HERE ON LARGER INDUSTRIES AND  
22 NOT A LOT OF REPRESENTATION FROM SMALLER BUSINESS  
23 GROUPS.

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1 THE PRINTING INDUSTRY IS MADE PRINCIPALLY  
2 PRIMARILY OF SMALL BUSINESSES. I SERVE ON FACA THAT'S  
3 BEEN CONVENED UNDER THE *COMMON SENSE INITIATIVE* FOR THE  
4 PRINTING INDUSTRY, AND WE FOCUS A LOT IN THAT FACA  
5 PROCESS ON SMALL BUSINESS ISSUES, ALTHOUGH WE ALSO HAVE  
6 SOME VERY LARGE PRINTERS REPRESENTED IN THE FACA AS  
7 WELL.

8 I GUESS THE QUESTION I HAVE HERE FOR YOU  
9 TODAY IS HOW DO YOU PROPOSE OR WHAT ARE YOU GOING TO DO  
10 TO TRY TO STREAMLINE THE PROCESS FOR SMALL BUSINESSES  
11 THAT WILL INEVITABLY BE CAUGHT UP IN THE REVISIONS TO  
12 THE THRESHOLDS WHICH ARE MANDATED BY THE *1990 ACT*?

13 IT'S SOMETHING WE'RE STRUGGLING WITH IN OUR  
14 FACA, AND, FRANKLY, SEVERAL OF US FROM OUR FACA ATTENDED  
15 THESE MEETINGS THE PAST TWO DAYS FOR THE PURPOSE OF  
16 TRYING TO BECOME FAMILIAR WITH WHAT YOU WERE DOING HERE  
17 TO SEE HOW, PERHAPS, WHAT YOU'RE DOING MIGHT RELATE TO  
18 WHAT WE'RE TRYING TO DO THROUGH OUR CSI FACA PROCESS.

19 **MS. WEGMAN:** YEAH, I WOULD SAY WE HAVEN'T  
20 INVESTIGATED ANY SPECIFIC PROVISIONS FOR SMALL  
21 BUSINESSES. THIS GROUP HAS BEEN IN BUSINESS FOR, AS  
22 WE'VE SAID, FOUR YEARS, AND WE HAVE TRIED TO GET  
23 COMMENTS FROM THE PUBLIC. THE PROPOSAL, OF COURSE, HAS

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1 JUST BEEN OUT ABOUT A MONTH OR SO, AND WE ARE VERY  
2 INTERESTED IN COMMENTS FROM YOU ON IT.

3 WE'D BE HAPPY TO MEET TO TALK ABOUT IT, BUT  
4 I WOULD SAY THE COMMENT PROCESS ON THIS RULE WOULD BE  
5 THE VEHICLE FOR DOING IT. I MEAN ANY SUGGESTIONS YOU  
6 MIGHT HAVE FOR HOW WE MIGHT DO OTHER THINGS FOR SMALL  
7 BUSINESS. WE -- I MEAN THIS IS A NATIONAL RULE, AND WE  
8 HADN'T INTENDED TO DEVELOP SPECIFIC REVISIONS FOR SMALL  
9 BUSINESS.

10 **MR. NIZAKA:** OKAY. WELL, WE WILL BE  
11 SUBMITTING WRITTEN COMMENTS BEFORE THE CONCLUSION OF  
12 YOUR COMMENT PERIOD, BUT THANK YOU.

13 **MS. WEGMAN:** OKAY.

14 **MR. RAHER:** ANY OTHER COMMENTS FROM THE  
15 PUBLIC?

16 ANY OTHER COMMENTS FROM THE COMMITTEE  
17 MEMBERS? LYDIA, I THINK -- THAT'S RIGHT. THAT'S RIGHT.  
18 I THINK, YOU KNOW, IN THE TWO DAYS -- BOTH AT THE  
19 HEARING AND IN THE COMMENTS TODAY -- YOU'VE SEEN BOTH A  
20 NEED FOR UNDERSTANDING AND ADDRESSING SOME OF THE  
21 ISSUES. I THINK ALL THE COMMITTEE MEMBERS HERE WANT TO  
22 CONTINUE TO PROVIDE WRITTEN COMMENTS AND AS MUCH  
23 SUPPORT -- NEW JERSEY IS GOING TO BE PROVIDING SOME

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1 INFORMATION TO US ALL. THAT PROBABLY SHOULD GO IN THE  
2 DOCKET --

3 **MS. WEGMAN:** YEAH.

4 **MR. RAHER:** -- FOR EVERYBODY TO HAVE  
5 AVAILABLE AND TO REVIEW AND COMMENT AND COORDINATE  
6 ACTIVITIES. AND, OBVIOUSLY, AS A FACA, WE'RE PREPARED  
7 TO PROVIDE WHATEVER FURTHER ASSISTANCE WE CAN TO YOU.

8 **MR. SOLOMON:** I JUST WANTED TO POINT OUT TO  
9 THE MEMBERS OF THE PUBLIC AT LEAST THAT THE COMMENT  
10 PERIOD WILL BE CLOSING OCTOBER 21ST SO THAT INFORMATION  
11 OR COMMENTS THAT YOU WANT US TO CONSIDER DURING THE  
12 RULEMAKING, PLEASE HAVE IT TO THE DOCKET BEFORE THAT  
13 DATE.

14 **MS. WEGMAN:** AND I'LL ALSO NOTE, I MEAN, WE  
15 REMAIN AVAILABLE TO MEET WITH PEOPLE IF FURTHER  
16 CLARIFICATIONS OR DISCUSSIONS ARE DESIRED.

17 I WANT TO THANK EVERYBODY ONCE AGAIN FOR  
18 PUTTING THE TIME AND EFFORT INTO WORKING WITH US ON THE  
19 NSR RULEMAKING. AT THIS POINT I DON'T KNOW WHETHER  
20 WE'RE GOING TO NEED ANOTHER MEETING OF THIS GROUP, AND  
21 I'M NOT GOING TO SAY FOR CERTAIN THAT WE DON'T NOR WILL  
22 I SAY THAT WE DO. I THINK WHAT WE'D LIKE TO DO IS  
23 COMPLETE THE PUBLIC COMMENT PROCESS AND SEE WHAT WE

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1 HAVE. IT IS NOT INCONCEIVABLE TO ME THAT WE MIGHT WANT  
2 TO CALL A MEETING TO GO OVER SOME IDEAS WE HAVE ON HOW  
3 TO CHANGE THE PACKAGE, BUT, AS I SAY, AT THIS POINT I  
4 DON'T WANT TO MAKE ANY COMMITMENTS EITHER WAY. I'LL  
5 JUST NOTE THAT WE MIGHT TO HAVE ANOTHER MEETING OF THE  
6 GROUP.

7 I VERY MUCH APPRECIATE ALL THE TIME  
8 EVERYBODY HAS TAKEN TO GIVE US YOUR FEEDBACK YESTERDAY  
9 AND TODAY, AND I KNOW WE'LL GET A GREAT DEAL MORE IN THE  
10 PUBLIC COMMENT -- WHEN THE WRITTEN COMMENTS COME IN.

11 AGAIN, IF ANYBODY DOES WANT TO MEET  
12 INDIVIDUALLY, WE CAN DO THAT AND PREFERABLY DURING THE  
13 PUBLIC COMMENT PERIOD, AND THANKS VERY MUCH FOR ALL YOUR  
14 TIME.

15 **MR. RAHER:** WE WILL BE PUTTING ON  
16 ERNIE ROSENBERG AND DAVID HAWKINS' COMPUTER THE -- ON  
17 THEIR CALENDARS THE FIVE-YEAR ANNIVERSARY OF THE FACA.  
18 SO FIVE YEARS FROM NOW WE CAN ALL COME BACK AND HAVE A  
19 CELEBRATION, AND, HOPEFULLY, THE RULE WILL BE OVER.

20 THANK YOU.

21 \* \* \* \* \*

22 ADJOURNED AT 3:19 P.M.

SEPTEMBER 17, 1996

STATE OF NORTH CAROLINA

COUNTY OF DURHAM

C E R T I F I C A T E

I, SHARON ANDREWS, CERTIFIED COURT REPORTER, CERTIFIED VERBATIM REPORTER, CERTIFIED LEGAL VIDEO SPECIALIST, AND NOTARY PUBLIC IN AND FOR THE STATE OF NORTH CAROLINA, DULY COMMISSIONED, QUALIFIED AND AUTHORIZED TO ADMINISTER OATHS, AND TO TAKE AND CERTIFY HEARINGS DO HEREBY CERTIFY:

THAT ON TUESDAY, SEPTEMBER 17, 1996, THE NSR REFORM SUBCOMMITTEE HEARING WAS HELD ON BEHALF OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, OFFICE OF AIR QUALITY PLANNING AND STANDARDS, AS NOTICED IN THE *FEDERAL REGISTER* AT VOL. 61, NO. 162, PAGE 43030, ON AUGUST 20, 1996;

THAT THE FOREGOING PROCEEDINGS WERE REPORTED BY ME AND THEREAFTER REDUCED TO TYPEWRITTEN FORM UNDER MY DIRECT SUPERVISION, AND THAT THE FOREGOING 219 PAGES CONSTITUTE A TRUE AND ACCURATE TRANSCRIPT OF THOSE PROCEEDINGS TO THE BEST OF MY ABILITY AND UNDERSTANDING;

IN WITNESS WHEREOF, I HAVE HERETO AFFIXED MY HAND AND OFFICIAL SEAL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 1996.

\_\_\_\_\_  
SHARON ANDREWS, CCR, CVR, CLVS

MY COMMISSION EXPIRES:

DECEMBER 9, 1996

SEPTEMBER 17, 1996

**AAAA Professional Court Reporters**