

U.S. DEPARTMENT OF TRANSPORTATION  
PIPELINE AND HAZARDOUS MATERIALS SAFETY  
ADMINISTRATION (PHMSA)

OFFICE OF PIPELINE SAFETY

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GAS PIPELINE ADVISORY COMMITTEE (GPAC)

and

LIQUID PIPELINE ADVISORY COMMITTEE (LPAC)

+ + + + +

JOINT MEETING

+ + + + +

THURSDAY  
JUNE 2, 2016

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The Advisory Committees met in the  
Gallery Ballroom, Hilton Arlington, 950 North  
Stafford Street, Arlington, Virginia, at 8:30  
a.m., Massoud Tahamtani, Chair, presiding.

## PRESENT

MASSOUD TAHAMTANI, Chair, Virginia State  
Corporation Commission (LPAC)  
LANNY W. ARMSTRONG, City of Pasadena (TX) Fire  
Services Department (LPAC)  
CHERYL F. CAMPBELL, Xcel Energy (GPAC)  
C. TODD DENTON, Phillips 66 Pipeline (LPAC)  
J. ANDREW DRAKE, Spectra Energy Transmission  
(GPAC)  
TIMOTHY C. FELT, Colonial Pipeline Company  
(LPAC)  
SUSAN L. FLECK, Maintenance & Construction  
National Grid (GPAC)  
PAULA A. GANT, U.S. Department of Energy (GPAC)  
ROBERT W. HILL, Brookings County (SD) Zoning &  
Drainage (GPAC)  
ROBERT KIPP, Common Ground Alliance (GPAC)  
RICHARD B. KUPREWICZ, Accufacts, Inc. (LPAC)  
RONALD G. McCLAIN, Kinder Morgan Energy Partners  
(LPAC)  
CRAIG O. PIERSON, Marathon Pipe Line (LPAC)  
VADM(R) BRIAN SALERNO, U.S. Department of the  
Interior (LPAC)  
CARL M. WEIMER, Pipeline Safety Trust (LPAC)  
RICHARD H. WORSINGER, City of Rocky Mount, North  
Carolina (GPAC)

## STAFF PRESENT

MARIE THERESE DOMINGUEZ, PHMSA Administrator  
ALAN MAYBERRY, Designated Federal Official  
KAREN CHRISTIAN  
LINDA DAUGHERTY  
JOHN GALE  
MIKE IRSANI  
WALLY McGAUGHEY  
CHRIS McLAREN  
STEVE NANNEY  
SAYLER PALABRICA  
JIM PATES  
CAMERON SATTERTHWAITTE  
ROBERT SMITH  
MELANIE STEVENS

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

2 (8:32 a.m.)

3 MR. MAYBERRY: Good morning, everyone.

4 Well good morning again. I think, it's good to  
5 see everyone today in a combined meeting today.  
6 I'd like to welcome everyone to the Joint Gas and  
7 Liquid Pipeline Advisory Committee meeting.

8 My name is Alan Mayberry. I'm the  
9 acting associate administrator for pipeline  
10 safety. Before we get started I'll go through a  
11 couple of comfort and logistics kind of things.

12 First off related to exits and if we  
13 have an evacuation the doors you came in to my  
14 left and you go down the stairs that's one way to  
15 get out of here. An alternate way is through the  
16 doors on my right. If you turn right when you go  
17 through those doors there's a stairwell at the  
18 end of the hallway. So that's the means of  
19 exiting the building.

20 I would ask you to if you have your  
21 phones please put them on mute just to eliminate  
22 interruptions there. And just in summary,

1 perhaps this is obvious but, you know, these  
2 committees are statutorily mandated advisory  
3 committees that advise PHMSA on proposed safety  
4 policies for natural gas and hazardous liquid  
5 pipelines.

6 The committees were established under  
7 the Federal Advisory Committee Act or FACA. And  
8 under the FACA I serve as the designated federal  
9 official. So I'll be officiating this meeting  
10 and then turning it over to Massoud Tahamtani  
11 from the Liquid Committee who will be chairing  
12 today's meeting.

13 But before I do that, I would like to  
14 first introduce PHMSA's Administrator, Marie  
15 Therese Dominguez. Marie Therese is the fourth  
16 administrator of the Pipeline and Hazardous  
17 Materials Safety Administration.

18 And Marie Therese is going to have a  
19 few remarks this morning, and then afterwards  
20 we'll kick off the meeting. But welcome Marie  
21 Therese.

22 MS. DOMINGUEZ: Thank you. Good

1 morning, everybody. All right. Well I would  
2 like to start this morning first and foremost by  
3 thanking all of you for your time and your  
4 service on these advisory committees.

5 I had the chance yesterday to join a  
6 part of the, for a portion of the gas, excuse me,  
7 Gas Committee. And I wanted to say a big thank  
8 you not only from the President and Secretary  
9 Fox, but from me.

10 We very much appreciate your time and  
11 your many efforts. And really it underscores  
12 your commitment to pipeline safety which is most  
13 noteworthy and we very much appreciate your  
14 efforts. I know that you take time in advance to  
15 prepare for these meetings but also your  
16 thoughtfulness and your participation during the  
17 course of these meetings.

18 We've had a lot of opportunities to  
19 advance and improve pipeline safety. And I think  
20 really the role of the Advisory Committees is  
21 critical in all of that.

22 And we rely on all of you to represent

1 the diverse stakeholders that you do represent,  
2 whether that's the American public and/or various  
3 parts of the industry we want to make sure that  
4 we've got fair, reasonable and extremely cost  
5 effective rules that we're putting forward,  
6 especially given the number of challenges that  
7 we're facing through the industry.

8 We've had a number of recommendations  
9 not only from the Congress but from the General  
10 Accounting Office and the DOT Office of the  
11 Inspector General. And they've really charged  
12 PHMSA with looking at a number of requirements, a  
13 number of recommendations to improve pipeline  
14 safety.

15 And as we undertake these  
16 recommendations, as we work through them the work  
17 that you all are doing here on the Advisory  
18 Committee becomes more and more critical. In the  
19 last year alone what we've looked at is we've  
20 moved through a very, very aggressive agenda and  
21 we've made significant progress in completing and  
22 working towards completion a number of the

1 requirements that have been laid out for PHMSA.

2 And it really underscores again the  
3 priority the country is placing on pipeline  
4 safety. Last year we had the chance to publish  
5 two final rules including our damage prevention  
6 rule and four NPRMs, two of which are some of the  
7 most significant rules that we've put out, our  
8 hazardous liquid rule as well as our gas  
9 transmission rule.

10 And you're going to get a preview of  
11 the gas transmission rule, I believe tomorrow  
12 afternoon. And also our excess flow valve rule  
13 which has been finalized. We're moving as  
14 quickly as we possibly can on each of these  
15 rulemakings.

16 And again your efforts are a big part  
17 of helping us progress through this process.  
18 Today we're really focused on completing those  
19 rules that you've already voted on and some of  
20 our highest priorities are continuing to move  
21 forward like the gas transmission rule, like the  
22 hazardous liquid rule which we proposed last



1 April.

2 But again, we'll be meeting again to  
3 again address two of those significant  
4 rulemakings that are out there for comment. I  
5 think more than ever many of the mandates that  
6 we've addressed we're working towards final form  
7 and that's what I was trying to emphasize before.

8 But we also have to complete the  
9 mandates and the other recommendations that have  
10 been posed to us both from the NTSB, the GAO and  
11 the IG. That includes ongoing rulemaking  
12 activity.

13 But it also includes a number of  
14 studies that we're undertaking. It also includes  
15 creating metrics and a whole bunch of other  
16 things that we're undertaking that really  
17 underscore the future of our regulatory efforts  
18 across the board.

19 So again, thank you for all of your  
20 work, for serving on these advisory committees.  
21 It really does underscore our larger safety  
22 initiatives across the board.

1 I wanted to point out a couple of  
2 things. One, we've been working really hard to  
3 work to fill some of the vacancies that exist on  
4 these committees. We've got expired appointments  
5 and other vacancies to fill.

6 And I think we have right now three  
7 government and one public member vacancy on the  
8 committees. And it really has been a significant  
9 priority for us to work through a process of  
10 working to fill these.

11 We've had, our goal is to have as  
12 multiple viewpoints as possible represented to  
13 make sure that our rules are not just robust but  
14 also extremely sound and informed. So I hope  
15 many of you saw that on May 24th we published a  
16 Federal Register notice requesting nominations to  
17 fill vacancies on these advisory committees.

18 And I really hope one, that you share  
19 the word about the importance of these committees  
20 and how they operate and help us get nominations  
21 into the process. They are for, what we're going  
22 to do is create slates for all of the positions

1 so that we constantly have a nominations process  
2 in play and we're not working to backfill at any  
3 given time.

4 We're working off of a continuous  
5 slate of nominees. So we're hoping that through  
6 this Federal Register notice process it will give  
7 us a more robust opportunity to again, fill in a  
8 very timely manner the vacancies that exist.

9 I'm hoping that we're greeting some  
10 new members the next time that we meet. But  
11 again, I appreciate everyone's support and  
12 encouragement and if you could help work across  
13 the board we're trying to get the word out for  
14 people to submit their names and applications.

15 It's an online process that's out in  
16 the Federal Register, and I thank you in advance  
17 for your efforts. We've got a couple changes  
18 here at PHMSA. I say that underscoring we're  
19 doing a lot of change organizationally but also  
20 we've also had some significant personnel  
21 changes.

22 As many of you know, Jeff Wiese, who

1 served for over 16 years at PHMSA -- 32 years of  
2 public service in total, a very impressive public  
3 service record -- recently retired to pursue some  
4 new opportunities outside of the federal  
5 government. And we had a chance to thank him for  
6 his service.

7 But as you know, he was a key member  
8 of our executive leadership team. He served for  
9 a long time in chairing these committee meetings.

10 And I wanted to again not only  
11 acknowledge his service but thank him and also  
12 recognize Alan Mayberry, who has been serving,  
13 excuse me, not only as our deputy associate  
14 administrator for policy and programs but has  
15 stepped up to serve as our acting associate  
16 administrator for pipeline safety. So I very  
17 much appreciate Alan's service.

18 He's been chairing these committees  
19 and will do so as we move forward as we work to  
20 fill permanently the AA for pipeline safety. So  
21 again, Alan, thank you. Very much appreciate  
22 your service.

1           A couple of notes about PHMSA in  
2           general and where we're headed. A lot of you  
3           have heard and I hope you've had a chance to take  
4           in some of the materials that we've talked about  
5           in terms of our organizational structure.

6           We have been working very diligently  
7           on a program called PHMSA 2021 which really talks  
8           about our organizational structure and some of  
9           the undertakings that we're engaged in to really  
10          address the incredible complexity of the  
11          operating environment that this industry is now  
12          faced with.

13          Over the course of the last five to  
14          ten years you've seen a monumental shift, a very  
15          dynamic shift in the industry. Whether that's  
16          just in the energy markets alone but also in  
17          hazardous materials.

18          And it really makes our work even more  
19          important. And the demand for our regulatory  
20          assistance, as well as the safety framework that  
21          we put into place, is really extremely important.

22          So we're trying to make sure that we

1 have updated not only our organizational  
2 structure of our strategic framework for actual  
3 operations. And that's come under three basic  
4 categories: safety, trust and innovation.

5 And you've heard me talk about these.  
6 But these investments are really intended to  
7 position the Agency to be more proactive, more  
8 predictive, more data-driven and really looking  
9 at anticipating market trends, being prepared to  
10 address potential safety risks and creating  
11 solutions to those emerging risks.

12 And a large part of our program is  
13 directly addressed in our regulatory framework.  
14 Our rulemaking process is extremely important.  
15 And we've got a very robust group of folks  
16 engaged internally at PHMSA looking at a deep-  
17 dive analysis and a progressive path forward on  
18 how we actually tackle our rulemaking initiatives  
19 moving forward.

20 And that includes standing up an  
21 Office of Planning and Analytics. And that  
22 Office of Planning and Analytics really is

1 focused on three areas. One, data and analytics.  
2 Two, economic analysis and three, the strategic  
3 framework for driving a regulatory agenda in a  
4 much more comprehensive way.

5 We really hope to not only use the  
6 data that we collect, the data that we analyze  
7 but also market trends to again further inform  
8 our rulemaking process and inform our economic  
9 analysis so that we're able to be more efficient  
10 and also timelier in our rulemakings. It's  
11 requiring a great deal of effort internal to our  
12 PHMSA team.

13 But I think everybody, I very much  
14 appreciate everyone's time. PHMSAs that have  
15 been involved but also those of you that have  
16 provided some comment to us along the way about  
17 how we can not only increase our capabilities  
18 from the regulatory perspective but also make  
19 sure that, again that we're doing this in a  
20 manner that's comprehensive.

21 One of the outcomes and one of the  
22 processes along the way is to also engage in

1 greater stakeholder outreach and get additional  
2 information and have a level of transparency with  
3 everyone along the process as we look at our  
4 regulatory framework. And so that also includes  
5 some stakeholder work.

6 You're going to be hearing tomorrow  
7 from Artealia Gilliard, who is our director of  
8 public and government relations. And she is  
9 going to talk a little bit more about some of the  
10 work that we're doing to engage stakeholders  
11 along the way.

12 One other thing that I would like to  
13 mention this morning is safety management  
14 systems. As you all fully recognize, the next  
15 level of safety really in the pipeline industry  
16 and throughout the community is really looking at  
17 the implementation of safety management systems  
18 across the board.

19 And undertaking SMS is not a small  
20 task, whether that's internal to a particular  
21 company or for PHMSA as we look to build out an  
22 SMS system for the Agency ourselves. So it's a



1 huge process. It's not a checklist of something  
2 that you go through and kind of check off and say  
3 did that, did that, did that.

4 It really is a process for continuous  
5 improvement and it does require a lot of time.  
6 It requires a lot of thought and energy and  
7 engagement and it also requires a lot of  
8 leadership.

9 So it's something that I've been  
10 actively engaged not only with the industry  
11 leadership but also across the board, and it's  
12 something that our team at PHMSA is also taking  
13 on. So you're going to be hearing more.

14 You should have received a memo in  
15 advance of this meeting articulating some of our  
16 goals and objectives. And one of them is to  
17 create a subgroup of this Advisory Committee to  
18 help us look at some of the best practices that  
19 are out there, some of the challenges that are  
20 going on in the industry, and really looking at  
21 how we can further inform our SMS process along  
22 the way.

1           So Linda Daugherty is going to be  
2 talking about that later today, right. So I  
3 think it's going to be a really good discussion.  
4 I know Ron McClain led the group for the  
5 recommended practice 1173 that API put out from  
6 the industry on SMS.

7           So I really think that we'll  
8 appreciate not only your comments but everyone's  
9 engagement as we really look to build out this  
10 process and again really capture some of these  
11 lessons learned and figure out a very progressive  
12 path forward on SMS. I think we're going to look  
13 to host the first meeting this summer right,  
14 Linda, of the subgroup.

15           So again, appreciate everyone's  
16 participation. In closing, again I would like to  
17 thank you all for your time, for your thoughtful  
18 service. I am terribly committed to safety. I  
19 know you are all as well, and I'm really excited  
20 about the fact that we're undertaking some  
21 discussion today on finalizing some of our rules  
22 that have been out there.

1           As we work to streamline and improve  
2           our rulemaking process we will look to continue  
3           to engage everyone, all of our stakeholders in  
4           this process and really again thank you for your  
5           support of our SMS Work Group as well.

6           And with that, I hope you have a  
7           terribly successful day. I'm going to pop in and  
8           out during the course. But again, thank you.

9           MR. MAYBERRY: Okay, thank you,  
10          Administrator. Okay, for those of you who were  
11          here yesterday we did have some issues with the  
12          sound system. We've been assured that's been  
13          addressed.

14          So those of you who weren't here you  
15          just don't even know, don't have a clue. It was  
16          horrible. But you can hear me in the back. Is  
17          this okay? Good, okay, good, appreciate that.

18          Next we'll go on to introduce PHMSA  
19          staff. So and then we'll go from there. But  
20          I'll start on my left. My partner in crime will  
21          start, and then we'll go around with PHMSA staff  
22          introduction.

1 MS. DAUGHERTY: So Linda Daugherty.  
2 I'm the deputy associate administrator for field  
3 operations. And, yes, I am Alan's partner in  
4 crime so we work together.

5 MS. STEVENS: Hi. My name is Melanie  
6 Stevens; I'm an attorney advisor in the Office of  
7 Chief Counsel.

8 MR. NANNEY: Steve Nanney,  
9 engineering.

10 MR. MCGAUGHEY: Wally McGaughey with  
11 training and qualifications.

12 MR. SATTERTHWAITE: Cameron  
13 Satterthwaite, standards and rulemaking.

14 MR. GALE: John Gale, standards and  
15 rulemaking.

16 MR. PALABRICA: Sayler Palabrica,  
17 standards and rulemaking.

18 (Off microphone introductions.)

19 MR. MAYBERRY: Okay, thank you. I  
20 think we got everyone. Then we'll move on to the  
21 committee. We'll start with Brian.

22 MEMBER SALERNO: Hi, Brian Salerno.

1 I'm one of the government members.

2 MEMBER DENTON: Todd Denton, Phillips  
3 66, Liquids.

4 MEMBER KUPREWICZ: Rick Kuprewicz on  
5 the Liquids representing the public.

6 MEMBER PIERSON: Craig Pierson,  
7 American Pipeline, Liquids.

8 MEMBER FELT: Tim Felt, Colonial  
9 Pipeline, Liquids.

10 MEMBER WEIMER: Carl Weimer, Pipeline  
11 Safety Trust, Liquid Committee.

12 MEMBER MCCLAIN: Ron McClain, Kinder  
13 Morgan, Liquids.

14 MEMBER ARMSTRONG: Lanny Armstrong  
15 representing the public, Liquid.

16 MEMBER FLECK: Sue Fleck, National  
17 Grid on the Gas Committee.

18 MEMBER CAMPBELL: Cheryl Campbell,  
19 Xcel Energy, Gas Committee.

20 MEMBER WORSINGER: Rich Worsinger,  
21 City of Rocky Mount, Gas Committee.

22 MEMBER KIPP: Bob Kipp, Common Ground

1 Alliance, Gas Committee.

2 MEMBER HILL: Robert Hill, Brookings  
3 County, South Dakota, Gas Committee.

4 MEMBER DRAKE: Andy Drake, Spectra  
5 Energy, Gas Committee.

6 MR. MAYBERRY: Okay. One more item  
7 before I turn it over to our esteemed chair  
8 today. You should have an agenda for today. We  
9 look to be on time.

10 Yesterday the meeting was run by  
11 Doctor Paula Gant, and she skillfully landed the  
12 meeting right at 4:30. So we'll see if our chair  
13 today is up to the challenge. But we are on for,  
14 we do end at 4:30 today. We'll see.

15 So we do have a very full agenda.  
16 Initially we'll hear from Linda Daugherty on the  
17 SMS Working Group that we were talking about  
18 standing up. And then we'll go on with Wally  
19 McGaughey presenting the -- we'll start off on  
20 the operator qualification discussion, and then  
21 we'll follow up with cost recovery accident  
22 incident notifications.

1           We're kind of doing a tag team between  
2           Wally and Steve Nanney on that. We'll probably  
3           go past lunch with that and then this afternoon  
4           we will have a briefing on the Gas Transmission  
5           Rule that seems to be peaking people's interest.  
6           I'm not sure why so much.

7           That's an important rule that we'll  
8           get a briefing on this afternoon. And that's it  
9           for today. We'll end at 4:30. We'll try to land  
10          you on time. And then tomorrow will be the  
11          Liquid Committee only.

12          There are no items to vote on  
13          tomorrow. But there will be briefings. Like  
14          Marie Therese had mentioned, we have a briefing  
15          on our stakeholder engagement. There is also a  
16          discussion on oil spill response plans presented  
17          by Dave Lehman from that group and our NAS study  
18          and then an update on reauthorization.

19          But for those on the Gas Committee  
20          you're more than welcome to stay on tomorrow. So  
21          with that I think that covers the miscellaneous  
22          items. So I'll go ahead and turn it over to

1 Massoud Tahamtani who will chair today's meeting.  
2 Massoud.

3 CHAIR TAHAMTANI: Good morning. And  
4 Alan shouldn't have challenged me on this because  
5 no breaks and maybe half an hour for lunch. As  
6 the chairman, I need to inform you of a few  
7 administrative items.

8 First of all, the meeting is being  
9 recorded, and the transcript will be on PHMSA's  
10 website at [www.regulations.gov](http://www.regulations.gov). The docket  
11 number for this meeting is PHMSA-2016-0032.

12 As Alan indicated, please mute your  
13 electronic devices that have a sound to them.  
14 For the Committee Members, if you wish to speak  
15 please use your tent card, and I'll try to note  
16 as I look across the room and allow you to speak.

17 For the public we'll give you a chance  
18 to speak on issues when they come up. And it has  
19 been determined that a quorum exists. And with  
20 that I believe the first item on the agenda, as  
21 Alan noted, is Linda Daugherty with the safety  
22 management system update or briefing.



1 MS. DAUGHERTY: So as we get our  
2 slides up, I just wanted to say thank you. It's  
3 good to see all of you here. It's been a while.  
4 I feel like it's been a long time. And what is  
5 really nice is to see so many people in the  
6 audience.

7 I think we have a great turnout here  
8 so we'll have lots of, you know, good  
9 interaction, good communication opportunities.  
10 And I did also notice that the, probably the most  
11 docile subject is at the end of the day.

12 And with Massoud as our chair, it will  
13 be very interesting to see how we reach that 4:30  
14 time frame. Do you think you're up to the  
15 challenge?

16 CHAIR TAHAMTANI: We'll do it.

17 MS. DAUGHERTY: Okay. So I did send  
18 an e-mail out to all of you. Hopefully you all  
19 received it. If not let me know because there  
20 may be a problem with the e-mail addresses.

21 But I think Marie Therese spoke to  
22 this, and it's something that we've been talking

1 about for a long time. You know, we -- I think  
2 we've had a lot of discussion about safety  
3 management systems.

4 We've talked about how we think that  
5 they can help us. But it's time for us to start  
6 taking action to see how we're doing as an  
7 overall industry, gas and liquid.

8 So I'm going to, I have a few slides  
9 just giving some basic background if I can get  
10 the slide thing to work. Okay. Forward does not  
11 work. Is it plugged in? You're playing games  
12 with me, Cameron, aren't you.

13 He's making sure I'm awake. So, you  
14 know, a lot of people have questioned why we are  
15 taking on safety management systems right now.  
16 The whole idea is don't we have enough on the  
17 plate.

18 You know, we're still trying to learn  
19 the lessons from integrity management to move  
20 forward on those rules. We're trying to, you  
21 know, we have a, let's be honest, we have a  
22 massive gas transmission rule and we have a very

1 significant hazardous liquid rule.

2 And there's a lot of meat to those.  
3 So why are we trying to take this on? Why is the  
4 right time now? Well I think we're all in  
5 agreement that getting to zero is our goal, zero  
6 incidents, zero fatalities, zero injuries.

7 You know, people will say that's a pie  
8 in the sky objective. But if you don't shoot for  
9 that, you'll never reach anything close to it.  
10 So I think we're all in agreement, both the gas  
11 and liquid industries, and I know the regulators  
12 are on board with that.

13 It's also about generally improving  
14 performance. When you look at our overall safety  
15 statistics, and I didn't include them here. I  
16 actually took them out of the slide deck because  
17 I don't want to spend a lot of time getting  
18 caught up on those. You've seen them before.

19 Some of our statistics look really  
20 good. The number of serious incidents has shown  
21 a very nice downward trend. We're improving.  
22 Some of our significant incidents, the larger

1 group of, including the very small incidents, is  
2 wobbling a little bit.

3 We don't know what that means. We  
4 don't know if it's going up, if it's going down.  
5 It's just still within the standards of  
6 deviation. But it's something to pay attention  
7 to.

8 Some of our safety statistics seem to  
9 have hit a plateau. In the larger context we  
10 have to figure out what we need to do to move the  
11 ball forward. How do we move toward zero? We  
12 can't continue to do the same things we've always  
13 done and expect to see a significant improvement.

14 So we have to figure out how to get,  
15 take performance to the next level. And we  
16 believe, by looking at other industries -- and  
17 the reference here is low frequency, high  
18 consequence industries -- we believe we can learn  
19 from what they've done.

20 We can stand on their shoulders and  
21 help move safety forward using different  
22 approaches. Historically, if you look at our

1 regulations, we started a long time ago with very  
2 prescriptive regulations back in the '70s. And  
3 they focused on asset management.

4 Then as we moved to integrity  
5 management regulations, we started looking at  
6 more performance-based regulations and looking at  
7 process, managing processes and procedures and  
8 overall management of the assets. Safety  
9 management systems takes the next step and looks  
10 at organizational factors, people factors,  
11 leadership, employee engagement.

12 And so we believe that, and boy that's  
13 hard to read, my apologies. But that actually  
14 comes from the API 1173 standard and it's a logo,  
15 it's the plan, that kind of logo or graphic.

16 And it helps guide continual  
17 improvement. It, SMS can help an organization  
18 improve overall. It doesn't look at just asset  
19 management. It doesn't look at just procedures.  
20 It looks at how everything works together and  
21 considers various inputs and threats.

22 We believe in this. I'm a believer.

1 I am, I got the religion probably about two years  
2 ago. And I think that PHMSA has shown a very  
3 strong support of industry adoption of 1173. We  
4 go out there to conferences and we say we believe  
5 it's the right thing to do.

6 We hope you believe it's the right  
7 thing to do. And I think the industry has  
8 largely stepped up to the game and said, yes, we  
9 believe in this as well.

10 And so we have seen other regulatory  
11 agencies -- Brian Salerno and his team over at  
12 BSEE. You have a strong approach towards  
13 management systems and safety culture.

14 We've seen our colleagues north of the  
15 border in the National Energy Board issue  
16 regulations on safety management systems and  
17 guidance on safety culture. So I think there's a  
18 -- I won't say universal, but there's a North  
19 American appreciation of the importance of  
20 looking at these principles.

21 The other thing I want to point out is  
22 we believe in this so much that we're internally

1 adopting these principles within PHMSA. This  
2 isn't something that we're just saying you all  
3 need to go learn from this and you need to do it.

4 We're saying we need to do it as well.  
5 So when your regulator is doing something and  
6 we're finding out how challenging it can be. So  
7 we do have an appreciation for what you're doing.  
8 I think we're trying to say, send a very strong  
9 message to you, okay.

10 So part of our efforts is to ask that  
11 we start sharing information. And this working  
12 group that we are proposing the PAC to establish  
13 would be composed of both Gas and Liquid Members.  
14 We envision that the Liquid PAC would be the  
15 parent committee.

16 We had to pick one and we know that  
17 there's also some action separate going on. So  
18 it seemed the logical choice right now. The  
19 committee can pull in external experts as they  
20 deem fit.

21 So it's up to the committee to figure  
22 out who should be working with them. You know,

1 PHSMA will provide support. I envision that I  
2 will be participating and communicating and  
3 helping as best as I can.

4 I won't be the leader of the  
5 committee, obviously. But I'll be there to  
6 support you. And then the working group would  
7 report on the progress and challenges.

8 Now that's the ask. So the ask to you  
9 as the advisory committees is to establish the  
10 working group. So I would, and I have a few more  
11 slides. But I would ask Massoud, that's the  
12 actual ask to the chair to establish the working  
13 committee, working group.

14 The specific deliverables or the  
15 actions that the working group would take would  
16 be to share lessons learned, to share information  
17 about your experiences in implementing SMS. You  
18 know, implementing SMS has value but it doesn't  
19 mean it's always easy.

20 And we should be sharing across  
21 industry lines. I think the various industries  
22 -- the liquid industry and the gas industry



1 separately -- are probably, already have efforts  
2 underway to share information. We're asking you  
3 to share that across boundary lines.

4 So the distribution folks will share  
5 their challenges with the liquid industry, and  
6 the liquid industry would share their best  
7 practices with the gas industry, and it would be  
8 a communal sharing of information. On top of  
9 that, there are a number of very specific things.

10 One that we would ask as the initial  
11 focus area would be to come up with some kind of  
12 performance indicator that would gauge your  
13 implementation throughout the industries. We've  
14 seen different ideas.

15 I've heard that one industry has a  
16 performance metric in which they're gauging the  
17 percentage of pipeline miles represented by  
18 companies that have agreed to adopt API 1173 or  
19 the principles thereof. You know, that may be  
20 one method.

21 There may be some other indicators  
22 that would work. So the group would just have to

1 work it out and see what would, what fit. But we  
2 would like to see that so we can gauge progress  
3 over the years.

4 I do believe that once the group  
5 identifies those metrics, there may be a way for  
6 the group to have those be lasting indicators or  
7 however long is appropriate. There would be, by  
8 the way there would be a periodic report out back  
9 to the full committee on the items.

10 I've listed some of the various topics  
11 here for continuous improvement. This is also  
12 included in that e-mail. So, you know, I'm  
13 basically recapping what's already there.

14 But something that's really important  
15 is the sharing of safety data. You know, how do  
16 you do that? How do you share lessons learned?  
17 We had a discussion yesterday with an operator  
18 who is going through a particularly challenging  
19 situation.

20 And, you know, the individual related  
21 that he became aware that another operator had a  
22 similar experience, and he really wished he had

1 the benefit of that knowledge right away. But he  
2 had to find that, you know, just by, you know,  
3 reaching out and trying to figure out who had it.

4 It would be nice if we had a better  
5 way of sharing information. There are a variety  
6 of different things. Safety culture experiences,  
7 you know, how do you measure your safety  
8 performance? How do you evaluate how well your  
9 leadership is engaging with folks or employee  
10 engagement? What are some best practices? How  
11 do you do that?

12 Anyway, these are different ideas.  
13 The group may come up with some other ones. As  
14 we identify the working group, Marie Therese  
15 mentioned that we would envision the first  
16 meeting to occur later this summer.

17 That may be in person or more likely  
18 it may be a VTC or a conference just to get the  
19 ball rolling. But we would work with the  
20 committee and the committee chair and figure out  
21 how that would work best.

22 It probably would not be appropriate

1 to have everyone on the committee, I mean like  
2 however many people we have here, 24 people  
3 something like that. But it would be good to  
4 have a representative example or representatives  
5 from both committees.

6 So we probably are looking for both  
7 gas and liquid representatives. We're looking  
8 for distribution and transmission so we can get a  
9 good working group to share that information.

10 And with that, the ask in the e-mail  
11 is that you think it over and -- or unless you  
12 want to volunteer right now -- and that you send  
13 me or Kate Rosenberg a note and let us know, and  
14 then we'll constitute the group. So with that,  
15 thank you. And Massoud.

16 CHAIR TAHAMTANI: Thank you, Linda.  
17 Any questions for Linda. We are ahead of the  
18 schedule and any comments, reactions to this  
19 proposal by the committee members?

20 And you know my style. If you don't  
21 speak I'll just put you on the spot. So, Mr.  
22 McClain, since you and I spent some quality

1 together for about three years, what do you  
2 think?

3 MEMBER MCCLAIN: Thank you, Massoud.  
4 We did spend about two and a half years in  
5 sequesters every month. But, you know, I think  
6 it's entirely appropriate and right for PHMSA to  
7 extend some leadership and encouragement in this  
8 area.

9 Certainly I think members of the  
10 committee believe that the RP has the potential  
11 to move the bar on safety further than any other  
12 effort we could take. Now that's not minimizing  
13 those but I think recognizing how 1173 overarches  
14 all the other pieces.

15 So I think it's appropriate. You  
16 know, on the liquid side we've had heavy  
17 participation and implementation at least at a  
18 barrel mile or mileage statistic. Some of the  
19 smaller operators are still a little intimidated  
20 by it.

21 In fact, I've spoken personally with  
22 some of them to try to help them get over the

1 curve that it is doable, that it's scalable and  
2 all things that the RP says. I think, you know,  
3 as we put together a committee to encourage  
4 implementation, it would be good to include some  
5 smaller operators for them to express their  
6 concerns.

7 So, because sometimes it's a very  
8 different perspective of just how difficult it  
9 is. And it is difficult. It takes hard work.  
10 But the -- I think the benefit it huge for people  
11 who earnestly and honestly go through it, not in  
12 a check the box way but in a way to achieve the  
13 benefits of it.

14 So I guess I would leave it with that.  
15 You know, I hope to participate on it. It sounds  
16 like a good idea. I think we -- you have to kind  
17 of manage how diverse the members are and how  
18 some probably feel they don't have adequate  
19 resources to do it. So maybe that's a topic.

20 CHAIR TAHAMTANI: So I think, Linda,  
21 we've got one more volunteer. Is that what you  
22 read, what he said? So I want to tell you, Ron,

1 that I'm in this with you.

2 I've already volunteered to do this  
3 just to spend more time with you. Linda, can you  
4 go back two slides please? I'm sorry, one slide.

5 MS. DAUGHERTY: This slide?

6 CHAIR TAHAMTANI: This one, yes. So  
7 the vision is that it talks of continuous  
8 improvement would include analysis of sharing of  
9 safety data and everything else that you read on  
10 the screen.

11 Again, the vision is that this  
12 committee would look into all of this and report  
13 back, the subcommittee report back to the full  
14 committee in terms of progress on adoption and  
15 implementation of SMS. Am I correct?

16 Again, since we have some more time,  
17 I want to put somebody else on the Gas Committee  
18 on the spot, unless Andy Drake would like to  
19 comment on this.

20 MEMBER DRAKE: Thank you, Massoud. I  
21 think this is a logical step for us. I think  
22 there was a lot of models around us that have

1 used this very successfully.

2           There is a great question that seems  
3 to be asked. We're so used to tactical rules and  
4 guidance that's very prescriptive on how to move  
5 ourselves forward. And I think at some point we  
6 do see ourselves and other industries reach a  
7 plateau.

8           And it's a pattern that we've seen  
9 other industries use very consistently whether  
10 it's BSEE or the nuclear industry or the chemical  
11 industries, you know, the high consequence, low  
12 frequency phenomena that we all face. We've seen  
13 them figure out how to unwind that.

14           The FAA certainly did a very good job  
15 with that, and management systems was a key to  
16 that step. And it doesn't seem intuitive at  
17 first. But I do think that structure in that  
18 discipline is really helpful in focusing people  
19 on how to grow those platforms and become more  
20 deliberate about their efforts.

21           And we are committed to it, and I'm  
22 happy to volunteer just because I enjoy spending



1 time with Massoud. But it's true.

2 CHAIR TAHAMTANI: I think we're going  
3 to have our team put together today actually.

4 MEMBER DRAKE: But I do think Ron  
5 raises a good point and I think, you know, these  
6 systems are scalable. And I think it's important  
7 to bring in that different dimension to this  
8 working group to help people understand it's not  
9 just the big companies that use these.

10 It is scalable. It can be done. It,  
11 I think, as Rick Worsinger said, it is something  
12 that you intrinsically do. It's just how  
13 deliberate are you about it, and how much  
14 structure and effort do you put into it to make  
15 sure that every aspect of those systems are put  
16 in place and grown.

17 And I think having some smaller  
18 operators around the table would be very helpful  
19 how to -- just how to practice that without  
20 getting the accident solely to beyond  
21 bureaucracy. It really is about performance.

22 CHAIR TAHAMTANI: Thank you, Andy.

1 And I think you just volunteered Rich to speak.

2 MEMBER WORSINGER: Thank you, Andy.

3 No good deed goes unpunished. Rich Worsinger,  
4 City of Rocky Mount. I'd like to say we applaud  
5 PHMSA for their efforts to create this working  
6 group focused on safety management systems and  
7 agree that the selection of the Liquid group as  
8 the parent committee is most appropriate.

9 The RP 1173 talks that, talks about  
10 small operators and it says that small operators  
11 can build on the selected provisions herein. And  
12 because of that APGA actually has a working group  
13 that has the two members who are on Ron's  
14 committee working on that to see what we can take  
15 those different elements and incorporate it into  
16 APGA.

17 John Erickson updated me on that, said  
18 they've completed the Item Number 1 and are  
19 moving forward on it. And we look forward to see  
20 what comes out of the group that is being created  
21 to hear so that, are there any things that we can  
22 incorporate in APGA's efforts.

1 CHAIR TAHAMTANI: Thank you, Rich.

2 Did you volunteer to serve on this committee?

3 MEMBER WORSINGER: No, I did not.

4 CHAIR TAHAMTANI: I'll get you a  
5 picnic table. Some of you know what that means.

6 Mr. Kuprewicz, any comments? Well, I'll go to  
7 you next. Go ahead.

8 MEMBER KUPREWICZ: It isn't that hard.

9 Most of you guys have done this intuitively. I  
10 hope it goes a lot more effectively than the  
11 original integrity management rulemaking that was  
12 promulgated over a decade ago.

13 Many of the good companies, the good  
14 guys will get this quickly. Those aren't the  
15 people that the public are worried about. So  
16 good luck.

17 CHAIR TAHAMTANI: And you didn't  
18 volunteer either, right?

19 MEMBER KUPREWICZ: I haven't  
20 volunteered yet.

21 CHAIR TAHAMTANI: Yet?

22 MEMBER KUPREWICZ: Yes.

1 CHAIR TAHAMTANI: So I need to work on  
2 you?

3 MEMBER KUPREWICZ: Yes.

4 CHAIR TAHAMTANI: All right. Mr.  
5 Pierson.

6 MEMBER PIERSON: Craig Pierson,  
7 Liquids. I think there's a neat opportunity here  
8 for the folks who are not very close to this,  
9 some of the members of the public and some of the  
10 state and other members to see what it is and  
11 appreciate it and know why we talk about it in  
12 such glowing terms as a needle mover.

13 So I would encourage folks who don't  
14 know too much about it to seriously consider  
15 getting involved.

16 CHAIR TAHAMTANI: Craig, did you  
17 volunteer?

18 MEMBER PIERSON: Not yet.

19 CHAIR TAHAMTANI: But I know you're  
20 doing great things with respect to SMS already.

21 MEMBER PIERSON: I'm a huge supporter  
22 and will seriously consider getting involved.

1 CHAIR TAHAMTANI: All right. Mr.  
2 Kuprewicz.

3 MEMBER KUPREWICZ: I'll volunteer as  
4 long as the first meeting isn't in June. I hate  
5 to put parameters on it. But you don't --

6 CHAIR TAHAMTANI: As long as the  
7 meeting is not in June?

8 MEMBER KUPREWICZ: In June for me I  
9 just can't do it.

10 CHAIR TAHAMTANI: We are already in  
11 June.

12 MEMBER KUPREWICZ: I know.

13 CHAIR TAHAMTANI: It's not going to be  
14 in June. I know that. Linda, are you writing  
15 these names down?

16 MS. DAUGHERTY: You know, I wrote the  
17 list of everybody down. I'm just striking the  
18 people off that aren't. By the way I do second  
19 that idea of not in June.

20 CHAIR TAHAMTANI: So I think you see  
21 that there's a lot of support for this idea. I  
22 believe, a lot of us believe in SMS being the

1 next, if you will, tool that will enhance  
2 pipeline safety and take us from the minimum  
3 compliance with 195, 192 to where it needs to be.

4 I know PHMSA appreciates anyone from  
5 the committee who wants to volunteer. Some of  
6 you already are on your way or have been on your  
7 way to implement safety management systems.

8 In my own state I'm proud to say three  
9 large operators have already begun implementing  
10 not only a detailed GAAP analysis to determine  
11 what the problems are but they are doing safety  
12 culture based on assessment. It's really  
13 exciting to see in terms of data what we already  
14 know exists within our industry.

15 Very quickly, Linda mentioned the  
16 makeup of this committee. I don't know how large  
17 it should be. It should not be too large  
18 obviously. But every industry group and of  
19 course public needs to be represented.

20 So with that said, if you are  
21 interested send your name to the e-mail that is  
22 on the screen. And another comment, Brian.

1                   MEMBER SALERNO: Yes, an unforced  
2 comment.

3                   CHAIR TAHAMTANI: Well, I wasn't going  
4 to force a retired vice admiral within the Coast  
5 Guard. I figured you still have connections.

6                   MEMBER SALERNO: Yes, I did want to  
7 say I think this is an excellent initiative and  
8 one that really could yield a great deal of  
9 benefit for the industry. My perspective on this  
10 is it's something we've been working on within  
11 the off shore industry as well.

12                   The adoption of a safety culture,  
13 information sharing, data collection and the use  
14 of data to improve safety. I think those are all  
15 extremely valuable things to do.

16                   But I also know how difficult it can  
17 be. Information sharing sounds very good and  
18 something that you would think you would do  
19 intuitively. But there are inevitably barriers.

20                   So I think a committee to focus on how  
21 to break down those barriers and there are ways  
22 to do it, could be extremely beneficial. We

1 also, I've observed a lot of companies do this  
2 already and many of them have high degrees of  
3 maturity. They are far along and they can  
4 contribute a lot to our collective understanding  
5 of how to make this work.

6 But even in companies that do it well  
7 there is that reluctance to share. Information  
8 tends to be siloed. So breaking that down is  
9 important. So I think if this group can come up  
10 with recommendations for how to do this, to share  
11 information, to make it available and in  
12 particular information that is not required to be  
13 submitted to a regulator, it doesn't meet a  
14 threshold.

15 There's a treasure trove of safety  
16 information in there, near miss information for  
17 example. If that can be collected and analyzed  
18 and in a way that compares apples to apples the  
19 trend information, the system reliability  
20 information that can be derived from that is  
21 extremely powerful.

22 So I don't know if I would be a good



1 member of this group. But I would be happy to  
2 contribute to the group in terms of what we've  
3 experienced and what we've learned from the off  
4 shore industry on what works and what doesn't.  
5 If I can contribute in any way I would be happy  
6 to.

7 MR. MAYBERRY: This is Alan Mayberry.  
8 Brian, appreciate those comments. We would be  
9 glad to have you on the committee. I think, you  
10 know, I appreciate the discussion here  
11 especially, you know, a big part of SMS is  
12 leadership commitment to the process.

13 And I think this is a natural step to  
14 establish this working group because we are a  
15 leader, you are leaders of the industry that is,  
16 you know, covered, impacted by this standard. So  
17 I think it's a natural step to have a subgroup  
18 that of leaders that will, you know, offer that  
19 commitment and that reinforcement of SMS.

20 So appreciate the discussion here.  
21 And, Mr. Chair, it looks like we have one other  
22 comment. Maybe a volunteer.

1                   CHAIR TAHAMTANI: Craig, did you think  
2 about volunteering and you are now committing to  
3 it?

4                   MEMBER PIERSON: I do have a question.  
5 So and the reason behind the question, you talk  
6 about other industry group members participating  
7 and is there a vision for that.

8                   And so out of our company Shawn Lyon  
9 is leading liquids industry implementation and  
10 don't know if that would be the type of member  
11 that is envisioned or is it subject matter  
12 experts or what's the vision behind the other  
13 members?

14                   CHAIR TAHAMTANI: Craig, subcommittee  
15 members that we're envisioning here must be  
16 members of the two committees. But they can  
17 bring experts, right.

18                   MEMBER PIERSON: That was, yes, that  
19 was more precisely worded that was my question  
20 what's the vision for bringing in other experts?  
21 Is there a vision for that or is it just  
22 notional?

1 MS. DAUGHERTY: So this is Linda  
2 Daugherty. So when, there are different options  
3 they can pursue. Massoud has correctly  
4 identified that the main group would be the  
5 committee members. The working group itself  
6 would be comprised of the committee members.

7 They can bring in experts to inform  
8 them and they may choose to have assistance of  
9 other people to support them achieving certain  
10 task goals. However, all of that would be  
11 funneled up.

12 What we would not encourage is that  
13 the working group members have proxies that meet  
14 and do all the work and then report out to the  
15 leadership. So we want to have the committee  
16 members engaged. Does that make sense?

17 You can have, assistance would be good  
18 because we understand you are very busy. And we  
19 do want to accomplish specific goals and items.  
20 But this is a PAC, would be a PAC working group.  
21 It wouldn't be a delegated working group. Does  
22 that make sense? Yes, okay. Thank you.

1 CHAIR TAHAMTANI: Thank you, Cheryl.

2 MEMBER CAMPBELL: I'll volunteer to  
3 serve on the subcommittee.

4 CHAIR TAHAMTANI: Thank you very much.  
5 I think we should set a date the end of by which  
6 volunteers can send the e-mail in so you can know  
7 what the committee or subcommittee looks like.  
8 What would you like that date to be?

9 MEMBER CAMPBELL: I'm sorry, Massoud,  
10 I want a picnic table.

11 CHAIR TAHAMTANI: They are being  
12 chiseled as we speak. Todd.

13 MEMBER DENTON: Todd Denton, Liquids.  
14 I guess I'm confused. I'm looking at the letter  
15 and it says leadership will be drawn from members  
16 of the PAC but working group membership may  
17 include experts from outside. Is that what you  
18 said?

19 Okay. I thought you said the working  
20 group would only be PAC members.

21 MS. DAUGHERTY: Sorry, Linda  
22 Daugherty. So the idea being is the

1 representational group would be the PAC. You can  
2 have people come in and inform you, work with you  
3 as you determine.

4 But what we're trying to avoid is to  
5 have a titular group that says we're the advisory  
6 committee group but everybody else is doing the  
7 actual interactions and work. So we don't want  
8 all the work and the discussions delegated to --

9 MEMBER DENTON: But group members  
10 could come from outside the group?

11 MS. DAUGHERTY: Yes, yes, yes,.

12 MEMBER DENTON: And it is a working  
13 group and not a subcommittee or is it --

14 MS. DAUGHERTY: Correct. There is,  
15 that is a fine distinction. It is a working  
16 group. It is not a subcommittee. I'm glad you  
17 mentioned that.

18 MEMBER PIERSON: Craig Pierson,  
19 Liquids. Could you explain the subtlety, the  
20 difference of what's intended there?

21 MS. DAUGHERTY: So a subcommittee of  
22 a working group has to go through certain FACA

1 rules as this is a FACA group. A working group  
2 has more flexibility.

3 CHAIR TAHAMTANI: So to be absolutely  
4 clear are we looking to create a subcommittee or  
5 a working group?

6 MS. DAUGHERTY: A working group.

7 CHAIR TAHAMTANI: Within the working  
8 group we're going to have committee members. But  
9 then you can have non committee members to  
10 participate, discuss, contribute, right?

11 So I think back to Craig's question  
12 since you don't want to participate in this --

13 MEMBER PIERSON: Craig Pierson,  
14 Liquids. It's a little bit surprising to me that  
15 participating with you is an attraction for  
16 others.

17 For me it's a little bit of a, so what  
18 my, depending on the structure I think we would  
19 probably be over participating if both, that's  
20 why I was asking about the other members. If our  
21 BP office is on and myself is on it might be over  
22 participation.

1           So we're committed to participating.  
2           It's just sorting out that complexity.

3           CHAIR TAHAMTANI: Thank you, Craig.  
4           I knew that if I keep pushing you will do what's  
5           right. With that said so the end of next week is  
6           the deadline for individuals who want to  
7           participate.

8           The balance of the committee will be  
9           determined by PHMSA to make sure that everybody  
10          is, or the chair. So with that said we are a few  
11          minutes still before the next item on the agenda.

12          But we'll go ahead with the voting  
13          protocol by Cameron. Cameron, are you ready?  
14          And did anybody from the public have any comment  
15          about what we just finished talking about? Good,  
16          because we don't really have time for it.

17          MR. SATTERTHWAITE: All right. We're  
18          going to go over a couple of voting --

19          CHAIR TAHAMTANI: For the record, I  
20          was kidding. We would have taken comments.

21          MR. SATTERTHWAITE: This is a quick  
22          presentation on the voting protocol. And today's

1 votes that are going to take place are going to  
2 impact both committees.

3 And today is going to be a vote  
4 regarding the operator qualification, cost  
5 recovery accident and incident notification and  
6 other pipeline safety proposed changes rule that  
7 was published in July of last year.

8 Whenever a decision or a  
9 recommendation of the committee is required the  
10 committee chair will request a motion for a vote.  
11 Any member, including the committee chair, may  
12 make a motion for a vote.

13 Just a quick note, since today's  
14 meeting will involve two, both committees a  
15 motion will be required from each committee and a  
16 separate vote. A quorum is required for a vote.  
17 A majority of the current members of the  
18 committee must be present at a meeting to perform  
19 the committee's statutory duties.

20 Here's a little bit of the statutory  
21 language regarding committee actions. We have  
22 members consider each proposed rule and the draft



1 regulatory evaluation. The motion should include  
2 language from the statute and we will have that  
3 posted on the screen to assist from the statute  
4 to indicate the appropriate committee has carried  
5 out its responsibilities.

6 Motions must originate from and be  
7 seconded by members of the appropriate committee,  
8 like I mentioned. Measures impacting both gas  
9 and hazardous liquid pipelines must be voted on  
10 separately by each committee.

11 Side note, of course there may be some  
12 topics that come up that may only involve one  
13 committee and of course at that time we won't  
14 need a vote from both committees just the  
15 applicable and the appropriate committee. Here's  
16 a little sample language that would be used if a  
17 committee were to agree with the motion.

18 And this is one if you agree as  
19 proposed. And the Technical Pipeline Safety  
20 Standards Committee finds that the proposed rule  
21 as published in the Federal Register and the  
22 draft regulatory evaluation are technically, well

1 we would have to delete that comment, technically  
2 feasible, reasonable, cost effective and  
3 practicable.

4 And if the committee was not in  
5 agreement the vote would go as specified here,  
6 for the Technical Pipeline Safety Standards  
7 Committee finds that the proposed rule as  
8 published in the Federal Register and draft  
9 regulatory evaluation are not made technically  
10 feasible, reasonable, cost effective and  
11 practicable.

12 And this is language that we normally  
13 see a lot of where there's a change that is  
14 proposed. And it goes through and it ends with  
15 finds that the proposed rule as published in the  
16 Federal Register and the draft regulatory  
17 evaluation are technically feasible, reasonable,  
18 cost effective and practicable if the following  
19 changes are made.

20 And then we'll try to put the, you  
21 know, the list of amendments as follows so that  
22 they can be read directly off of the screen. As

1 the team goes through their presentation what  
2 you'll see is a presentation that will show the  
3 background, some information on what was  
4 proposed.

5 Also the comments that were received  
6 and then we'll share some of PHMSA's thoughts and  
7 recommendations. After that portion takes place  
8 then the chair will open up the floor for a  
9 committee discussion.

10 After the committee's discussion takes  
11 place the chair will look to the audience for  
12 public input. And then afterwards, after that  
13 ends then we will move to a motion for a vote.

14 And of course the meeting transcript  
15 will serve as the committee report unless another  
16 document is provided by the membership. And as  
17 specified before, the document, docket number for  
18 this meeting is PHMSA-2016-0032. And that's all  
19 I have.

20 CHAIR TAHAMTANI: Thank you, Cameron.  
21 So the very first proposed rule that we're going  
22 to discuss is the OQ. And I believe Steven

1 Nanney is going to give us a presentation.

2 MR. NANNEY: Good morning. The good  
3 news for the presentation that we've got started  
4 is that it's before lunch and after lunch. And  
5 it's only 70 slides. So that's the good news.

6 So anyway, the other part of it is you  
7 will not have to listen to me for the entire  
8 time. Wally will be giving part of it and Chris  
9 McLaren will be giving part of it.

10 Going to the second slide in the  
11 presentation is the notice of proposed rulemaking  
12 was published July 10, 2015. The comment period  
13 ended September 8, 2015.

14 We had a lot of comments. We had 35  
15 different entities to comment, NTSB, private  
16 citizens, industry, Pipeline Safety Trust and  
17 also some pipeline safety consultants.

18 Why did we have the notice of proposed  
19 rulemaking? First of all it was the  
20 Congressional act and also NTSB recommendations  
21 from some incidents. Section 9 and Section 13 of  
22 the 2011 Safety Act the first part, Section 9 was

1 the accident incident reporting.

2 Section 13 was the cost recovery of  
3 design reviews. And then we had four NTSB  
4 recommendations. What were those  
5 recommendations? P-11-12, was to require drug  
6 and alcohol testing of each employee after an  
7 incident.

8 P-12-13, addresses part of the  
9 recommendation by incorporating Part 195  
10 assessment tools. NTSB recommendation P-12-7 was  
11 team training of control center staff and then  
12 the last NTSB recommendation which as P-12-8 was  
13 extending operator qualification training  
14 requirements for all hazardous liquid and gas  
15 transmission control center staff involved in  
16 pipeline operational decisions.

17 So this is the framework that we came  
18 out with the notice of proposed rulemaking. What  
19 is, a summary of the proposed rules. Again, we  
20 had an accident incident reporting time to be  
21 within one hour.

22 We set up cost recovery fee structure

1 for the design and construction review of new and  
2 hazardous liquid pipelines over a certain dollar  
3 amount. We expanded the existing OQ scope to  
4 cover new construction and previously excluded  
5 operations and maintenance tasks.

6 Addressing the NTSB recommendation in  
7 extending the requirements to operators of Type A  
8 gathering lines in Class 2 locations and Type B  
9 on shore gas gathering lines. We also had a  
10 renewal procedure for special permits.

11 We excluded farm taps from DIMP  
12 requirements. And last, we required pipeline  
13 operators to report to PHMSA permanent reversal  
14 of flow.

15 Going on through continuing with some  
16 of the proposed rules. We did provide methods  
17 for assessment tools selection by incorporating  
18 some consensus standards into Part 195.

19 For stress corrosion, cracking direct  
20 assessment we required electronic reporting of  
21 drug and alcohol testing. In Part 199 we  
22 modified the criteria used to make decisions from

1 conducting post-accident drug and alcohol tests.

2 We added a procedure to request PHMSA  
3 to keep submitted information confidential and we  
4 will address that in the rulemaking. And then we  
5 added a reference to Appendix B of API 1104 which  
6 dealt with in-service welding in Parts 192 and  
7 195.

8 First of all to go through the  
9 accident and incident notification. Again the  
10 background is we were required to do that in  
11 Section 9 of the 2011 Safety Act.

12 In the notice of proposed rulemaking  
13 to go through what it says is telephonic or  
14 electronic notification of an accident or  
15 incident must be reported following a confirmed  
16 discovery of an incident or accident but not  
17 later than one hour. You should report the  
18 amount of product lost and then updated confirmed  
19 reports must be submitted within 48 hours.

20 Also confirmed discovery we have a  
21 definition of it. It means there is sufficient  
22 information to determine that a reportable event

1 may have occurred even if an evaluation has not  
2 been completed.

3           Comments that PHMSA received from  
4 this. We've got several bullets here. The  
5 commenter stated that the proposed definition of  
6 confirmed discovery is confusing because it  
7 suggests operators have sufficient information  
8 that an event has occurred and it also contains  
9 the phrase may have occurred.

10           The next comment was it's not possible  
11 to provide meaningful estimates of gas loss  
12 within one hour. The estimate should be included  
13 in the update to the one hour notification within  
14 48 hours of confirmed discovery of an incident.  
15 And then the last one on this slide is PHMSA  
16 should not make the 48 hours reporting change  
17 effective until the NRC has means to accept  
18 supplemental reports.

19           Some of PHMSA's responses to this.  
20 The term confirmed discovery is in the 2011  
21 Congressional act and it cannot be replaced by  
22 the term accident notification or provisional



1 discovery.

2 What PHMSA proposes may have occurred  
3 in the definition of confirmed discovery to abide  
4 by the Congressional mandate requiring operators  
5 to alert the NRC to accidents and incidents  
6 despite not having a complete assessment and in  
7 order to allow the appropriate emergency  
8 personnel or investigators to be able to respond  
9 in a timely manner and to mitigate the  
10 consequences of such occurrences.

11 The second bullet here of PHMSA's  
12 response is the 2011 Act directs PHMSA to require  
13 owners and operators of pipelines to revise their  
14 telephonic or electronic notice to the secretary  
15 and the NRC with an estimate of the amount of  
16 product released, an estimate of the number of  
17 fatalities and injuries within 48 hours.

18 Two more PHMSA responses. PHMSA has  
19 no authority to require the NRC to update the  
20 initial operator's report without generating a  
21 new report. The NRC informed PHMSA that it would  
22 require a substantial amount of funding for the

1 center to have this capability.

2 With that PHSMA recommendations are to  
3 adopt the proposal as proposed.

4 CHAIR TAHAMTANI: Thank you, Steve.  
5 All right. Discussions. Mr. Weimer.

6 MEMBER WEIMER: Yes, just backing up  
7 for a minute back to kind of what Cameron had  
8 said. I was wondering if someone can just  
9 clarify because the last meeting we had of the  
10 Liquids Committee we had to scramble to get here  
11 on the big liquids rule because it also says in  
12 the statute that this meeting and this discussion  
13 and this report is supposed to happen within 90  
14 days.

15 We're way past 90 days for this rule  
16 and it looks like there's not going to be a 90  
17 day window for the big gas transmission rule too.  
18 So I was wondering if someone can explain the  
19 statutory requirement for 90 days and whether  
20 there's a commitment from PHSMA to include,  
21 because the statute also says that it only has to  
22 include the report from these committees if the

1 report is timely.

2 And since we're past 90 days we're not  
3 timely. So is there a commitment from PHMSA to  
4 take the information from this committee today  
5 and make it as part of the rulemaking?

6 MR. MAYBERRY: Thanks, Carl.

7 Positively, yes. I mean, the committee is  
8 important to us. And although we're not meaning  
9 that timeliness mandate as, you know, illustrated  
10 as written in the statute definitely this  
11 committee's input is important and we will take  
12 that into account as we have before even if it's  
13 not timely.

14 And that's part of what we're  
15 addressing, what Marie Therese described in just  
16 really trying to improve our processes to really  
17 get more timely as we go forward.

18 MEMBER WEIMER: So there isn't any,  
19 reading the statute it doesn't sound like there's  
20 any penalty to the committee if we don't meet the  
21 90 days. Is there any negative repercussions for  
22 not meeting what the statute says?

1 MR. MAYBERRY: Not on the committee's  
2 part, on our part perhaps but certainly not on  
3 the committee's side. So thanks.

4 CHAIR TAHAMTANI: Mr. Worsinger,  
5 please.

6 MEMBER WORSINGER: Rich Worsinger,  
7 City of Rocky Mount. Question for PHMSA. The  
8 directive from Congress, I believe, was the  
9 estimate to be provided on the amount of gas lost  
10 within 48 hours.

11 As we stated, it's highly unlikely  
12 that we're going to have any kind of meaningful  
13 estimate within an hour. And the question of  
14 PHMSA is why are you asking for such to be  
15 included in that one hour notice?

16 MR. NANNEY: I hate to ask. I didn't  
17 hear the question so can I ask you to repeat it.  
18 I'm sorry.

19 MEMBER WORSINGER: Sure. Since  
20 Congress is asking for the estimate of product  
21 release at 48 hours, why is PHMSA asking for the  
22 estimate at one hour? And as we indicated, it's

1 highly unlikely that we're going to have any  
2 meaningful estimate of product loss at one hour.

3 MR. NANNEY: I thought the act had one  
4 hour in it. I'm not, we'll have to go back and  
5 look on that question.

6 MEMBER WORSINGER: It's on your slide.

7 MR. NANNEY: Is it? Okay. Well, what  
8 we wanted to do is, like we said in the slide, is  
9 we wanted to get a meaningful estimate when you  
10 report the incident of what the spill or the  
11 release may be so that for our responders and  
12 everything have a notice of how large the  
13 incident is.

14 MEMBER WORSINGER: Could you go back  
15 to Slide 7 please? If you see bullet number two  
16 the comment was it's not possible to provide  
17 meaningful estimate of gas loss within one hour  
18 and therefore the estimate should be included in  
19 the update to the one hour notification within 48  
20 hours.

21 We therefore ask PHMSA to strike this  
22 requirement that we provide the estimate at one

1 hour. I don't, you know, you're not going to  
2 respond, PHMSA is not going to respond to a  
3 natural gas leak.

4 They might to a spill but you're not  
5 to a gas leak. And I don't, I just question what  
6 would PHMSA do with such information. And  
7 therefore, we agree with everything else in this.  
8 We would just like to see you strike that  
9 requirement at one hour.

10 MS. DAUGHERTY: This is Linda  
11 Daugherty. Just a comment in regard. A lot of  
12 the reports that come in, we see a lot reports.  
13 And currently a lot of them leave the volume  
14 blank.

15 So we have no idea if it's a nuisance  
16 leak that meets the reporting criteria of maybe a  
17 \$50,000 or if it's actually a major release.  
18 Sometimes you can tell if it's a rupture of a  
19 line.

20 But within the first hour we're hoping  
21 to get a feel for is this a big situation, is  
22 this a very small one. Sometimes you don't know.

1 But to give the best effort estimate that you  
2 can, just this is where we think it is and then  
3 you can revise it. Right now we get a lot of no  
4 answer.

5 MR. MAYBERRY: This is Alan Mayberry.

6 MEMBER WORSINGER: I'll let my  
7 colleagues comment on this.

8 MR. MAYBERRY: Rich, is your point  
9 that within an hour you don't see the size of the  
10 opening therefore you can't estimate it? I mean  
11 obviously on the liquid side we're concerned and  
12 there are preliminary estimates that are done  
13 based on line volume between line sections.

14 So is the concern, what is the  
15 concern? I just wanted to get that out there on,  
16 it precludes like a preliminary estimate.

17 MEMBER WORSINGER: Within one hour  
18 we're still mobilizing people to respond. We're  
19 trying to get control of the site. We're trying  
20 to assess is gas getting into any adjacent  
21 buildings.

22 We are not going to have a meaningful

1 estimate of the amount of product lost. You  
2 know, at that point, you're talking probably an  
3 engineer to know what pressure the line was  
4 operating at, what size line it was, what size  
5 hole is it to do some engineering calculations.

6 Alan, I'm being quite honest when I  
7 say our focus at that point is not trying to  
8 calculate how much gas was lost or is being lost  
9 but more to respond to make the situation safe.  
10 And at the end of that 48 hour period or some  
11 time before that 48 hour period we can tell you  
12 how much product we believe was lost.

13 But we're not going to have that  
14 within one hour. The only estimate you're going  
15 to get is a lot or but what does that mean to  
16 PHMSA if we say, yes, a lot of product was  
17 released or is being released? I just tell you  
18 it's not of any value.

19 CHAIR TAHAMTANI: If you all can sort  
20 of limit your comments to the issue at hand. So  
21 we're talking about right now providing a  
22 meaningful estimate within one hour. Sue.



1                   MEMBER FLECK: Just to add to what  
2 Rich is saying in most cases for a gas incident  
3 you're not going to shut it in within an hour.  
4 It's very unlikely as most of you know. By the  
5 time you get the crew out you've got to dig  
6 holes, locate valves, clear boxes.

7                   So the estimate is going to be wildly  
8 inaccurate. And I don't see any value to that at  
9 all. And on Slide 8, which is the next one at  
10 the bottom it says they wanted an estimate of the  
11 product released within 48 hours and we think  
12 that's appropriate.

13                   That's what the mandate said. So  
14 requiring the estimate at one hour seems  
15 unnecessary and it's going to be creating  
16 information that can't be acted upon because it's  
17 going to be, it's almost guaranteed to be  
18 inaccurate on the gas side.

19                   Maybe on the liquid it's different.  
20 But for gas an hour is just too soon, 48 is fine.

21                   CHAIR TAHAMTANI: Thank you. Todd,  
22 your comment is related to this, right?

1                   MEMBER DENTON:  It's about confirmed  
2                   discovery.

3                   CHAIR TAHAMTANI:  Let's go to Rich  
4                   again.

5                   MEMBER WORSINGER:  Rich Worsinger,  
6                   City of Rocky Mount.  Just one other comment.  
7                   Linda, you referenced is this a nuisance leak or  
8                   a large leak.

9                   We wouldn't be reporting nuisance  
10                  leaks.  We're only going to be reporting  
11                  significant leaks.  So if it's being reported it  
12                  is a significant leak.

13                  CHAIR TAHAMTANI:  Any other comments  
14                  with respect to this providing estimate of  
15                  product loss within the first hour?

16                  MEMBER WORSINGER:  Massoud, mine's  
17                  working here.

18                  CHAIR TAHAMTANI:  Sorry.  All right.  
19                  Let me ask Alan a question.  Do you want to deal  
20                  with these issues one at a time?  Right now you  
21                  are proposing or it is proposed that it be  
22                  adopted as drafted and as reporting product loss

1 within one hour of notification.

2 You've heard their comments. How do  
3 you want to go about this? I want to go to the  
4 next issue.

5 MEMBER DENTON: Well, it's the same  
6 issue. It's about accident and incident  
7 reporting, right? It's one issue.

8 CHAIR TAHAMTANI: Yes, it's one issue.  
9 But I want to see where we're landing on this and  
10 then go to the actual definition that you had  
11 discussed. Go ahead.

12 MEMBER DENTON: Okay. So regarding  
13 confirmed discovery first I'll say that, Todd  
14 Denton, Liquids by the way that we agree with  
15 concept, right. But the definition as proposed  
16 of around a reportable event may have occurred  
17 even if an evaluation has not been completed we  
18 feel leaves it very open.

19 So, you know, I think it's safe to say  
20 control room philosophies have changed  
21 significantly in the last seven years or so with  
22 its incidents control room management rule. I

1 can speak for Phillips 66 Pipeline.

2 We have what we call a think leak  
3 culture in our control center. We shut down  
4 frequently. And there may be alarms, you know,  
5 for example you lose power on one end of a  
6 pipeline. You lose your measurement on one end  
7 of the pipeline.

8 You shut down. You have certain  
9 alarms coming in. You're fairly confident it's  
10 not a leak. But you're going to go find out,  
11 right? So that happens fairly often in control  
12 rooms today.

13 That by this definition may lead to a  
14 lot of reporting that may not be necessary. So,  
15 but on the flip side we feel like there are  
16 signature signals or graphs that would indicate  
17 that, a high confidence in a release even though  
18 you haven't set your eyes on it, right.

19 And that would be something that you  
20 would report within that first hour. So we would  
21 propose a slight tweak to that wording along the  
22 lines of that confirmed discovery would be

1 defined as when it can be reasonably determined  
2 based on information available to the operator at  
3 the time that a reportable event has occurred  
4 even if only based on preliminary information.

5 CHAIR TAHAMTANI: Ron.

6 MEMBER MCCLAIN: I certainly agree  
7 with what Todd said. I mean many operators have  
8 been confounded with after the fact arguments  
9 about what a volume was and it's very difficult  
10 to know.

11 So within an hour it tightens it.  
12 It's going to make it less accurate. I think  
13 conceptually we agree with the one hour  
14 reporting. You know, the comment that the NRC  
15 can't update their systems because it may require  
16 funding.

17 Many of the things we pass here cause  
18 the operators to expend millions if not billions  
19 of dollars on things. So that seems like PHMSA  
20 is saying well it's not my job. That's the NRC.

21 But if we're passing these rules PHMSA  
22 should be bringing their weight to the NRC to be

1 able to fix records that are just wrong out  
2 there. If operators are forced to send knowingly  
3 wrong estimates because they're part of the  
4 record forever.

5 So I think that ought to be considered  
6 too. If we require one hour volumes the NRC  
7 ought to do their job and accept supplemental  
8 reports.

9 CHAIR TAHAMTANI: Thank you, Mr.  
10 Drake.

11 MEMBER DRAKE: Andy Drake with Spectra  
12 Energy. I agree with that comment very much.  
13 This is, a lot of this is about gathering data,  
14 right. That's a big part of management systems.

15 We want to learn. So you want us to  
16 err on the side of turning in things quickly so  
17 we can keep that in front of us. And I think  
18 that's fundamentally one of the things we're  
19 struggling with down here is within an hour we  
20 don't know.

21 Okay. So we want to err on reporting.  
22 If we don't know assume it's going to meet the

1 criteria and go. And some of the criteria  
2 thresholds have moved way down, I mean which is  
3 okay.

4 So we're trying to keep smaller things  
5 in front of us to manage which is fine. But I  
6 think fundamentally there's a flaw in the system  
7 if we can't back out a report.

8 We report early, quickly just with  
9 whatever information we have, err on the side of  
10 over reporting, but then we find out that it  
11 doesn't meet the criteria we can't rescind that  
12 report. That doesn't make any sense at all.

13 So now we have data in the system  
14 that's wrong and we can't get it right. That  
15 just seems like a fundamental breakdown of a  
16 management system. And I think I'm with you.

17 If we're going to get into this and  
18 really try to learn from these things we've got  
19 to be learning from real data, not bad data. And  
20 I think we need to deal with that problem.

21 Until we deal with that problem you're  
22 going to get people doing some things that are

1 really not what you want, which is well I'm not  
2 sure so I'm going to wait. Well, that's not  
3 right or I'm going to now under report and then  
4 not turn it in which is definitely what we don't  
5 want or I'm going to turn in a bunch of stuff  
6 that's just garbage and then we'll revise it but  
7 it's still in the system.

8           And that skews what we do with the  
9 data that's in the system. So I really think  
10 fundamentally we're, I'm in if we want to report  
11 prematurely and then send in a secondary report,  
12 okay. I'm good with err on the side of reporting  
13 early.

14           Some of these thresholds are pretty  
15 tight and we're just going to say well something  
16 happened. It could be very small actually.  
17 We're going to turn it in.

18           But then we find out it doesn't meet  
19 the criteria and all of a sudden we're getting a  
20 lot of data in the system that we really do need  
21 to go and clean up. And I think that's just  
22 actually the problem that we need to deal with



1 around the table.

2 MR. MAYBERRY: This is Alan Mayberry.

3 Let me just address, try to wrap up a lot of  
4 these comments here. But first off related to  
5 the system issue certainly that's something we  
6 need to work towards as far as being able to do  
7 what you're talking about.

8 Having said that but while there's no  
9 solution or immediate solution to that let me be  
10 perfectly clear we do expect reporting to go up.  
11 I mean that's, you know, we always look back to  
12 okay, what are we trying to accomplish here.

13 We're trying to accomplish getting,  
14 ensure that reports are submitted to us in a  
15 timely manner so that, because there have been  
16 issues with them, you know, them not being  
17 submitted in a timely manner. It just delays,  
18 it's always okay to over report.

19 If you do not report there are always  
20 issues to deal with if you're not timely as far  
21 as not getting the information in the proper  
22 hands. So we fully acknowledge that it would

1 likely lead to an increase. We would expect  
2 that.

3 We do not, as we published our  
4 statistics on significant incidents we do pull  
5 out the non reportables on that. Certainly, yes,  
6 the record is still in there for all reported.  
7 But we do pull that out when we report on  
8 significant incidents if we find that it doesn't  
9 meet the threshold that's in the code.

10 Aside from that, so anyway as far as  
11 getting the information to us it's always best to  
12 err on the side of caution and over report rather  
13 than under report, okay. Let's talk about  
14 release volume for natural gas.

15 And I know there are, with liquid it's  
16 a little bit different. With gas certainly you  
17 don't see the opening size. Perhaps there  
18 assumptions that could be made early on until you  
19 know fully.

20 But all I might add on that is, you  
21 know, that we would look to, you know, perhaps  
22 the path forward would be as practicable within

1 the first hour, certainly no later than 48 hours.  
2 That's the only, I mean that's one option I can  
3 think of as far as having a slight variation on  
4 the gas side. Anyway, that's a thought there.

5 CHAIR TAHAMTANI: So I believe what  
6 I'm hearing is that what may be acceptable to  
7 PHMSA is the language that Alan just provided.  
8 If we can put that, somebody can type that up so  
9 that everybody can see that. Sue.

10 MEMBER FLECK: Sue Fleck, National  
11 Grid on the Gas Committee. I wanted to reinforce  
12 what Todd said. I like the language that he  
13 proposed around may have occurred and saying it a  
14 little bit differently.

15 The problem from the gas perspective  
16 is the amount of extra reporting you're going to  
17 see is probably far more than you can imagine  
18 because any house with a gas line in it if  
19 there's a fire, any structure with a fire with a  
20 gas line in the close proximity is a may have  
21 occurred.

22 So I think you're going to get every

1 single, you know, fire type situation, every  
2 single disturbance at a pizza oven that just  
3 happens to be somebody lighting the pilot wrong.  
4 I think the many that have occurred just opens up  
5 just a gigantic amount of reporting.

6 And I don't think you've really  
7 thought that through carefully enough. I like  
8 the language Todd used and, you know, where it's  
9 more occurred even though we haven't finished the  
10 investigation.

11 So we're going to report more than  
12 we're reporting now but we're not going to report  
13 every single possible incident. And that's worth  
14 considering.

15 CHAIR TAHAMTANI: Craig.

16 MEMBER PIERSON: Craig Pierson,  
17 Liquids. Has, so we've talked about volume and  
18 the need for volume estimate and we'll do the  
19 best we can within whatever time frame we're  
20 given.

21 The need to report the incident to the  
22 NRC is without regard to volume. It's an

1 incident that, you know, a death or personal  
2 injury required hospitalization, property damage  
3 exceeding \$50,000 and so it could be an ounce or  
4 two but if you think it's \$50,000 it's NRC.

5 And have you contemplated in that  
6 \$50,000 is inclusive of the product loss, it's  
7 inclusive of environmental, it's inclusive of  
8 clean up, it's inclusive of repairing the damaged  
9 equipment and it is such a low threshold and  
10 we've got people that actually are trying to  
11 guess not just volume but dollars.

12 Have you contemplated the nature of  
13 that \$50,000 requirement and maybe accommodating  
14 that complexity that also will drive a whole  
15 bunch of reporting?

16 MR. MAYBERRY: Yes, I can say that's  
17 in the mix currently. But that's, you know, as  
18 we go forward certainly that's something we could  
19 look at.

20 CHAIR TAHAMTANI: So where we are you  
21 have, Rich, you have more comments?

22 MEMBER WORSINGER: I was going to make

1 the motion.

2 CHAIR TAHAMTANI: I want to hear from  
3 the public if I may. So any comments from the  
4 public on the two issues that's been discussed?  
5 All right, Rich, you're ready for a motion?

6 MEMBER WORSINGER: Yes. Rich  
7 Worsinger, City of Rocky Mount.

8 CHAIR TAHAMTANI: I'm sorry. Hold on  
9 a second. We have two cards up here. Craig, are  
10 you finished? Rich.

11 MEMBER KUPREWICZ: Well, I guess PHMSA  
12 is kind of between a rock and a hard spot here  
13 and I don't want to lawyer this thing up. So  
14 let's think about the public's intent.

15 We've had too many on the liquid side  
16 releases that were not activated and the spill  
17 response teams were not properly initiated. And  
18 I don't need to name all of them recently.

19 So there needs to be a way in the many  
20 thousands of false leak detection alarms that the  
21 control room gets and the company is trying to  
22 figure out what's going on, when they activate

1 the call to the NRC because that triggers a whole  
2 bunch of other things including oil spill  
3 response.

4 And so that needs to be a clearly  
5 addressed issue and I think Congress is probably  
6 getting a lot of heat about that. So you need to  
7 deal with that. So from a public perspective  
8 there needs to be a wording here that allows  
9 PHMSA to say we're getting this information as  
10 quickly as possible.

11 As we get it quickly to activate the  
12 push to get information quickly degrades the  
13 information. So let's not overreact to that.  
14 That's an issue that we can work with the public.

15 What the public won't accept is you  
16 just spilled 1,000 barrels of oil in a sensitive  
17 water area and nobody has activated anything for  
18 five hours. Okay, and it's not on the moon.  
19 It's on the freeway that everybody is driving by.

20 So I would just suggest on the liquid  
21 side to err on the response getting the stuff  
22 reported and then maybe we can work together on

1       trying to say well the information the quicker  
2       you get it to activate the accuracy of that  
3       information is going to be degraded and we can  
4       accept that.

5               I think we can work on, some of the  
6       public won't accept that but they're just going  
7       to have to figure out that the realities are what  
8       they are. On the gas side I completely  
9       understand where PHMSA is coming on this but the  
10      gas people are dead on.

11             You know, if you're asking for a  
12      volume estimate maybe even within 48 hours is  
13      good luck. I mean, the issue here is, is it  
14      catastrophic and again it's back to emergency  
15      response and does that require the activity of  
16      the Natural Response Center.

17             On gas probably not likely though I  
18      can think of some serious ruptures that could fit  
19      that level. But probably not. So looking at the  
20      dialogue here I'd like the wording to address the  
21      liquid issues that I think the public clearly has  
22      on their mind based on three or four very high



1 profile, very long duration before spill response  
2 was activated.

3 And the emergency responders are out  
4 there trying to figure out what's going on and  
5 they haven't even been contacted by the NRC. On  
6 the gas side I think you guys are dead on, on  
7 that issue and I can appreciate that.

8 So we need to make some wording  
9 changes there probably. Thank you.

10 CHAIR TAHAMTANI: All right. So I  
11 think this is for the Gas Committee to consider  
12 and I believe Rich has a motion to make.

13 MEMBER WORSINGER: Rich Worsinger,  
14 City of Rocky Mount. Just one question before I  
15 make the motion. I believe Paragraph B that's up  
16 here is being proposed to be deleted.

17 Is Paragraph C the one that talks  
18 about 48 hours and maybe we would be better just  
19 to move this to Paragraph C about product loss?  
20 So, Cameron, could you make that change?

21 MEMBER DENTON: Massoud, can I make a  
22 comment? This would cover the liquids as well as

1 written up there.

2 CHAIR TAHAMTANI: I think we're going  
3 to come back to the liquid and probably change  
4 what we have on the screen for you all to  
5 consider. So, Rich, you're okay now?

6 MEMBER WORSINGER: Sure. Rich  
7 Worsinger, City of Rocky Mount. I'd like to make  
8 a motion that the proposed rule relative to  
9 accident and incident notification as published  
10 in the Federal Register and the draft regulatory  
11 evaluation are technically feasible, reasonable,  
12 cost effective and practical if the following  
13 changes are made.

14 Move proposed 191.5(b)(5) to Paragraph  
15 C, amount of product loss. Revise definition of  
16 confirmed discovery as confirmed discovery when  
17 it can be reasonably determined based on  
18 information available to the operator at the time  
19 that a reportable event has occurred even if only  
20 based on a preliminary evaluation.

21 MEMBER HILL: I'll second that,  
22 Chairman.

1 CHAIR TAHAMTANI: All right. We have  
2 a motion and a second. Any further discussions  
3 from the Gas Committee? No discussions. Who is  
4 my vote taker? Go ahead.

5 MR. SATTERTHWAITE: All right. We'll  
6 do the roll call real quick. And basically you  
7 can say aye, nay or abstain. And we'll start off  
8 with Paula Gant.

9 MEMBER GANT: Aye.

10 MR. SATTERTHWAITE: Cheryl Campbell.

11 MEMBER CAMPBELL: Aye.

12 MR. SATTERTHWAITE: Andy Drake.

13 MEMBER DRAKE: Aye.

14 MR. SATTERTHWAITE: Sue Fleck.

15 MEMBER FLECK: Aye.

16 MR. SATTERTHWAITE: Richard Worsinger.

17 MEMBER WORSINGER: Aye.

18 MR. SATTERTHWAITE: Bob Hill.

19 MEMBER HILL: Aye.

20 MR. SATTERTHWAITE: Bob Kipp.

21 MEMBER KIPP: Aye.

22 MR. SATTERTHWAITE: That's it. It's

1 unanimous.

2 CHAIR TAHAMTANI: The motion passes.  
3 All right. Unanimous, that motion passed. Now  
4 with respect to the Liquid Committee, Todd.

5 MEMBER DENTON: So I'll go ahead and  
6 make a motion that the proposed rule relative to  
7 accident and incident notification as published  
8 in the Federal --

9 MR. SATTERTHWAITTE: Hold on one  
10 second. We just need to move the slide.

11 MEMBER DENTON: As published in the  
12 Federal Register and the draft regulatory  
13 evaluation are technically feasible, reasonable,  
14 cost effective and practicable if the following  
15 changes are made. Revise the definition of  
16 confirmed discovery as confirmed discovery when  
17 it can be reasonably determined based on  
18 information available to the operator at the time  
19 that a reportable event has occurred even if only  
20 based on a preliminary evaluation.

21 CHAIR TAHAMTANI: So that's a motion.  
22 Is there a second?

1 MEMBER PIERSON: Second.

2 CHAIR TAHAMTANI: Second. Any further  
3 discussions from the Liquid Committee. Are you  
4 ready to take the vote?

5 MR. SATTERTHWAITE: Yes, sir. Okay.  
6 We'll just go through the roll call aye, nay or  
7 abstain. Brian Salerno.

8 MEMBER SALERNO: Aye.

9 MR. SATTERTHWAITE: Massoud.

10 CHAIR TAHAMTANI: Aye.

11 MR. SATTERTHWAITE: Todd.

12 MEMBER DENTON: Aye.

13 MR. SATTERTHWAITE: Tim Felt.

14 MEMBER FELT: Aye.

15 MR. SATTERTHWAITE: Greg Pierson.

16 MEMBER PIERSON: Aye.

17 MR. SATTERTHWAITE: Ron McClain.

18 MEMBER MCCLAIN: Aye.

19 MR. SATTERTHWAITE: Lanny Armstrong.

20 MEMBER ARMSTRONG: Aye.

21 MR. SATTERTHWAITE: Richard Kuprewicz.

22 MEMBER KUPREWICZ: Aye.

1 MR. SATTERTHWAITE: Carl Weimer.

2 MEMBER WEIMER: Aye.

3 MR. SATTERTHWAITE: All right. It is  
4 unanimous. The motion carries. Thank you all  
5 very much. We have made a lot of progress. At  
6 this rate we'll be done by 8 o'clock tonight.

7 But being the kind chairman I am I  
8 will take a break for ten minutes. Please be  
9 back in ten minutes.

10 (Whereupon, the above-entitled matter  
11 went off the record at 10:10 a.m. and resumed at  
12 10:21 a.m.)

13 CHAIR TAHAMTANI: All right. I  
14 appreciate the Liquid Committee all members are  
15 here. However, Andy Drake is late. Can we go  
16 ahead?

17 MR. MAYBERRY: Please go ahead.

18 CHAIR TAHAMTANI: All right. Okay.  
19 Thank you all for being very efficient on the  
20 last proposed rule on your vote. Let's move on  
21 to cost recovery of design review. Who is the  
22 presenter? Is that you? Go ahead.

1           MR. NANNEY: The next item we've got  
2 on the agenda is a cost recovery for design  
3 review. And the, in the background you can see  
4 in Section 13 of the 2011 Act PHMSA was allowed  
5 to prescribe a fee structure and assessment  
6 methodology to recover costs associated with the  
7 design and construction cost on projects when  
8 they're over \$2.5 billion and for new and novel  
9 technologies or design as determined by the  
10 secretary.

11           And just to give you, before I got  
12 into it more a little backdrop of why PHMSA asked  
13 for this, if you go back five or six years ago,  
14 seven years ago we were seeing a lot of large  
15 projects that were taking a lot of PHMSA's time.  
16 One that we were looking at with several projects  
17 in Alaska that we looked at that could take a  
18 significant amount of the PHMSA budget and  
19 manpower as far as looking at the design and  
20 construction of these projects.

21           We felt like that we did not need or  
22 want smaller operators having to foot the cost of

1 these in their operator fees for these large  
2 projects. So we did go to Congress for approval  
3 to put a project cost in there that we could, if  
4 we felt like we needed it, ask for recovery of  
5 costs. So that's the backdrop of what we did  
6 there.

7 As far as the notice of proposed  
8 rulemaking, we proposed in the subpart in Part  
9 190 that we, it would include scope,  
10 applicability, notification, a master agreement,  
11 a fee structure. And the fee structure would  
12 only be PHMSA costs that we would actually, that  
13 we would not make money on the inspections and  
14 procedures for billing and payment of the fee.

15 Also we had a definition of new and  
16 novel technologies. It means any products,  
17 designs, materials, testing, construction,  
18 inspection or operational procedures that are not  
19 addressed in 49 Parts 192, 193 or 195 due to  
20 technology or design advances in innovation.

21 Some of the comments that we got was  
22 PHMSA should revise the definition of new and



1 novel technology. Another comment we got was  
2 that PHMSA should clarify whether identical new  
3 technology is reviewed once or multiple times and  
4 whether consensus standards and incorporated by  
5 reference are considered new or novel  
6 technologies.

7 The third bullet is conducting  
8 pipeline inspections or reviewing operational  
9 procedures should not be included in the cost  
10 recovery methodology. The fourth bullet PHMSA  
11 should revise its proposal to commence design  
12 review 120 days prior to the event because many  
13 of the proposed trigger events occur too early in  
14 the construction process.

15 And the last bullet the sample master  
16 cost recovery agreement does not relate  
17 activities related to the reach and validation of  
18 new or novel technology. PHMSA responses.

19 PHMSA recommends revising the  
20 definition of new and novel in 190.3 to limit its  
21 applicability to new construction by adding for  
22 new construction. The second bullet PHMSA

1 responses. Conducting pipeline inspections or  
2 reviewing operational procedures are the main  
3 focus of PHMSA inspections for new pipeline  
4 facilities.

5 The third bullet, PHMSA agrees with  
6 the trigger events occurring too early and  
7 recommends modifying 190.405 to exclude  
8 permitting activities, material purchasing and  
9 the right of way acquisition from the  
10 notification requirement.

11 And the fourth bullet, the master cost  
12 recovery agreement detailed in 190.407 would be  
13 written to recover PHMSA costs to personnel  
14 involved in the review of new or novel  
15 technology.

16 PHMSA recommendations. As far as the  
17 design of new and novel technologies, again what  
18 was in there means any products, designs,  
19 materials, testing, construction, inspection or  
20 operational procedures that are not addressed in  
21 49 CFR Parts 192, 193 or 195 due to technology or  
22 design advances and innovation.

1           And we were proposing to add for new  
2 construction technologies that are addressed in  
3 consensus standards that are incorporated by  
4 reference in Parts 192, 193 and 195 are not new  
5 or novel technologies.

6           The second PHMSA recommendation is in  
7 the notification and again, what we're  
8 recommending there is if you look in there at  
9 least 120 days prior to the commencement of any  
10 of the following activities route surveys for  
11 construction, not route surveys for doing your  
12 initial design or your right of way acquisition.

13           But when you actually are beginning  
14 construction would be part of it. We are  
15 deleting permitting activities. We before had  
16 material purchasing and now we've got material  
17 manufacturing.

18           And then right of way acquisition we  
19 took it out. But we do have on site facility  
20 fabrications, construction equipment, moving  
21 activities, on site or off site fabrications,  
22 personnel support, facility construction and any

1 off site or on site facility construction.

2 And then the last part of it is to the  
3 maximum extent practicable but not later than 90  
4 days after receiving such design specifications,  
5 construction plans and procedures and related  
6 materials PHMSA will provide written comments  
7 back and guidance on the project.

8 So that's what we're proposing as far  
9 as modifications to 190.405 on the notification.

10 CHAIR TAHAMTANI: Thank you, Steve.  
11 Comments. If no comments we are voting on the  
12 two proposal as revised by PHMSA and I believe we  
13 have to have separate votes again. I understand.

14 Three of them are trying to keep me  
15 straight. It takes more than three. Andy.

16 MEMBER DRAKE: Andy Drake, Spectra  
17 Energy. Steve, I have a question. I mean really  
18 the question revolves around what is the intent  
19 of the focus of the cost recovery.

20 I'll be honest the statutory wording  
21 is kind of windy. Is the focus around the cost  
22 of the design phase of a project? It seems very

1 focused to be about cost recovery of the design  
2 phase.

3 MR. NANNEY: I gave an explanation  
4 when we started. Let me give it again. What it  
5 is, is several years ago when there were a lot of  
6 large projects being built several were being  
7 proposed in Alaska.

8 And PHMSA went back on some of these  
9 larger projects and that's why we've got \$2.5  
10 billion and greater is we looked at, there are  
11 some projects that we felt like would take a  
12 significant amount at the time of PHMSA's  
13 resources and dollar allocation.

14 So we did not feel like it was  
15 appropriate for smaller operators in their fees  
16 to have them going up or whatever would be the  
17 circumstance of that paying for these larger  
18 projects in PHMSA's costs. So we felt like that  
19 we needed a mechanism where we had a project,  
20 wherever that might be Alaska, off shore or  
21 wherever that we could allocate and get a  
22 recovery back.

1           And also some of those projects can go  
2 for years and then all of a sudden the project  
3 gets cancelled or something. So we wanted a  
4 mechanism similar to FERC and some of the other  
5 agencies where when we felt like we needed cost  
6 recovery on those projects we could go to the  
7 operator when they notified us and put a master  
8 agreement in.

9           So that was the backdrop of what we  
10 were looking at. We don't expect it to be  
11 something that we would initiate on all the  
12 projects that are \$2.5 billion and greater. But  
13 we would look at it and see based upon what the  
14 applicability is. Did I answer your question?

15           MEMBER DRAKE: Not exactly. I mean I  
16 appreciate the mechanics of it. But the question  
17 is specific about the statutory language is about  
18 costs related to the design review.

19           MR. NANNEY: It's inspection costs of  
20 us going through and setting up an inspection  
21 plan whether it's looking at your specifications,  
22 your procedures, going to any pipe mills,

1 fabrication shops and doing the actual  
2 inspections that PHMSA would normally do.

3 MR. MAYBERRY: This is Alan Mayberry.  
4 You pointed out, you know, the language. It was  
5 a long and windy road to get to where the  
6 language ended up.

7 But as Steve summarized really the  
8 idea was during the construction phase, design  
9 construction, you know, well before user fees are  
10 collected on the pipeline that's being  
11 constructed and also after considerable resources  
12 are expended by us it's, the idea is to recover  
13 costs related to that for large projects.

14 And this originated with the Alaska  
15 project which was going to really tie up a lot of  
16 resources looking at special permits and then of  
17 course the construction inspection. You know,  
18 well before the first user fee we would be coming  
19 in to sort of recover the costs.

20 But really again, it only applies to  
21 larger projects. And of course we need to do the  
22 regulation to comply with the mandate. We need

1 to close the loop so we can actually implement  
2 this.

3 MR. NANNEY: And just to add to it  
4 part of what we did is we used the definition  
5 that came back in the Congressional mandate.  
6 They have a particular definition and we tried to  
7 use it and use the language that they had given  
8 back to us as much as possible.

9 MEMBER DRAKE: Okay. Well I'll have  
10 to defer to some lawyers in the room I suppose  
11 because I don't know how that interpretation got  
12 made. It seemed very specific to the design  
13 phase. But --

14 CHAIR TAHAMTANI: Well I'm certain  
15 that PHMSA attorneys have looked at the proposed  
16 actions PHMSA is trying to take here. Any other  
17 comments from the committee members. If not,  
18 comments from the public.

19 MR. BURDEAUX: DeWitt Burdeaux with  
20 FlexSteel. I have a couple of comments  
21 particularly related to the new and novel  
22 technology piece of this.



1 I appreciate the attempt on the  
2 reference to the standards that I think is a step  
3 in the right direction because as it was proposed  
4 there was absolutely no kind of confinement as to  
5 what was considered new or novel. However, it  
6 still makes a reference, as I'm reading what  
7 PHMSA's proposed direction is now, they would  
8 still include anything that requires special  
9 permit with no type of a time lapse or whatever  
10 or time limit.

11 Specifically looking at some of the  
12 technologies that still require special permit  
13 requests simply because PHMSA has not gone  
14 through the rulemaking activity to reference  
15 these that may have been around for a decade and  
16 a half at this point. In fact, some of the  
17 spoolable composite special permits were granted  
18 as far back as 2002, so 14 years ago.

19 It's really not new and novel  
20 technology anymore. It's widely used around the  
21 world. There's 50,000 miles of pipe in the  
22 ground. But PHMSA still, it has not been on

1 their priority.

2 I understand you've had other  
3 priorities to deal with and Congressional  
4 mandates and so forth. But that does mean that  
5 those are new or novel technologies at this point  
6 in time.

7 The second part of this is the cost  
8 recovery mechanism associated with it. When  
9 you're looking at something that's been around  
10 this long and you have multiple operators who may  
11 come in for special permit requests using that  
12 same technology in multiple projects, is it  
13 PHMSA's vision to recoup costs for each and every  
14 one of those special projects even though the  
15 technology being reviewed is the same?

16 It's basically a multiple dip into the  
17 various operators that may be engaged in these.  
18 The third piece to it is the use of the personnel  
19 in reviewing the special permit requests.

20 While there may be some staff on board  
21 that are very versed in a particular technology,  
22 product, whatever, very familiar with it, know

1 the ins and outs that's not necessarily the  
2 person that gets assigned a particular request  
3 for a project just because of staffing and so  
4 forth. I understand that.

5 So in essence an operator who gets  
6 assigned a different staff member than the one  
7 who is familiar with the particular technology  
8 basically bears the cost of training that  
9 additional individual into those technologies and  
10 use of it. Thank you.

11 MR. BOSS: One comment. Terry Boss  
12 with INGAA. On Andy's question I think by the  
13 language of the Congress by saying design review  
14 that seemed to be a little bit different than the  
15 forms that were included with the rule proposal  
16 where there was a lot of construction inspection  
17 included in a lot of those things doing those  
18 things.

19 So it was a question of the scope of  
20 what the PHMSA proposal is versus the  
21 Congressional language on this rather than just  
22 design review.

1           CHAIR TAHAMTANI: Thank you. Any  
2 other comments from the public? Would you like  
3 to comment?

4           MR. MAYBERRY: Yes, just regarding  
5 technology and, you know, just because a standard  
6 is developed for, you know, a new technology  
7 doesn't mean we automatically adopt it. You  
8 know, there's a process to go through, through  
9 special permits.

10           Sometimes it takes a number of years.  
11 But that's usually the process as we looked at  
12 new technology to develop a track record,  
13 understand it before it would ever be codified.  
14 So that's very important to us.

15           But, you know, just because there's a  
16 technology out there doesn't mean we necessarily  
17 adopt it, certainly not immediately.

18           CHAIR TAHAMTANI: All right. Final  
19 opportunity for comments from the committee. So  
20 we need a motion from the Gas Committee to move  
21 this particular proposed rulemaking forward as  
22 revised.

1           So the people on this side are the Gas  
2           Committee in case you are still wondering. You  
3           have comments? Please go ahead.

4           MEMBER FLECK: Sue Fleck, National  
5           Grid, Gas Committee. The proposed rule relative  
6           to cost recovery of design review as published in  
7           the Federal Register and the draft regulatory  
8           evaluation are technically feasible, reasonable,  
9           cost effective and practicable if the following  
10          changes are made.

11          The definition of new and novel  
12          technologies is revised as follows. New and  
13          novel technologies means any products, designs,  
14          materials, testing, construction, inspection or  
15          operational procedures that are not addressed in  
16          49 CFR Parts 192, 193 or 195 due to technology or  
17          design advances and innovations for new  
18          construction.

19          Technologies that are addressed in  
20          consensus standards that are incorporated by  
21          reference into Parts 192, 193 and 195 are not new  
22          or novel technologies. In Section 190.405 the

1 phrases permitting activities, purchasing and  
2 right of way acquisition are deleted.

3 CHAIR TAHAMTANI: Thank you. Is there  
4 a second?

5 MEMBER HILL: Second.

6 CHAIR TAHAMTANI: Any further  
7 discussions? Cameron, are you ready for a vote?

8 MR. SATTERTHWAITE: All right. We'll  
9 do the roll call. Aye, nay or abstain. Paula  
10 Gant.

11 MEMBER GANT: Aye.

12 MR. SATTERTHWAITE: Cheryl Campbell.

13 MEMBER CAMPBELL: Aye.

14 MR. SATTERTHWAITE: Andy Drake.

15 MEMBER DRAKE: Aye.

16 MR. SATTERTHWAITE: Sue Fleck.

17 MEMBER FLECK: Aye.

18 MR. SATTERTHWAITE: Rich Worsinger.

19 MEMBER WORSINGER: Aye.

20 MR. SATTERTHWAITE: Bob Hill.

21 MEMBER HILL: Aye.

22 MR. SATTERTHWAITE: Bob Kipp.

1 MEMBER KIPP: Aye.

2 MR. SATTERTHWAITE: Seven ayes. It's  
3 unanimous. The motion carries.

4 CHAIR TAHAMTANI: Thank you very much.  
5 We have to do the same thing with the Liquid  
6 Committee. Is there a motion?

7 MEMBER PIERSON: Do we read the  
8 motion?

9 CHAIR TAHAMTANI: Yes.

10 MEMBER PIERSON: The proposed rule  
11 relative to cost recovery of design review as  
12 published in the Federal Register and the draft  
13 regulatory evaluation are technically feasible,  
14 reasonable, cost effective and practicable if the  
15 following changes are made.

16 The definition of new and novel  
17 technologies is revised as follows. New and  
18 novel technologies means any products, designs,  
19 materials, testing, construction, inspection or  
20 operational procedures that are not addressed in  
21 49 CFR Parts 192, 193 or 195 due to technology or  
22 design advances and innovation for new

1 construction.

2 Technologies that are addressed in  
3 consensus standards that are incorporated by  
4 reference into Parts 192, 193 and 195 are not new  
5 or novel technologies. In Section 190.405 the  
6 phrases permitting activities, purchasing and  
7 right of way acquisition are deleted.

8 CHAIR TAHAMTANI: Is there a second?

9 MEMBER DENTON: Second.

10 CHAIR TAHAMTANI: Thank you. Take the  
11 vote.

12 MR. SATTERTHWAITE: All right. We'll  
13 do the roll call for the LPAC. Brian Salerno.

14 MEMBER SALERNO: Aye.

15 MR. SATTERTHWAITE: Massoud.

16 CHAIR TAHAMTANI: Aye.

17 MR. SATTERTHWAITE: Todd Denton.

18 MEMBER DENTON: Aye.

19 MR. SATTERTHWAITE: Tim?

20 MEMBER FELT: Aye.

21 MR. SATTERTHWAITE: Craig.

22 MEMBER PIERSON: Aye.



1 MR. SATTERTHWAITE: Ron.

2 MEMBER MCCLAIN: Aye.

3 MR. SATTERTHWAITE: Lanny.

4 MEMBER ARMSTRONG: Aye.

5 MR. SATTERTHWAITE: Rick Kuprewicz.

6 MEMBER KUPREWICZ: Aye.

7 MR. SATTERTHWAITE: Carl.

8 MEMBER WEIMER: Aye.

9 MR. SATTERTHWAITE: It's unanimous.

10 Motion carries.

11 CHAIR TAHAMTANI: Thank you very much.

12 Next proposed rule. Steve, is that you? All

13 right.

14 MR. MCGAUGHEY: Wally McGaughey with  
15 Training and Qualifications. Our next segment of  
16 this NPRM is the operator qualification  
17 requirements.

18 The background on the rule goes back  
19 to 1988, the Pipeline Safety Reauthorization Act  
20 required the Agency to move forward with  
21 qualifying individuals for performing operations  
22 and maintenance activities and to certify those

1 individuals in that process. Of course we went  
2 from '88 all the way through '94 up to '99 in the  
3 initial issuance of the OQ rule.

4 Since that time there have been  
5 remaining issues that were established back in  
6 2003 in a public meeting between industry and the  
7 Agency. Those issues still stand today and the  
8 attempts of this notice of proposed rulemaking  
9 are to address those.

10 The proposed rule is to amend the  
11 Federal Pipeline Safety Regulations relative to  
12 operator qualification by expanding the scope of  
13 the OQ requirements to cover new construction and  
14 certain previously excluded operations and  
15 maintenance tasks, require program effectiveness  
16 of operator OQ programs and extend the OQ  
17 requirements to Type A gas gathering, Class 2  
18 locations, Type B on shore gas gathering and  
19 regulated rural hazardous liquid gathering lines.

20 Comments received back PHMSA should  
21 revise the definition for a covered task was one  
22 comment. One comment was to keep the four part

1 test and add a supplemental list of covered tasks  
2 including new construction.

3 The definition for qualified should  
4 not include periodic testing for physical  
5 abilities such as color, vision or hearing. For  
6 the definition of significant changes the phrase  
7 "wholesale changes" to the program is open to  
8 differing interpretations.

9 Non-task-specific operating conditions  
10 should be removed from the proposal. Training  
11 should not be required if the individual already  
12 possesses the requisite knowledge, skill and  
13 ability for the covered task.

14 And extending OQ requirements to Type  
15 B gas gathering lines in Class 2 locations would  
16 create an undue burden on the operator and  
17 provide no real safety benefit. Additional  
18 comments were the requirement to establish a  
19 management of change program should be limited to  
20 operators having more than 50 employees who  
21 perform covered tasks.

22 And a question was asked does PHMSA

1 allow operators to use non-qualified personnel to  
2 perform covered tasks during emergencies where no  
3 one else is available to perform the covered  
4 task? And then limiting an operator's span of  
5 control will not increase safety or better ensure  
6 qualified personnel.

7 And the question asked does the  
8 requirement mean a qualified individual cannot  
9 provide span of control for a non-qualified  
10 individual performing multiple covered tasks or  
11 that a qualified individual cannot provide span  
12 of control for more than one non-qualified  
13 individual at a time. Say that five times real  
14 fast.

15 Additional comments, the program  
16 effectiveness review period should be every four  
17 years rather than the proposed one year. PHMSA  
18 should allow a program implementation time of  
19 five years.

20 Currently qualified workers should not  
21 be required to requalify solely as a result of  
22 the promulgation of the proposed rule. And the

1 operator should have the authority to determine  
2 which personnel type should be involved during  
3 team training. And that's in reference to the  
4 control room management portion of the proposed  
5 rule.

6 PHMSA's responses. We recommend to  
7 revise the proposed definition for a covered task  
8 to address those comments. We'll show that to  
9 you here in a minute.

10 The change for the requirements of the  
11 four part test is intended to ensure that all  
12 work performed on a pipeline facility that could  
13 affect the safety or integrity of the pipeline is  
14 performed by qualified personnel. Under the four  
15 part test operators have omitted from  
16 qualification requirements personnel who perform  
17 important covered task work.

18 The items listed under the definition  
19 of qualified are not all inclusive. The items  
20 listed are meant to serve as reminders to  
21 operators to take these items into account if  
22 they're applicable.

1 PHMSA recommends modifying the  
2 language and the definition of significant  
3 changes to remove the term wholesale changes.  
4 And as to the term non task specific covered task  
5 PHMSA recommends deleting that term from the  
6 proposed language.

7 As to extending OQ requirements to  
8 Type B gas gathering lines it would create an  
9 undue burden. OQ is intended to reduce human  
10 error and therefore all regulated gathering lines  
11 are included to provide a consistent level of  
12 safety across all regulated pipelines.

13 As to operator size limit, the  
14 management of change process is critical for all  
15 regulated operators to have regardless of size so  
16 that changes made in such things as operators  
17 processes, procedures and equipment are properly  
18 captured in the necessary portions of the  
19 program. As to emergencies, PHMSA recommends  
20 modifying the language to include on behalf of  
21 the operator to the emergency response task  
22 definition.

1           The purpose of this rule is to ensure  
2           that those persons performing covered tasks on  
3           the pipeline facility have been evaluated and  
4           determined to be qualified. Therefore training  
5           is a means to ensure that a person performing a  
6           covered task is qualified.

7           Also training is an existing OQ  
8           requirement. As to span of control limits no  
9           qualified person can effectively direct and  
10          observe more than one task performance by a non-  
11          qualified person at a time.

12          As to the program effectiveness review  
13          period it should be extended to a four year time  
14          frame as set forth in the Public Awareness  
15          Program requirements. The public program  
16          requirements are substantially different from the  
17          OQ requirements in that OQ requirements can  
18          achieve measurable outcomes in a much shorter  
19          period of time.

20          As to currently qualified workers  
21          should not be required to requalify, if the prior  
22          qualification includes and meets all the

1 applicable requirements in the control room  
2 management plan and associated activities the  
3 individual in question does not need to  
4 requalify.

5 As to the operators should have the  
6 authority to determine who should be involved  
7 during team training it remains the  
8 responsibility of the operator to define the  
9 training and the qualification requirements for  
10 personnel performing covered tasks on the  
11 pipeline facility.

12 So our recommendations are it is the  
13 modification to the covered task definition we  
14 spoke of earlier. A covered task means an  
15 activity identified by the operator that affects  
16 the safety or integrity of the pipelines  
17 facility.

18 Design and engineering activities or  
19 tasks performed off the pipeline facility are  
20 excluded. A covered task includes, but is not  
21 limited to the performance of any operations,  
22 maintenance, construction or emergency response



1 task.

2 Direct and observe means the process  
3 where a qualified individual observes the work  
4 activities of an individual not qualified  
5 performing a single covered task and is able to  
6 take immediate corrective action when necessary.

7 Emergency response tasks are those identified  
8 operations in maintenance covered tasks that  
9 could be reasonably expected to be performed on  
10 behalf of the operator during an emergency to  
11 return the pipeline facilities to a safe  
12 condition.

13 We recommend changing qualified as it  
14 applies in Subpart 5, meet the physical abilities  
15 required to perform the specific covered tasks  
16 with examples given color, vision, smell,  
17 strength, agility or hearing. Significant  
18 changes means changes to a program which include  
19 but are not limited to, and we deleted the  
20 following as it relates to operator qualification  
21 from the statement.

22 Rewrite of the program or sections of

1 the program or program changes resulting from an  
2 acquisition or merger. The second change is  
3 increases in evaluation intervals. Removal of  
4 covered tasks. And we deleted not including  
5 combining.

6 In 192.805(b)(3)(ii) and 195  
7 505(b)(3)(ii), observation of on-the-job  
8 performance is not used as the sole method of  
9 evaluation. However, when on-the-job performance  
10 is used as part of an individual's evaluation of  
11 a covered task the operator must define the  
12 measures used to determine successful completion  
13 of the on-the-job performance evaluation.

14 In 805(b)(7) and 505(b)(7) establish  
15 and maintain the management of change program  
16 that will communicate changes that affect covered  
17 tasks to individuals performing those covered  
18 tasks to include field employees, contractors and  
19 supervisors. 807 and 507(c) for the  
20 effectiveness measures an individual failed to  
21 recognize an abnormal operation condition,  
22 individual failed to take the appropriate action

1 following the recognition of an abnormal  
2 operating condition.

3 We eliminated the text that's shown  
4 there in red. In 809(a)(5) and 509(a)(5)  
5 evaluation criteria used to recognize and react  
6 to abnormal operating conditions should be  
7 captured in the records task specific and non  
8 task specific.

9 And also in the records the covered  
10 task list, the requalification intervals we  
11 changed reevaluation to requalification intervals  
12 for each covered task. And that would be the end  
13 of proposed recommendations.

14 CHAIR TAHAMTANI: Thank you very much.  
15 Comments from the committees on PHMSA's proposed  
16 changes to the proposed rules. We can go one at  
17 a time or as a whole if no one has any comments.  
18 Rich.

19 MEMBER WORSINGER: Rich Worsinger,  
20 City of Rocky Mount. Just a clarification on  
21 training, a concern I have. We agree that  
22 employees need to be trained.

1 I have a concern though that training  
2 might, may not be documented for employees that  
3 have 20 plus years in the industry. They had  
4 training that took place before OQ came into  
5 being.

6 These employees have been qualified  
7 under OQ and have been requalified under OQ. And  
8 I'm just concerned that where training is  
9 mentioned in here that could be interpreted that  
10 we either need to produce the training records  
11 for the employees that don't exist or they have  
12 to sit through a retraining class.

13 You know, having an employee that  
14 already knows how to perform a task and has shown  
15 through his operator qualification and  
16 requalification is able to do that should not be  
17 required to sit through training merely to  
18 document that he has the training. And if PHMSA  
19 could comment on that.

20 CHAIR TAHAMTANI: Wally.

21 MR. MCGAUGHEY: The training as an  
22 appropriate requirement has been in the OQ rule

1 since December '04, right, that modification did  
2 occur then. And I don't believe that the  
3 proposed rule is retroactive where it would reach  
4 back to those conditions at that time.

5 So the proposed rule as published and  
6 the final rule would have a start date that the  
7 training requirements would then take effect.

8 MEMBER WORSINGER: Let me ask it  
9 another way. Would you agree that an employee  
10 who was trained before operator qualification  
11 came into being and the operator does not have  
12 records of that training since that occurred  
13 before OQ came into being and has shown that he  
14 has sufficiently passed the operator  
15 qualification evaluation and reevaluations  
16 therefore should not be required to be trained or  
17 retrained merely to show documentation that he  
18 has that training?

19 MR. MCGAUGHEY: I would suggest that  
20 training is a means to a qualification and it is  
21 a part of a qualification process. I understand  
22 what you're telling me and this was an issue that

1 we dealt with back in '99 when the rule first  
2 came into effect.

3 The same conditions existed then and  
4 we had employees with our operators who had many,  
5 many years' experience in the same positions were  
6 held that why do I have to go through a  
7 qualification of someone who I know for years has  
8 been doing the job well for me.

9 And it's a matter of regulation for  
10 one and for two, for documentation to demonstrate  
11 that it's been done.

12 MEMBER WORSINGER: I'm not questioning  
13 the need for qualification. I agree. Fully  
14 support OQ. My question and concern is  
15 documentation of training if that occurred  
16 beforehand.

17 I'll give you an example. If,  
18 Massoud, maybe early in your life you took driver  
19 training and then got your driver's license in  
20 one state and then many years later you moved to  
21 a new state.

22 Now the new state you'll be expected

1 to take the driver's test to show that you know  
2 the laws in the state, et cetera. But you should  
3 not be required to go through driver training  
4 again.

5 And that's what my concern is here.  
6 I don't want our employees to be required or  
7 state regulators to interpret this to think that  
8 employees that have been doing these tasks for  
9 years and have sufficiently passed the  
10 qualifications, operator qualifications and  
11 requalifications should now be required to go  
12 through training.

13 CHAIR TAHAMTANI: Wally, can you put  
14 up the slide that specifically addresses this  
15 issue?

16 MR. MCGAUGHEY: I'm hitting the wrong  
17 button here. Are we referring to a comment that  
18 was made? In the next to the bottom bullet.  
19 Training should not be required if the individual  
20 already possesses the requisite knowledge, skill  
21 and ability for the covered task.

22 MEMBER WORSINGER: Yes, that's a

1 comment that I believe the American Public Gas  
2 Association made.

3 MR. MCGAUGHEY: Right.

4 CHAIR TAHAMTANI: But what is that  
5 comment based on and where do you get the sense  
6 that what they're proposing is not going to allow  
7 you to do what you are suggesting?

8 MEMBER WORSINGER: I'm sorry. I don't  
9 have the exact words that are in, somebody from  
10 the public has it. 809(a)(7).

11 MR. MCGAUGHEY: Right. So the  
12 proposed rule each operator must maintain records  
13 that demonstrate compliance. So the contention  
14 is the training record is the issue?

15 MEMBER WORSINGER: Yes, that's  
16 correct.

17 MR. MCGAUGHEY: Okay.

18 CHAIR TAHAMTANI: So, Rich, you're  
19 saying, I'm sorry. Go ahead, Wally.

20 MR. MCGAUGHEY: Well I mean work  
21 history has always been a part of the OQ rule as  
22 a means of evaluation. I guess I'm having a hard



1 time understanding why this is new.

2 These records should have already been  
3 being maintained if a person was trained at the  
4 time to get qualified or if work performance  
5 history review was used a means to demonstrate  
6 their qualification. Again, this is not a  
7 retroactive proposed rule.

8 So the training record requirements  
9 will go forward from the compliance date. So if  
10 a person needs to be trained to be qualified then  
11 you would have to capture that record. That's  
12 what we're saying.

13 MEMBER WORSINGER: And what if they  
14 don't need to be trained?

15 MR. MCGAUGHEY: Well at this point  
16 that's not an option. Training is now a  
17 requirement. It's not as appropriate. It is now  
18 required.

19 MEMBER WORSINGER: So again my concern  
20 is if this employee already was trained before OQ  
21 came into being before 1999 and there are no  
22 records of that but this employee has shown that

1 he has been qualified under OQ and has been  
2 requalified under different reevaluations --

3 MR. MCGAUGHEY: Sure.

4 MEMBER WORSINGER: -- are we in  
5 agreement and it sounds like we're just dancing  
6 around this, are we in agreement that it's  
7 acceptable with PHMSA that if that person was  
8 trained before OQ came into being and has shown  
9 that he passed the qualifications that it's  
10 acceptable that we don't have records of training  
11 for that individual? Otherwise --

12 MR. MCGAUGHEY: At this point in time  
13 I agree with you.

14 MR. MAYBERRY: But let me ask or try  
15 to clarify because I think we've talked about two  
16 issues. One is the retraining. The other is,  
17 and I think, Wally, you addressed it was the  
18 establishment of that qualification which may  
19 include something other than training for  
20 employees that were qualified prior to the  
21 original regulation.

22 MR. MCGAUGHEY: Correct.

1 MR. MAYBERRY: Right. So I think  
2 we're talking about a requirement that's already  
3 there. It's just that --

4 MR. MCGAUGHEY: Training as  
5 appropriate has been a requirement. Evaluation  
6 method opportunities, process for evaluations are  
7 written exam, oral exam, work performance history  
8 review, observation during on-the-job  
9 performance, on-the-job training simulations and  
10 other forms of it.

11 That's always been there. That's been  
12 there since the beginning of the rule. So the  
13 proposal is for record retention in the 809 and  
14 509 sections of the code is that when training is  
15 done, training required to support an  
16 individual's qualification or requalification  
17 that record has to be maintained.

18 Prior to that the record wasn't  
19 required. Now it is.

20 MEMBER WORSINGER: Thank you for  
21 clarifying. My concern is I just would not want  
22 one of the state regulators to interpret this now

1 that we need to, since we can't produce records  
2 of training for this individual from pre OQ that  
3 now it is required and we would therefore incur  
4 that time and the cost to have this employee who  
5 already is trained and qualified to sit through a  
6 training session.

7 And I just wanted to clarify that.

8 Thank you.

9 MR. MCGAUGHEY: I'll do my best in the  
10 training and qualifications office to train the  
11 inspectors to do what the code requires.

12 MEMBER WORSINGER: And if we have  
13 anybody who deviates we'll send them your way.

14 MR. MCGAUGHEY: There you go.

15 MEMBER WORSINGER: Thank you.

16 MR. MCGAUGHEY: You bet.

17 CHAIR TAHAMTANI: So for the record,  
18 Rich, you're not worried about the PHMSA  
19 inspectors. You're worried about the state  
20 inspectors. Since I'm the only state inspector  
21 here. All right.

22 MEMBER WORSINGER: I have no worries.

1 CHAIR TAHAMTANI: Craig.

2 MEMBER PIERSON: Craig Pierson,  
3 Liquids. Our chief comment is keeping, we would  
4 propose to keep the existing system, the existing  
5 four part test and tell us what you need to add  
6 covered tasks to that.

7 So bolt on what you need as opposed to  
8 making what are sweeping changes. And I'll try  
9 to speak to the other members of the Liquids  
10 Committee in case they're not familiar with some  
11 of the details.

12 So today a covered task is determined  
13 through a four part test. And it's a, and you've  
14 got to go one and two and three and four to get  
15 to a covered task. And right now we probably  
16 have an operator is going to have anywhere from  
17 100 to 200 covered tasks.

18 And the revision, if you go to Slide  
19 29. Yes, I think it's 29. I'm looking on 29 on  
20 the printed page.

21 MR. MCGAUGHEY: There we go.

22 MEMBER PIERSON: Yes, okay. So the

1 four part test drives us to 100 to 250ish OQ  
2 tasks and we have to determine and train all of  
3 the people who do those.

4 And I'll give an example. In my  
5 company we've got about 400 technicians, so that  
6 have covered tasks, personnel technicians and  
7 personnel that have covered tasks and you have to  
8 know which ones do what and you've got to train  
9 them.

10 You retrain them every three years.  
11 And then there's a lot of other people that do  
12 covered tasks and we have to keep track of them  
13 as well. So in my company again, we've got 400  
14 in Marathon Pipe Line.

15 We have another 800 in other portions  
16 of the company that we have to keep track of. We  
17 keep track of 1,254. Only there's 400 because  
18 that's the sweeping effect of when you determine  
19 these things that's how many people you're trying  
20 to keep track of and train.

21 And you have to retrain them every  
22 three years. You've got to have someone

1 requalify them. And this is where geography is  
2 our enemy. You've got to have someone standing  
3 beside someone to watch his requalification.

4 You can't do it over the phone. I  
5 mean it's got to be rigorous. And we support it  
6 being rigorous. But it's one size fits all in  
7 doing this every three years.

8 Now we also have a lot of other tasks  
9 that we train people to but you can retrain those  
10 on exception. You can see when someone is not  
11 performing and you can do those by exception.

12 So when you, the concern is the  
13 language and I'm still not at covered tasks.  
14 Okay. What I'm looking at has the word any in  
15 it. Covered tasks is not limited to the  
16 performance, yes.

17 Okay, so the bottom sentence of the  
18 first paragraph covered tasks include but it not  
19 limited to the performance of any operations,  
20 maintenance, construction or emergency response  
21 task. So we had a four part test that was fairly  
22 discriminating that gets us to 100 to 200.

1           We think when you use any, any is a  
2 synonym for all. And it hugely broadens the  
3 number, the possibility of the number of covered  
4 tasks. And so okay, do we use OQ? The answer  
5 is, yes.

6           When there's a human failure of  
7 performing a qualified task we stop them. We  
8 disqualify them and we requalify them. Our  
9 incidents drive us to do that from time to time.

10           But that's not the sole way of  
11 preventing incidents. And I'll use an example  
12 here. Snow plowing is not today a covered task.  
13 But snow plowing can be a covered task.

14           It can cause an incident when you're  
15 plowing snow in a station you can hit something  
16 that can cause a release. And so do we need to  
17 make snow plowing a covered task? It would fit.

18           And the answer is, no, you don't.  
19 There's all kinds of other ways to stop that.  
20 You can have a spotter. You can put up barriers.  
21 And it's less, much more effective, requires far  
22 less resources to solve that particular problem.



1           So it's the any that is troublesome to  
2 us. And we say keep the four part test but tell  
3 us what you need. Tell us what your incident  
4 records are showing that we've got to beef up and  
5 add OQ tasks.

6           And for instance, like on the, on new  
7 construction if you keep it around doing work on  
8 the right of way laying new pipe as opposed to  
9 new construction can be a whole variety of  
10 things. But keep it on the right of way and work  
11 with us and say okay, this is what we need on the  
12 right of way.

13           Look at the other suite of  
14 regulations. You've got welding regulations.  
15 But tell us what you need on new construction.  
16 And we would also offer on emergency response a  
17 bit of caution today and Lanny can speak to this  
18 as well.

19           Today on emergency response PHMSA  
20 requires a number of drill training. It requires  
21 training for ICS. A lot of emergency response  
22 training and we drill. And OSHA requires

1 HAZWOPER training.

2 You've got to have people out there  
3 that can safely respond to a spill and be skilled  
4 at it. So there are, there's a number of  
5 training requirements that exist.

6 And we just offer caution at adding  
7 more because you might be in a situation of  
8 slowing down a response by having lesser  
9 resources. So those are our comments.

10 Four part test keep it. Tell us what  
11 you need and let's figure out how to bolt on what  
12 your incident history is saying that there's a  
13 gap.

14 CHAIR TAHAMTANI: Wally.

15 MR. MCGAUGHEY: Yes. In response, the  
16 covered tasks definition has been needing to be  
17 revised for quite some time. There has  
18 constantly been over the years differences of  
19 positions on what is and what isn't a covered  
20 task.

21 And I think everyone in the room is  
22 familiar with the changes that have occurred

1 across the years as to covered tasks that have  
2 since been included since the initial phase of  
3 inspections took place. This is a means to  
4 clarify that, it quite honestly is.

5 The limitations of operations,  
6 maintenance covered tasks only the four part test  
7 has always taken us down the road of, and being  
8 required to be identified in the regulation to be  
9 a covered task as part of this part has always  
10 left us with that difficulty.

11 I give an example of and I have talked  
12 with several folks here this week setting a meter  
13 is generally not considered a covered task as I  
14 understand it today because we don't address  
15 meters in the regulation. But it most certainly  
16 is something that should be a covered task  
17 because it does affect the safety and integrity  
18 the pipeline and the general public.

19 So the effort at changing the covered  
20 task definition is to do that, is to clarify that  
21 to make those things that impact the safety and  
22 integrity of the pipeline work that has to be

1 done. That being said, it is also left up to the  
2 operator to determine that task list.

3 So I quite agree with you in the sense  
4 that you have other tasks that you have now that  
5 you may consider as being covered tasks. That's  
6 a distinct possibility.

7 In relationship to the construction  
8 covered tasks when the events, when the notices  
9 came out for the permitted pipelines for the  
10 alternative MAOP pipelines that are out there  
11 PHMSA did publish a task list. We sent out a  
12 list of 33 items, I believe, if I'm not mistaken  
13 that identified particular tasks that we felt  
14 should be included in a covered task list for new  
15 construction.

16 So that's been done. That information  
17 is out there on the website. As far as the word  
18 any is concerned, a covered task includes but is  
19 not limited to the performance of operations,  
20 maintenance, construction or emergency response  
21 tasks, I don't have a problem with removing the  
22 word any.

1           If that's a stumbling block in the  
2 efforts of this regulation I don't see where any  
3 is an issue.

4           CHAIR TAHAMTANI: Any comment with  
5 that suggestion removing the word any?

6           MEMBER PIERSON: I revert to is there  
7 a way that we can bolt on what you need to what  
8 exists. These changes are probably more sweeping  
9 and add a lot more uncertainty than providing the  
10 certainty of, but let's get in what your incident  
11 data tells you we've got to sure up.

12          MR. MCGAUGHEY: That's where we are  
13 today. The revised covered task definition is  
14 because of that data and because of the  
15 experiences across the last 13 years of OQ.

16          These are identified issues that were  
17 done back in 2003 in the public meeting in San  
18 Antonio. Those 13 outstanding issues and many of  
19 these items that you see here are addressed  
20 basically on that.

21          So this is not new. PHMSA's position  
22 on these changes have been for some time.

1           MR. MAYBERRY: Yes, currently it's, I  
2 think we agree it's limited right now to  
3 operations and maintenance. If you look at the  
4 current, you know, four part test it does say,  
5 you know, it's performed, let's see affects the  
6 operation or integrity of a pipeline which is  
7 covered there.

8           I mean, okay, either way we're going  
9 to cover the parts of the regulation. We're  
10 going to expand the coverage to the regulation to  
11 be more thorough, to pick up emergency response,  
12 to pick up issues like what Wally described.

13           So how do we get there? We get there  
14 with the language that's here now. We can drop  
15 that any word. But at the end we're still going  
16 to end up with covering the, more thoroughly  
17 covering the regulation.

18           CHAIR TAHAMTANI: Let's hear from some  
19 others. Sue.

20           MEMBER FLECK: Sue Fleck, National  
21 Grid. I had a couple of comments. One is a very  
22 simple one. When you talk about management of

1 change you use the word program.

2 When you talk about management of  
3 change in the document you use the word program.  
4 On the slide here you use the word process. I  
5 think process is a better word. Program has a  
6 kind of a meaning of it's got a beginning and an  
7 end and it's over.

8 A process is embedded forever. So I  
9 think if you could change that, that would be  
10 great. Your slide is correct. Your slide says  
11 process. But I think the regulation says  
12 program.

13 Second thing is on direct and observed  
14 the slide that we just had up just a moment ago  
15 we talked about observing a single task. Are you  
16 talking about observing a single person or are  
17 you, maybe performing multiple tasks? I mean is  
18 this the span of control conversation? I'm not  
19 sure I understand. The second paragraph.

20 MR. MCGAUGHEY: Direct and observe  
21 means the process where a qualified individual  
22 observes the work activities of an individual not

1 qualified while performing a single covered task  
2 and is able to make, to take immediate corrective  
3 action when necessary.

4 Yes, PHMSA's position is that a non-  
5 qualified person being directed and observed by a  
6 qualified person cannot be effectively done by  
7 more than that.

8 MEMBER FLECK: But they could be doing  
9 more than one task?

10 MR. MCGAUGHEY: A qualified individual  
11 directing and observing a person performing  
12 multiple covered tasks.

13 MEMBER FLECK: Yes, you know, over a  
14 period of time or is it just one, I mean what are  
15 --

16 MR. MCGAUGHEY: At a time.

17 MEMBER FLECK: One at a time?

18 MR. MCGAUGHEY: One at a time.

19 MEMBER FLECK: Single. So it's one on  
20 one span of control at all times?

21 MR. MCGAUGHEY: Essentially, yes.

22 MEMBER FLECK: That's what you're



1 proposing?

2 MR. MCGAUGHEY: Yes.

3 CHAIR TAHAMTANI: Well that makes  
4 sense, doesn't it. I mean if you've got  
5 unqualified people doing these tasks you would  
6 want to supervise one task at a time.

7 MEMBER FLECK: But you could have an  
8 unqualified crew. You could have two persons  
9 doing backfilling and compaction or whatever  
10 doing and a qualified person is watching the  
11 crew.

12 You could have a three person crew or  
13 a two person crew. I think if what you're trying  
14 to say is a single work event I agree. You can't  
15 watch two crews in two different locations.

16 But if you have two people in a trench  
17 working together and you have one person  
18 observing them I don't see why that would be a  
19 problem necessarily. And I know it's a nuance.

20 MR. MCGAUGHEY: Okay. So there are  
21 probably potentially instances where what you're  
22 saying is possible.

1 MEMBER FLECK: Right.

2 MR. MCGAUGHEY: Okay. And I'm not  
3 going to dispute that. I won't go down that  
4 road. But I will tell you there are multiple  
5 instances where this won't work.

6 MEMBER FLECK: Agree.

7 MR. MCGAUGHEY: Okay. So how do I  
8 make that exception in direct and observe? Do I  
9 say sometimes you can and sometimes you can't?

10 MEMBER FLECK: Yes, I don't know.  
11 Good question.

12 MR. MCGAUGHEY: So that's my dilemma.  
13 That's the problem with it. So, you know, if I'm  
14 got someone coating a 36 inch pipe and I've got  
15 two people in the ditch putting the coating on,  
16 one person standing on the bank watching them you  
17 can't see the guy on the other side of the pipe.

18 You don't know if he's doing it right  
19 or not. You've got two people doing backfill and  
20 I take it, a good friend of mine uses the analogy  
21 of fishing and you've got two fishing poles on  
22 the riverbank and two corks in the water. Which

1 one goes under first? The one you're not looking  
2 at every time.

3 So that's the reasoning behind it. I  
4 know it sounds silly. But that's really the  
5 reasoning behind it to effectively do a non-  
6 qualified person performing a covered task that  
7 affects the safety and integrity of the pipeline  
8 needs to be done by one individual with one  
9 individual performing one task.

10 Outside of that it increases the risk  
11 and the responsible person is the qualified  
12 person. They bear full responsibility for all  
13 the work that's taking place.

14 MEMBER FLECK: That is correct.

15 MR. MCGAUGHEY: Taking all actions on  
16 the operating conditions. So I don't see how  
17 that can occur multiple cases at a time.

18 MEMBER FLECK: And I forgot to say Sue  
19 Fleck, National Grid, sorry. Thank you for that  
20 clarification.

21 MR. MCGAUGHEY: You bet. Thank you  
22 for the question.

1           MEMBER FLECK: And the next thing is  
2 we didn't really or maybe we did, did we talk  
3 about effectiveness measures in the comments and  
4 the proposals because I don't remember hearing?

5           MR. MCGAUGHEY: There was a comment  
6 about the effectiveness requirements and the  
7 program limitation to operators with less than 50  
8 persons qualified. Other than that there were no  
9 comments.

10          MEMBER FLECK: Because my question is,  
11 is it necessary to put all the effectiveness  
12 measures in the rule or allow operators to decide  
13 how to measure the effectiveness of their  
14 programs? We're just worried, I'm just worried  
15 that by listing the specific effectiveness  
16 measures, I think there were 13 of them in the  
17 document --

18          MR. MCGAUGHEY: Correct.

19          MEMBER FLECK: -- you limit yourself  
20 to those 13 where if you allow organizations and  
21 companies to make determinations about what's  
22 been effective maybe they would look at more or

1 less or different.

2 MR. MCGAUGHEY: Well the language of  
3 the rule actually states in 507 and 807 (c), I'm  
4 sorry, yes c, the operator must develop program  
5 measures to determine the effectiveness of the  
6 qualification program. The operator must, at a  
7 minimum, include and use the following measures  
8 to evaluate their program.

9 MEMBER FLECK: So we have to use those  
10 13. There's no alternative.

11 MR. MCGAUGHEY: At minimum, right.  
12 But an operator, it's fully available to them to  
13 expand that program out to whatever limits they  
14 feel are necessary to accomplish a good  
15 effectiveness measure of their program. So they  
16 can include whatever else they would like.

17 CHAIR TAHAMTANI: And something we  
18 can't forget is that 192 and 195 are the minimum.  
19 It's the floor. You can build upon that. But I  
20 believe PHMSA has decided that these are the  
21 minimum things you should be doing.

22 MEMBER FLECK: Yes, that does seem --

1 CHAIR TAHAMTANI: It doesn't limit you  
2 from doing all the other good things that SMS is  
3 going to tell you to do.

4 MR. MCGAUGHEY: Absolutely.

5 MEMBER FLECK: It just does seem  
6 rather prescriptive to list out the 13 items that  
7 you want us to look at and not allow us any  
8 flexibility.

9 CHAIR TAHAMTANI: Well I suggest to  
10 you that a lot of 192 and 195 is not prescriptive  
11 enough. It's gray and that's caused a lot of  
12 problems.

13 MEMBER FLECK: Thanks for the  
14 opportunity to comment.

15 CHAIR TAHAMTANI: Thank you.

16 MR. MCGAUGHEY: Thank you.

17 MEMBER DRAKE: Andy Drake with Spectra  
18 Energy. I think the point that Craig is  
19 mentioning I think is a very serious issue, we  
20 need to kind of pause and think about it.

21 And that is what is it we're trying to  
22 accomplish here? You know, I think your point

1 was earlier made or in the comments here that  
2 there were operators not adequately pulling in  
3 enough tasks with the four part test.

4 And I think the solution was to come  
5 up with some language that's very vague. I think  
6 that's fraught with the likelihood we will not  
7 solve the problem at hand. When you throw up  
8 language that says do, you know, do anything  
9 that's kind of related to operations that is  
10 incredibly subjective criteria.

11 And I think you will get a wide range  
12 of solutions which were probably not helpful to  
13 solving the problem at hand which is get  
14 consistency of how people apply this. And I hear  
15 your concerns about the four part test.

16 But I think the four part test brought  
17 some good value too. It brought a lot of  
18 clarity. And I think it may not have covered  
19 enough bandwidth.

20 And I think Craig brings a good  
21 thought here and that is, can we -- is there no  
22 way to sort of have our cake and eat it too? And

1 that is to use the four part test and augment it  
2 with additional criteria or additional dimensions  
3 of a five part test or something else, you know,  
4 and get that clarity and add those dimensions  
5 that you're looking for.

6 I think going this way is actually  
7 going to create more variations in compliance and  
8 more gaps in space across an industry than even  
9 the current solution has, which is really going  
10 to find us back at this table again very  
11 frustrated with one another.

12 And I think I'd rather measure twice  
13 and cut once here than keep doing this over and  
14 over again and ending up missing the target.

15 CHAIR TAHAMTANI: So you're suggesting  
16 that PHMSA consider revising the four part test  
17 to bring in the issues that are currently not  
18 being designated as covered tasks by the  
19 industry.

20 MEMBER DRAKE: Yes. I think there is  
21 some -- I'm thinking more of a both and kind of  
22 proposition. Use the four part test and then



1 define specific additional tasks that we want to  
2 add to that criteria.

3 Those things certainly are looking in  
4 the world of emergency response, QA/QC for  
5 construction activities, and integrity management  
6 functions. We know that's the target area.

7 I can't believe we cannot take the  
8 clarity that we currently have and augment that  
9 with some specific requirements that we want  
10 added to those lists and we'll end up with a  
11 better solution than creating a vague criteria  
12 that everybody will interpret differently.

13 CHAIR TAHAMTANI: Let's hear from Ron.

14 MEMBER MCCLAIN: Ron McClain, Liquids  
15 Group. You know, I think we believe the four  
16 part test has served pretty well. There are some  
17 things I believe PHMSA has seen that they would  
18 like to add.

19 This rule as proposed is too  
20 ambiguous. And as an example, you know, 195.403  
21 specifically addresses emergency response  
22 training with time limits for reviews and

1 evaluation. And it would seem that this rule  
2 would duplicate and even have conflicting  
3 instructions for when you evaluate, how you  
4 evaluate people.

5 And so rather than throw out the good  
6 that has served us, I think, pretty well for a  
7 number of years, if we could hear maybe from  
8 PHMSA what explicitly would you like to see added  
9 as a OQ task rather than inject the ambiguity  
10 that this proposal does, and also considering the  
11 conflicts it creates in other parts of the code,  
12 like 195.403.

13 MR. MAYBERRY: Well, I think I  
14 addressed that a little generally earlier. But,  
15 you know, certainly the current four part test  
16 only covers O&M. I mean, it specifically  
17 mentions O&M, but it excludes emergency response.  
18 It excludes, obviously, construction. It  
19 excludes corrosion control. It excludes pressure  
20 testing, a variety of other parts of that. So, I  
21 mean, that's the idea. It does need to be more  
22 comprehensive to pick those up.

1           So, you know, hence the language is  
2           kind of open, in a way, but it's activities that  
3           affect the safety or integrity of the pipeline.  
4           And those words are used currently in the four  
5           part test for one of the four parts, at least  
6           relating to integrity.

7           I mean, again, it just gets back to  
8           we're expanding it to cover tasks that were not  
9           -- or activities that were not included that  
10          affect the safety of a pipeline.

11          CHAIR TAHAMTANI: So the way we've  
12          been reading the four part test, it's limited to  
13          operations and maintenance. I can't imagine you  
14          all not wanting qualified people to construct  
15          your pipelines. I can't imagine you don't want  
16          qualified people to track your corrosion and all  
17          of the other things that make sure that the  
18          pipeline is safe and has integrity.

19          Is it possible to task a couple of  
20          people maybe over lunch to look at the four part  
21          test to see if that can be fixed to bring in all  
22          these things versus the general language that

1 gives you all some heartburn? And can that be  
2 done under the proposed rulemaking? I mean, you  
3 proposed some language. Can you change it  
4 drastically? Where's Jim Pates?

5 MR. MAYBERRY: I mean, the goal is to  
6 expand the scope.

7 MR. PATES: Is this on? Yes. I'm Jim  
8 Pates by the way, assistant chief counsel for  
9 pipelines at PHMSA.

10 And, yes, I mean, I think that any  
11 kind of recommendation that either or both  
12 committees come up with we can certainly work  
13 with and make adjustments in the final rule as  
14 long as it's within the scope of the rulemaking.  
15 So there is flexibility.

16 CHAIR TAHAMTANI: If I may have a  
17 second. (Pause.)

18 CHAIR TAHAMTANI: It appears that we  
19 have some concerns from both Liquids and Gas with  
20 respect to the language that's proposed here.  
21 Can you put the language back up, please?

22 MR. GALE: Massoud, real quick. We've

1 developed two separate slides for the committees  
2 to look at. One is based on the recommendation  
3 to keep the definition of covered tasks and one  
4 is based on the conversation we've heard that  
5 would remove the definition of covered task and  
6 expand the four part test. Simply to facilitate  
7 the conversation.

8 CHAIR TAHAMTANI: So you've already  
9 expanded the four part test?

10 MR. GALE: We have two slides. One  
11 which would revise the definition of covered  
12 tasks, taking out the word "any" as has been  
13 recommended by PHMSA staff.

14 We've also developed a separate slide  
15 that would -- based on some of the other comments  
16 we've heard, where we would delete the definition  
17 of covered tasks and revise the definition of the  
18 four part test to include new construction. Just  
19 maybe as a starting point to facilitate the  
20 conversation.

21 CHAIR TAHAMTANI: Reaction? Rich.

22 MEMBER WORSINGER: I was going to

1       revisit span of control. So I'll hold that for  
2       now if you'd like.

3                   CHAIR TAHAMTANI: Please do. Craig.

4                   MEMBER PIERSON: I think that the  
5       notion that we might over lunch try to think  
6       through this -- and it's a good start, I think,  
7       that is up on that screen.

8                   Could you help us understand your  
9       vision? You've had, obviously, years to think  
10      through it. So on emergency response can you  
11      give us a flavor for what the reg doesn't cover  
12      that we need to cover in OQ? Are we adding two  
13      emergency response skills or 200 or 20? You  
14      probably have some notion of what you want. If  
15      you could give us that, that would be helpful.

16                   And then on new construction it sounds  
17      like you do have a notion of what you want.  
18      That's on the website. Can you tell us about how  
19      many of OQ skills you're seeing in the expanded  
20      view? Are we adding a third? Are we doubling  
21      it? Are we tripling it? Give us a feel and that  
22      will help us in our caucus in the break.

1           MR. MCGAUGHEY: So the definition is  
2           stated on the screen up there, the next to the  
3           last paragraph. Emergency response tasks are  
4           those identified operations and maintenance  
5           covered tasks, naturally, that could be  
6           reasonably be expected to be performed on behalf  
7           of the operator during an emergency to return  
8           pipeline facilities to a safe condition.

9           I don't know that it would add  
10          anything to it at all. I think there's been a  
11          question over the years -- again, the original  
12          rule language left some gray areas here for us.  
13          and operators have continually asked about  
14          emergency personnel who respond to an emergency  
15          on their pipeline. Can the firefighter open and  
16          close a valve? You know, those types of things.

17          And this is simply clarification of  
18          that point, is all it is. It's saying that that  
19          work being done on behalf of the operator, those  
20          folks that you have identified who will assist  
21          you in the event an emergency occurs, that are  
22          performing an operations or maintenance task, are

1 going to be qualified to your program.

2 MR. MAYBERRY: What are some examples,  
3 Craig, that might be of -- where you would view  
4 crossing over the line, you know, beyond say  
5 installing a leak clamp?

6 MEMBER PIERSON: No, we'll skip to  
7 emergency response.

8 MR. MCGAUGHEY: It's right there.

9 MEMBER PIERSON: Yeah, I got that. So  
10 product is out. What is it, what's the gap?  
11 What is it that we're not training to that -- you  
12 require training emergency response already.  
13 What is it that's the gap that OQ would fill?

14 I see the words but I don't understand  
15 what you want. Is it --

16 MR. MCGAUGHEY: Like I said, for years  
17 it has been a question between PHMSA and the  
18 operators as to who has to be qualified and how  
19 you maintain those qualifications. Again, I go  
20 back to San Antonio, 2003, a discussion taking  
21 place about volunteer firemen opening or closing  
22 valves on a gas line and whether or not they had



1 to be qualified.

2 And the answer is, of course, yes. If  
3 they're doing it on the behalf of the operator,  
4 they have to be qualified. If you assign them  
5 that work, if you give them that responsibility  
6 to do that work, then they need to be qualified  
7 to your program.

8 That's really all this language is  
9 trying to explain. It's not trying to expand  
10 your scope or anything else. It's simply saying,  
11 if you have people that you've identified who are  
12 going to participate in an emergency for you, who  
13 are performing operations and maintenance tasks  
14 on your pipeline facilities, they need to be  
15 qualified.

16 Now, they step out there and do work  
17 on their own, you have no control over that,  
18 right? A firefighter shows up at a burning home,  
19 what's the first thing they do? Pull the meter,  
20 shut the gas off. They don't ask you. They just  
21 do it.

22 MEMBER PIERSON: So, Craig Pierson,

1 Liquids. That example is helpful. I was  
2 misreading this. It looked to me it was "or  
3 emergency response." So if emergency responders  
4 are performing operations and maintenance tasks,  
5 no issue. If we are adding emergency response  
6 activities different than operation and  
7 maintenance activities, much different issue.

8 And I totally misunderstood where the  
9 intent was. We thought you were adding emergency  
10 response activities, deploying boom, all the  
11 things that you do to respond to an oil spill.  
12 Totally misunderstood.

13 MR. MCGAUGHEY: Okay, good.

14 MEMBER PIERSON: So that's helpful.  
15 Then, new construction, so, therefore you could  
16 delete "emergency response," because anyone  
17 performing operations and maintenance, you could  
18 delete it. It doesn't matter if it's a  
19 contractor. It doesn't matter if it's a county  
20 person. If you're doing operations and  
21 maintenance, it's there, right?

22 MR. MAYBERRY: The person responding

1 has to be qualified. I think there was a concern  
2 that those people were omitted from the original  
3 regulation. But they're performing, still  
4 they're performing the task on the pipeline, it's  
5 just under an emergency condition that deploys an  
6 O&M task.

7 MEMBER PIERSON: No issue there.

8 CHAIR TAHAMTANI: So, where are we on  
9 this? If it's an O&M and it's being performed  
10 during an emergency and they're qualified by the  
11 four part test now, the question I'm hearing is,  
12 do we even need this? Wally, did you hear my  
13 question?

14 MR. MCGAUGHEY: Yes. I think the  
15 clarity needs to be there, yes, the  
16 clarification, because the question has continued  
17 across the years.

18 CHAIR TAHAMTANI: Have there been  
19 incidents where unqualified people, due to the  
20 nature of emergency, appear onsite and do O&M  
21 activities when they haven't been qualified to  
22 do?

1 MR. MCGAUGHEY: Yes.

2 CHAIR TAHAMTANI: How do you address  
3 that? This sort of buttons it down, that it says  
4 if you've got people that may respond to O&M,  
5 because you may have multiple emergencies or  
6 distance, they need to be qualified.

7 MEMBER PIERSON: Craig Pierson,  
8 Liquids. I'm hopefully not overreaching here. I  
9 think if they're performing an operations and  
10 maintenance task, we've got no disagreement, they  
11 need to be trained.

12 CHAIR TAHAMTANI: Then why does this  
13 language hurt what you do now? It makes it clear  
14 for some others who apparently don't do this.

15 MEMBER PIERSON: Well, it would  
16 probably need to be some thought as to the  
17 wording. We totally misunderstood it. So, some  
18 thought to the wording. I'm probably not smart  
19 enough to exactly say what that is here and now.  
20 But if it's operations and maintenance tasks  
21 regardless of who performs them, is what we're  
22 saying. And I just can't imagine that we would

1 dispute that.

2 CHAIR TAHAMTANI: I think, again ,from  
3 what I remember or I have seen, is that in times  
4 of emergency, due to a number of reasons, you may  
5 have people onsite that do operations and  
6 maintenance work to deal with the emergency that  
7 were not qualified because it was never  
8 envisioned they would do that task.

9 This brings it home and says, if you  
10 believe that Craig is going to be on that site  
11 and may have to turn a valve, he needs to be  
12 qualified. Isn't that where we are? Well, I'm  
13 on my own.

14 I don't think this is going to hurt  
15 what you do. I think it expands for those who  
16 may have in the past done covered tasks with  
17 unqualified people.

18 MR. GALE: Massoud, maybe it might be  
19 a good time to hear from members of the public at  
20 this time?

21 CHAIR TAHAMTANI: As soon as we get to  
22 a place where I think the Committee is and what

1 issue they're talking about, I'll be happy to go  
2 to the public.

3 MR. MCGAUGHEY: Again, if I may --  
4 Wally again -- this applies to all the operators  
5 that are out there in all the circumstances that  
6 they deal with. Not just on the liquid side, but  
7 the gas side as well.

8 As well, this is not looking to reach  
9 out to call center personnel, absorbent  
10 dispersion contractors, boom operators, that sort  
11 of thing, not at all. So I think it would, the  
12 easier solution here, rather than omitting this  
13 from the regulation, I think the easier solution  
14 here is we simply address it in the preamble so  
15 that we can further clarify what that means, that  
16 emergency response. Would that be reasonable?

17 CHAIR TAHAMTANI: Let me make sure  
18 that I'm not confused. The words operations and  
19 maintenance defines this, limits this.

20 MR. MCGAUGHEY: Correct.

21 CHAIR TAHAMTANI: I'm not seeing why  
22 this is so confusing.

1 MR. MCGAUGHEY: I don't either.

2 CHAIR TAHAMTANI: It doesn't say about  
3 anything related to anything you do about an  
4 emergency. It says operations and maintenance  
5 that you may do during emergency response, those  
6 people have to be qualified.

7 MR. MCGAUGHEY: Correct. And the goal  
8 of this was to allow the operator the opportunity  
9 to take the time to review their emergency  
10 response programs, because in many, many cases  
11 their emergency response programs are programs  
12 separate and apart from their OQ programs,  
13 correct?

14 We do them differently. We do our  
15 drills differently. We document them  
16 differently. And it gives the emphasis that,  
17 "oh, by the way, while you're planning your  
18 emergency response, make sure you identify who  
19 those personnel are who are going to be there  
20 with you during this time, doing the jobs you  
21 need them to do in this emergency response, and  
22 make sure they're qualified."

1           Case in point, I have a line break on  
2 a distribution main and personnel are dispatched  
3 out to do the work. Contractors sent out to shut  
4 a valve. He turns the valve a quarter turn for a  
5 16 turn closure valve. Gas continues to blow.

6           MEMBER PIERSON: So, Mr. Chairman, the  
7 wording clearly led us to a misunderstanding.  
8 And because previously it said operations and  
9 maintenance, that was in the four part test. Now  
10 it says operation and maintenance, construction,  
11 and emergency response.

12           There were two things being added to  
13 the scope, and clearly construction you do want  
14 to add to the scope. We understand that. So  
15 with emergency response added in that list, it  
16 took us to the point of, it's boom, it's  
17 dispersant, it's all those things.

18           That's why we went where we did. So  
19 I would suggest that the wording, it doesn't get  
20 cured by preamble. It gets cured in a different  
21 way, and maybe we're near a break where we could  
22 come back with some constructive, more artfully



1 worded suggestions.

2 CHAIR TAHAMTANI: I understand your  
3 point. If you read covered tasks definition and  
4 emergency response task definition together,  
5 there is clearly some confusion there.

6 Clearly we're not going to go to a  
7 vote on this before lunch. I would appreciate it  
8 if you all can caucus together and come up with  
9 something that could work, knowing that the  
10 current four part test is flawed.

11 And I can tell you, and I can give you  
12 examples from my state, that the OQ was a  
13 negotiated rulemaking and it was flawed to begin  
14 with. It has worked in some cases and hasn't in  
15 others.

16 We are revamping OQ in the State of  
17 Virginia, from training to qualification, to make  
18 sure that it makes sense, that people that are  
19 doing the work are properly qualified. At the  
20 same time, I understand the concerns.

21 So, caucus together. Come up with  
22 something that makes sense and give PHMSA and the

1 states and safety in this regard the opportunity  
2 to be advanced.

3 With that said, and if it's okay with  
4 you, Alan, I think this is the right time to  
5 maybe take a break for lunch to get ahead of all  
6 the lines around here. It is 11:40. How much  
7 time do they need? 11:40, be back by 12:30.  
8 That's not exactly an hour.

9 MR. GALE: Massoud, could you possibly  
10 mention the fire drill that's going to occur at  
11 12 o'clock, please?

12 CHAIR TAHAMTANI: There will be a fire  
13 drill happening at 12 o'clock, right? But it's  
14 just a test of the sound system, right? No  
15 evacuation, none of that.

16 So, back at 12:30. Thank you.

17 (Whereupon, the above-entitled matter  
18 went off the record at 11:40 a.m. and resumed at  
19 12:38 p.m.)  
20

1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 (12:38 p.m.)

3 CHAIR TAHAMTANI: Okay, if I can have  
4 your attention, please. I tasked you all to come  
5 up with some revised language with respect to the  
6 four-part test. I know the Liquid Committee was  
7 working on some language. Do we have that to  
8 display it on the screen? Then I believe the Gas  
9 Committee had some language.

10 Which one of the language do you think  
11 is better, since you haven't seen either one?

12 (Laughter.)

13 CHAIR TAHAMTANI: I'm on the Liquid  
14 Committee, so I think I like the Liquid  
15 Committee's language, even though I haven't seen  
16 it yet.

17 How long will it take? Do I have  
18 enough time to ask for public comments? Public  
19 comments on everything you've heard about OQ so  
20 far?

21 MR. YANT: Scott Yant, representing  
22 industry. Just wanted to circle back real quick

1 on the span of control. We talked a lot about  
2 the other stuff, but on the span of control  
3 limits, as I understand it, if I have three  
4 people -- let's say there's two people in a ditch  
5 and both of them are doing coating maintenance.

6 And I have the qualified person on top  
7 of the ditch. I'm okay within that span of  
8 control, but as soon as one of those persons in  
9 the ditch stops doing coating and picks up a  
10 torque wrench to tighten a bolt, now I have a  
11 qualified person up top, qualified in both tasks,  
12 two people in a ditch working in a scenario. And  
13 I think what I'm hearing is I'm now out of  
14 compliance. And I just want to make sure I  
15 understand.

16 MR. MCGAUGHEY: Am I performing two  
17 tasks at the same time?

18 MR. YANT: Yes, two people, each  
19 performing one task in a hole, the qualified  
20 person on top.

21 MR. MCGAUGHEY: Two people, each one  
22 performing a different task in a ditch?

1 MR. YANT: Correct.

2 MR. MCGAUGHEY: One qualified person  
3 on top watching the two?

4 MR. YANT: Correct.

5 MR. MCGAUGHEY: Yes.

6 MR. YANT: And I think that's going to  
7 have a big impact on productivity, both for the  
8 operators, but as well as our contractors. I do  
9 think that's going to limit the ability of the  
10 industry to utilize on-the-job training, and I  
11 think it's going to affect the productivity  
12 across the board. That's my comment.

13 CHAIR TAHAMTANI: Thank you. We'll go  
14 back to that one. Any other comments?

15 MS. SAMES: Christina Sames, American  
16 Gas Association. I found this part of the  
17 discussion a little challenging. I know that,  
18 looking around the room, I think many of us were  
19 challenged.

20 Part of it was the speed of going  
21 through. Not really the comments, because we all  
22 have the ability to look at the docket to see the

1 comments that individuals have sent in and  
2 determine who has what positions. But sitting  
3 around the table looking at proposed changes very  
4 quickly and trying to process what exactly that  
5 means, and then also trying to determine, "Okay,  
6 I know my comments said this, does that cover  
7 everything?" It's very challenging.

8           So I think what we've seen is -- maybe  
9 I would suggest that as we move the process  
10 forward, going back to what was done previously,  
11 where the Committee members had the ability to  
12 view proposed changes at least a week in advance,  
13 so that they could think about it, they could  
14 consult with others, because they are  
15 representing different segments of the industry,  
16 of the public, and of the government, that would  
17 be a suggestion.

18           Second, I'd like to echo exactly what  
19 we just heard on span of control. I don't see  
20 why one qualified person has to only be able to  
21 view one qualified task at a time. It doesn't  
22 make a lot of sense to me. And again, the same

1 scenario that was just discussed, to me, that  
2 happens every day. You have one person  
3 overseeing multiple covered tasks at the same  
4 time. We are now telling them they can't do  
5 that, it is a one on one.

6 CHAIR TAHAMTANI: Thank you very much.  
7 Other comments?

8 MS. GINSBERG: Susan Ginsberg with the  
9 Independent Petroleum Association of America.

10 Going back to the decision to include  
11 regulation of the Type B, Class 2 gathering,  
12 would you please try and explain the implications  
13 of regulated gathering as it would be affected  
14 under the Notice of Proposed Rulemaking?

15 MR. GALE: John Gale, PHMSA. Your  
16 question is, in both the liquid and the gas rule  
17 -- well, at least on the gas rule, we've proposed  
18 to expand regulating of rural gathering lines?

19 MS. GINSBERG: Yes.

20 MR. GALE: Yes, this would also be  
21 included in that. In other words --

22 MS. GINSBERG: The regulatory impact

1 analysis for this rule, does that include the  
2 expanded --

3 MR. GALE: No, it would have to  
4 include it in the gas transmission final rule.

5 MS. GINSBERG: Is it in the draft RIA  
6 at this point?

7 MR. GALE: It would have to be in the  
8 final draft RIA, because it would be based on the  
9 current regulations, as they stand today.

10 MS. GINSBERG: And again, this is a  
11 procedural question. I'm kind of new to this.

12 Does that create a conflict, though,  
13 in voting on this rule, when its implication is  
14 --

15 MR. GALE: Well, we could expand it  
16 within the confines of the gas rule, as well, but  
17 this proposal is related to what we are  
18 regulating today. This is what would be adopted  
19 today.

20 But you're exactly correct that we  
21 have to consider that when we get to the gas rule  
22 and have a vote on the gas rule, the total



1 implications on gas gathering and should you  
2 apply OQ requirements to those other lines that  
3 are currently regulated, that would be  
4 additionally regulated, yes.

5 MS. GINSBERG: Thank you.

6 CHAIR TAHAMTANI: Any other comments  
7 before we go back to a couple issues that were  
8 brought up by the public?

9 MR. MILLER: Warren Miller. You're  
10 asking us to break up the comments with what's  
11 been talked about and what hasn't been talked  
12 about later, I guess, since you're -- but we've  
13 talked about training; we've talked about covered  
14 tasks, the definition. There's going to be some  
15 other things that will be brought up later --

16 CHAIR TAHAMTANI: If you've got  
17 specific comments with respect to different parts  
18 of this rule, I would suggest you wait.

19 MR. MILLER: Okay. As far as the  
20 training -- and I know Richard asked the question  
21 about the training requirements -- when the rule  
22 came out in 2004, the amendment talking about

1 training as appropriate, many operators still saw  
2 that they didn't have to have anything if they  
3 deemed it not necessary to have somebody trained  
4 to be qualified. NTSB still did not accept that  
5 from PHMSA.

6 So the changes that were made in here  
7 talking about "training as required," if this  
8 goes as is, when you amend your plan and you  
9 develop your covered task, or you go to your task  
10 and say, "What training is going to be required  
11 for this covered task?" then the records are  
12 required for those people to have that training  
13 to have been qualified.

14 So if you're talking about taking  
15 training that's 17 years old and saying, "This  
16 still qualifies my guy," I'm assuming that there  
17 still will have to be some kind of documentation  
18 to provide to a regulator.

19 On the four-part test, the biggest  
20 thing about the four-part test that I have  
21 concerns about, if we don't change the four-part  
22 test to go safety integrity and we just leave it

1 operation and maintenance, there's still going to  
2 be that question of who sits down at the table,  
3 gas and liquid, large and small operators, and  
4 picks out those covered tasks that haven't been  
5 addressed, proving meters, doing some of these  
6 things that still have a very large impact on  
7 safety integrity of a pipeline. Thank you.

8 CHAIR TAHAMTANI: Thank you very much.  
9 Any other comments?

10 MR. STUMP: Richard Stump with Midwest  
11 Energy Association. I have a few comments, but  
12 I'll stick to one. And that is, in terms of the  
13 four-part test, there's a lot of questions and  
14 confusion and concern about scope creep and the  
15 expansion of covered task. My question is, why  
16 aren't we incorporating by reference the ASME  
17 B31Q? Much of the language was pocketed from  
18 here, so it seems like it would make sense. If  
19 not the entire manual or standard, why not just  
20 the task list? Thank you.

21 CHAIR TAHAMTANI: Any other comments?

22 There were a number of questions

1 presented by the public. Alan, is there  
2 something we want to address now before we get  
3 into the word massaging of the four-part test?  
4 The first one was the span of control.

5 Wally, earlier you talked about what  
6 you believe the new definition says. Did what  
7 you hear now from two people change that? Or is  
8 PHMSA willing to change that to say there are  
9 some exceptions?

10 MR. MCGAUGHEY: Yes.

11 CHAIR TAHAMTANI: If it's yes, then  
12 bring the definition up. Or this issue was  
13 discussed -- I think it's in one of the  
14 definitions.

15 But back to your point about why  
16 didn't the committee get maybe the proposed  
17 language from PHMSA after the comments have come  
18 in, PHMSA has decided to change some things,  
19 revise some of the proposed rules. I know it  
20 would have been good for the Committee members to  
21 have received those proposed changes at least a  
22 week before the meeting so we could have seen it,

1 thought about it. And I think Alan told me that  
2 he's going to consider that for the future.

3 MR. MCGAUGHEY: So, the definition is  
4 in the NPRM, of span of control. It means the  
5 ratio of non-qualified to qualified individuals,  
6 where the non-qualified individual may be  
7 directed and observed by a qualified individual  
8 when performing a covered task, with  
9 consideration to complexity of the covered task  
10 and the operational conditions when performing  
11 the covered task, all of which are referencing  
12 singular forms of the word -- defining task, not  
13 tasks.

14 However, when I look at the -- under  
15 the qualification program requirements, under 505  
16 or 8054, it says, "Any individual who is not  
17 qualified to perform a covered task, to perform  
18 the task, if directed and observed by a qualified  
19 individual, within the limitations of the  
20 established span of control for the particular  
21 covered task." In essence, the scope of it  
22 hasn't changed that terribly much from what it

1 was; it just adds additional definition to it.

2 It is focused on the concept of having a single  
3 task and a single person working at a time.

4 However, the way the rule language is  
5 written, as it currently stands, it allows the  
6 operator to make that determination for those  
7 tasks for themselves.

8 CHAIR TAHAMTANI: But I think, Wally,  
9 the problem that I see is in the definition of  
10 direct and observe means: "Performing a single  
11 covered task and is able to make," so a single  
12 covered task. And the question earlier was at a  
13 time, and I believe the answer was yes.

14 MR. MCGAUGHEY: Can we look at the  
15 modified definition of direct and observe?

16 CHAIR TAHAMTANI: Yes.

17 MR. MCGAUGHEY: Direct and observe, as  
18 was proposed, means, "The process where a  
19 qualified individual personally observes the work  
20 activities of an individual not qualified to  
21 perform a single covered task and is able to take  
22 immediate corrective action when necessary." The

1 modified language changed "to" to "while" and  
2 "perform" to "performing." That was the extent  
3 of the changes proposed by PHMSA. And the way  
4 that is written, that is a single covered task.

5 CHAIR TAHAMTANI: But under the  
6 scenario, you've got two people in the ditch  
7 doing coating; you are qualified, looking at both  
8 individuals doing one task of coating; then one  
9 jumps up and does something else. That is a  
10 covered task, also. Can one individual who's  
11 qualified in doing both tasks observe the two now  
12 doing two different tasks?

13 MR. MCGAUGHEY: The way that language  
14 is written now, no. But again, this is a  
15 definition of direct and observe that falls under  
16 span of control. When I look at the definition  
17 of span of control, it means "The ratio of  
18 non-qualified to qualified individuals, where the  
19 non-qualified individual may be directed and  
20 observed by a qualified individual." So what  
21 does PHMSA mean by direct and observe? We say  
22 direct and observe means, "The process where a

1 qualified individual observes the work activities  
2 of an individual not qualified while performing a  
3 single covered task."

4 MR. MAYBERRY: Wally, I think you had  
5 described earlier that there could be examples  
6 where they could be observing two individuals  
7 performing a covered task.

8 MR. MCGAUGHEY: Correct.

9 MR. MAYBERRY: But then perhaps there  
10 are examples, like the coating example you gave,  
11 where clearly, potentially, that wouldn't be  
12 possible.

13 MR. MCGAUGHEY: Right.

14 MR. MAYBERRY: It would make sense  
15 that if you could observe two people doing  
16 coating, could you have two people doing two  
17 different tasks? If the logic's the same, why  
18 not apply it to, say, if one's using a torque  
19 wrench versus one applying coating? Similar type  
20 of logic.

21 MR. MCGAUGHEY: Right.

22 MR. MAYBERRY: If it's okay for one,



1 why not -- let's just make it okay for --

2 MR. MCGAUGHEY: Well, I think the  
3 language does that for us, though.

4 MR. MAYBERRY: You think it already  
5 does that --

6 MR. MCGAUGHEY: I think span of  
7 control says -- the span of control is determined  
8 with consideration to complexity of the covered  
9 task and the operational conditions when  
10 performing the covered task. So it's allowing  
11 the operator to make this decision about how  
12 that's going to work for them for each individual  
13 task. And the recordkeeping requirements also  
14 require that that span of control ratio and the  
15 individual covered task be identified in the  
16 record.

17 CHAIR TAHAMTANI: All right, so we're  
18 hearing how you read this, but people that  
19 expressed these concerns in the back, they're  
20 shaking their head that inspectors will read it  
21 in a different way. Is there any way to fix this  
22 language to remove any confusion?

1           MR. MCGAUGHEY: I think we're open to  
2 consideration. I mean, I think it's pretty clear  
3 the way it is. I do understand the possibility  
4 of an inspector taking this to a direction that  
5 maybe wasn't intended. But again, maybe the  
6 preamble language explaining it could address it.

7           MR. MAYBERRY: Wally, why don't we  
8 just take out, say, "single" on "while performing  
9 a single covered task"? We're still after --

10          MR. MCGAUGHEY: Just take the words "a  
11 single" out?

12          MR. MAYBERRY: "A single" out, or put  
13 a covered task. Just take out single.

14          MR. MCGAUGHEY: Okay.

15          MR. MAYBERRY: That would acknowledge  
16 that there are cases where, say, if two guys are  
17 doing coating that, yeah, you could have one  
18 person watching -- or maybe that won't work  
19 similarly with the example used, one doing  
20 coating and one, say, using a torque wrench, that  
21 there are cases where that will work --

22          MR. MCGAUGHEY: Take out the word

1 "single."

2 MR. MAYBERRY: But I think in the  
3 preamble, we'll need to address that, as well,  
4 the expectation there, that there may be cases  
5 where that will work and cases where it won't.

6 CHAIR TAHAMTANI: Okay, where are we  
7 in terms of having either the Gas Committee's  
8 proposal or the Liquid Committee's proposal?

9 MR. GALE: Massoud, John Gale here.  
10 What we have here is the language that has been  
11 proposed by some members of the Liquid Committee.  
12 And correct me if I'm wrong, but I think what  
13 they've done is taken a look at some of the  
14 proposals done by the Gas Committee. And is that  
15 the parenthetical that I'm looking at?

16 CHAIR TAHAMTANI: It's real hard to  
17 read.

18 PARTICIPANT: Do you have a second  
19 version that is more consolidated? Do you have  
20 the other paragraph that you had up before? You  
21 scrolled through it. It was with Paragraph 2  
22 combined, if you want to put that up.

1 CHAIR TAHAMTANI: This is the gas  
2 language.

3 PARTICIPANT: The so-called gas  
4 language. I think that incorporates the items  
5 there. So there, you see Paragraph 2 has all  
6 three of those concepts combined, operations and  
7 maintenance, including performed by first  
8 responders, construction, treatment, and then  
9 integrity management, the new addition there, the  
10 last phrase of Paragraph 2.

11 MS. KURILLA: Erin Kurilla with AGA.  
12 I was just going to suggest, and make sure that  
13 we're on the same page, if we move towards this  
14 proposal, I don't think we need the definition,  
15 then, for covered task or emergency response  
16 task, correct?

17 MR. GALE: Sorry, John Gale, PHMSA.  
18 Yeah, I believe at least the definition of  
19 covered task probably could be deleted at that  
20 point, and emergency response, as well, Wally?

21 PARTICIPANT: The purpose of the  
22 emergency response task was accomplished by that

1 phrase there, the second phrase of Paragraph 2 --  
2 excuse me, the first phrase of Paragraph 2:  
3 "Conducted on behalf of the operator by others."  
4 That phrase there just lacks the emergency  
5 response-specific scenario, but are there any  
6 other scenarios where that would apply?

7 So that phrase there you're looking at  
8 is a little broader. It doesn't have the  
9 specific emergency response language that the  
10 emergency response task definition had. It could  
11 serve the same way, and thus preclude the need  
12 for that definition.

13 CHAIR TAHAMTANI: Let's take a look at  
14 this language and make sure you all understand  
15 it, and then we'll talk about whether we need a  
16 definition of covered task or emergency response.

17 One question, I guess, whoever was the  
18 author of this, why do we need to have,  
19 "Conducted on behalf of the operator by others"?  
20 What does "by others" mean?

21 MEMBER PIERSON: Craig Pierson,  
22 Liquids. I think we're just trying to achieve

1 the goal of making sure that it's just any  
2 operations and maintenance task, no matter who's  
3 doing it, and trying to make sure that we get the  
4 emergency responder piece. If it's helpful to  
5 spell out including emergency responders, I don't  
6 think that would be objectionable, if that's  
7 something that -- yeah, that's broader, but if  
8 you want to make double darn sure and include  
9 emergency responders, if that's helpful, I think  
10 it'd probably be okay.

11 MR. MCGAUGHEY: Wally McGaughey. If  
12 I may, removing the emergency response definition  
13 that's in there now is going to create the  
14 difficulty in not identifying those individuals.  
15 Adding it here, I would agree that putting it  
16 into this Paragraph 2 here would accomplish the  
17 same goal. And then you would not need the  
18 emergency response definition.

19 But right now, that section of the  
20 code is not included in the OQ rule. Emergency  
21 response is not part of OQ at this point in time.  
22 And that was the purpose in adding the

1 definition. So, put it in here, it's just as  
2 fine, just as well.

3 PARTICIPANT: You might do it after --  
4 in the first line of 2, "Operations or  
5 maintenance task including emergency response,"  
6 Delete, "Those conducted on behalf of the  
7 operators by others." Or the simplest would be to  
8 change "by others" and just say, "is an  
9 operations or maintenance task, including those  
10 conducted on behalf of the operator by emergency  
11 responders."

12 We were talking about is the phrase  
13 "by others" clear? And one way to make that  
14 specific, in the regard of this morning's  
15 discussion about emergency responders, is to  
16 change "by others" to "emergency responders."

17 CHAIR TAHAMTANI: See, "By others"  
18 doesn't make any sense in this regard, because if  
19 they're your employee or your contractor working  
20 for you, you are doing the work. So, "By others"  
21 doesn't mean anything in here.

22 PARTICIPANT: Right, so not there,

1 either. Changing "by others."

2 MEMBER CAMPBELL: I have to ask a  
3 question about emergency responders. And maybe  
4 it's different on liquid versus gas, but -- and,  
5 Wally, I apologize. Is emergency response work  
6 not O&M? Last time I checked it was. It's a  
7 separate section?

8 MR. MCGAUGHEY: Correct.

9 MEMBER CAMPBELL: Okay.

10 MEMBER MCCLAIN: If you say operation  
11 and maintenance task --

12 CHAIR TAHAMTANI: All right, hold on  
13 a second. Nobody's recognizing the Chair. I'm  
14 getting a little -- I would say it, except that  
15 I'm on the record. Go ahead, Ron.

16 MEMBER MCCLAIN: Well, I'm glad to  
17 start that trend. We haven't been observing it.

18 CHAIR TAHAMTANI: Don't try too many  
19 times.

20 MEMBER MCCLAIN: If it's an operation  
21 and maintenance task, why do you specify  
22 emergency responders? Because if it's on behalf



1 of the operator, and it's an operation and  
2 maintenance task, why be more specific than that?  
3 I mean, if it's turning a valve, it's already  
4 included without stretching to emergency  
5 responders.

6 CHAIR TAHAMTANI: Go ahead.

7 MR. MCGAUGHEY: The primary reason is  
8 that has not been the case over the last 13  
9 years. We have repeatedly had operators  
10 responding in an emergency with personnel to  
11 perform covered tasks that were not qualified.

12 MEMBER MCCLAIN: Well, what I'm  
13 saying, you do say, "On behalf of the operator by  
14 others." I'm not sure why emergency responders,  
15 thereby others, why is that different if they're  
16 going to operate a valve?

17 I think we can live with it this way,  
18 but it's creating a condition that isn't  
19 necessarily unique. If anyone operates a valve  
20 on your behalf, they have to be qualified to  
21 operate that valve.

22 MR. MCGAUGHEY: I don't disagree with

1 that, and that is a part of the existing OQ  
2 regulation. That is the case today, but that's  
3 not been our history. And emergency response is  
4 a part of O&M in 195, but it is not a part of the  
5 O&M processes or requirements of the regulation  
6 in 192. And to bring emergency response into the  
7 definition of a covered task allows PHMSA to look  
8 at both regulations and encompass both emergency  
9 response and operations and maintenance.

10 MEMBER MCCLAIN: So are we considering  
11 consolidating the gas and liquid language by both  
12 having this in it?

13 MR. MCGAUGHEY: They are identical,  
14 yes. The OQ rule has been the same in both  
15 regulations since the beginning. There's one  
16 little caveat, and it speaks to a 192 reporting.

17 MEMBER MCCLAIN: Just one more  
18 question. "Or as an integrity management task  
19 performed on the right-of-way." If it's O&M, it's  
20 O&M. And a lot of the integrity management tasks  
21 are O&M, but a number of things you do on the  
22 right-of-way you don't necessarily want covered

1 by OQ. For instance, where you have NDT people,  
2 they're certified in different levels of NDT  
3 qualifications, but it's not really an OQ task.  
4 So it just seems it's better to say operations  
5 and maintenance task without necessarily  
6 specifying emergency responders or integrity  
7 management.

8 MR. MAYBERRY: I guess with the long  
9 row we've hoed here on this, for the last several  
10 years, this has been an issue related to  
11 emergency responders, either the reality of it or  
12 the perception of the lack of inclusion of them.  
13 I would just say we --

14 CHAIR TAHAMTANI: I think I can fix  
15 it.

16 MR. MAYBERRY: Massoud will fix it.  
17 That's what I can say.

18 CHAIR TAHAMTANI: Let me fix it, but  
19 you have to listen to me, to edit as I go. So,  
20 No. 2 is an operation or maintenance task,  
21 including those conducted during an emergency  
22 response. Get rid of the "on behalf of the

1 operator by others." Get rid of everything all  
2 the way to "or is a construction task."

3 So it reads, "Is an operation and  
4 maintenance task, including those conducted  
5 during emergency response." Get rid of "on  
6 behalf of the operator by others." "Or is a  
7 construction task performed on the right-of-way,  
8 or is an integrity management task performed on  
9 the right-of-way." That needs to be cleaned up,  
10 too. You don't want to say on the right-of-way  
11 twice. "Or is a construction task or an  
12 integrity management task performed on the  
13 right-of-way."

14 MEMBER KUPREWICZ: Massoud?

15 CHAIR TAHAMTANI: Hold on one second.

16 Let's get the language on the screen, then you  
17 all can chop it up. Go ahead, Rich.

18 MEMBER KUPREWICZ: The real intent  
19 here is to keep the damn stuff in the pipe. I  
20 don't care if it's on the right-of-way or not.  
21 We're kind of micromanaging, from a public  
22 perspective. The public isn't going to care.

1           If you're doing activities that should  
2           have been covered, that are the responsibility of  
3           the operator or the operator's delegated to  
4           somebody, and they do stuff that's off that  
5           right-of-way that impacts the integrity of that  
6           pipeline, you're in trouble if they're not  
7           qualified.

8           Am I over-complicating it? I would  
9           recommend not adding all this detail. We're  
10          getting away from that overall picture. We need  
11          to get better ideas on the issues that have been  
12          removed, but getting all this detail is  
13          micromanaging this.

14          The other thing I'm a little nervous  
15          about is if you're the operational vice president  
16          and you've got a ruptured 42-inch gas pipeline  
17          and you're looking for a qualified guy to close  
18          your goddamn manual valve, okay, guess what, I  
19          think you have the authority to order anybody to  
20          close that valve, as the operating  
21          representative, right? We're not getting away  
22          from that, are we? Because there have been

1 incidents where non-qualified persons were told  
2 not to close valves, all right? And they clearly  
3 were representatives of the company, so that's  
4 kind of embarrassing.

5 So let's be careful of what we're  
6 doing here and try to capture the major issue  
7 without getting the lawyers too involved. We're  
8 never going to get rid of the lawyers, but we're  
9 -- right?

10 CHAIR TAHAMTANI: Let me say this.  
11 Whatever you --

12 MEMBER KUPREWICZ: Take out the  
13 right-of-way.

14 CHAIR TAHAMTANI: Whatever you had for  
15 lunch, I want some of that.

16 (Laughter.)

17 MEMBER KUPREWICZ: I don't think you  
18 need it.

19 CHAIR TAHAMTANI: Second, for his sake  
20 and my sake, strike that GD word from the record.  
21 Third, if everybody thought about this like you  
22 do, and sometimes I do, we wouldn't need any of

1 these regulations, wouldn't need to exactly  
2 define what the regulation means.

3 And I think that's true with a lot of  
4 you around the table. The problem is that this  
5 gets down to those that are trying to comply, and  
6 some of our inspectors, who dissect the words and  
7 cause issues that we all know what that is. So,  
8 take a look at this language now. Craig, you had  
9 some comments.

10 MEMBER PIERSON: I might be sitting  
11 too close. This is Craig Pierson, Liquids. The  
12 words do matter because those at the table, we're  
13 concerned about both safety and compliance, and  
14 they aren't always the same. And we want to be  
15 in compliance, demand to be in compliance, so  
16 that's where the words start mattering.

17 In this case, I don't think there's  
18 any -- I think right-of-way, to me, is  
19 appropriately targeting the risk in the public.  
20 That, I think, we share as the focus should be on  
21 the risk to the public. So the risk to the  
22 public that might be from afar was already

1 covered as an operation and maintenance task. So  
2 we're trying to figure out what to add on the  
3 right-of-way. And I think it's appropriate, and  
4 I would advocate that we put right-of-way back in  
5 for clarity. Where we took one out to combine it  
6 with integrity and construction, I advocate put  
7 it back in so there's no question as to what it  
8 means. Thanks.

9 CHAIR TAHAMTANI: Thank you, Craig.  
10 Any other comments from the Committee on the  
11 language which is on the screen? Rich?

12 MEMBER WORSINGER: Rich Worsinger,  
13 City of Rocky Mount. Regarding the discussion on  
14 right-of-way, isn't that covered by Item No. 1,  
15 where it says, "Is performed on a pipeline  
16 facility"? Is it not duplicative to then include  
17 that, "performed on the right-of-way"?

18 CHAIR TAHAMTANI: Wally.

19 MR. MCGAUGHEY: Yes, it is. And I'm  
20 afraid that's just -- it's conflicting  
21 terminology within the definition of a covered  
22 task. I would recommend that "on the



1 right-of-way" be taken out of No. 2; allow No. 1  
2 to define the scope of the covered task.

3 CHAIR TAHAMTANI: All right, so we  
4 would say, "Conducted during an emergency  
5 response or is a construction task or an  
6 integrity management task," period?

7 MR. MCGAUGHEY: Period.

8 CHAIR TAHAMTANI: Period, or whatever.  
9 Did you have a comment? Go ahead.

10 MR. MAYBERRY: Then with this, Wally,  
11 we're taking out the definition of emergency  
12 response with this?

13 MR. MCGAUGHEY: That would be correct,  
14 yes. And if I may add, the integrity management  
15 statement here is similar to the emergency  
16 response statement. Integrity management is  
17 contained within O&M in one code and not in the  
18 other, so it's a similar condition. That's the  
19 reason it's called out in No. 2.

20 MEMBER FLECK: Sue Fleck, Gas  
21 Committee. I just want to validate, again, that  
22 elsewhere we excluded engineering, back office

1 stuff, because that's the reason why we were  
2 trying to insert that right-of-way language, to  
3 make sure that we weren't bringing in folks that  
4 didn't need to be brought into this particular  
5 bit. So that's covered elsewhere, yes or no?

6 CHAIR TAHAMTANI: Can that be  
7 addressed in the preamble?

8 MEMBER FLECK: Just remember,  
9 inspectors don't read the preamble.

10 CHAIR TAHAMTANI: I do.

11 MEMBER FLECK: Many of them, I'd be  
12 happy with that. No, but it was mentioned  
13 previously in one of the slides. And I just  
14 don't know if that was a part of the  
15 recommendation. I'll find it.

16 CHAIR TAHAMTANI: Craig, go ahead,  
17 while we're looking into this issue. Oh, you're  
18 down?

19 MEMBER FLECK: It's on Page 29,  
20 "Design and engineering activities or tasks  
21 performed off the pipeline facility are  
22 excluded." Is that correct?

1                   MR. MCGAUGHEY: That was a part of the  
2 original covered task definition, yes.

3                   MEMBER FLECK: So does that belong  
4 here?

5                   MR. MCGAUGHEY: It could be in No. 5.

6                   MEMBER FLECK: I think it's an  
7 important point.

8                   CHAIR TAHAMTANI: So would you say that  
9 covered task does not include design and  
10 engineering activities in tasks performed off the  
11 pipeline facility?

12                   MR. MCGAUGHEY: Correct.

13                   CHAIR TAHAMTANI: Can you make that  
14 No. 5? And I want you all to know that this is  
15 the way lawmakers make law. This is the sausage-  
16 making at its worst, or wurst, however you want  
17 to look at it. Writing regulations by a  
18 committee of 80 people doesn't quite work.

19                   As long as the intent gets in here,  
20 I'm assuming that the PHMSA attorneys, and  
21 others, will look at the language to make sure  
22 that it's proper for rulemaking purposes.

1           MR. PATES: Massoud, this is Jim Pates  
2 again. All this wordsmithing on the suggested  
3 recommendation is fine, but at the end of the  
4 day, that's exactly what it is, a recommendation  
5 that PHMSA will consider. That's all.

6           CHAIR TAHAMTANI: So if we can get the  
7 intent in here, which is to exclude design and  
8 engineering work from being covered tasks, then  
9 we think we need to give it to Jim Pates and his  
10 troops to really fix it up in terms of the final  
11 rule.

12           Any other comments on this? Any  
13 comments from the public on what's on the screen?  
14 And by the way, next time, I want to start  
15 charging PHMSA for the good job I'm doing right  
16 now.

17           MR. MILLER: This is Warren Miller.  
18 Again, with what you've added in there, with No.  
19 3 still in there, anything that's not required by  
20 this part but that's an operation and maintenance  
21 activity, would not fall underneath this  
22 regulation. Again, I go back to proving meters.

1 Certain things that really involve the safety and  
2 integrity of the pipeline are still not going to  
3 be addressed as a covered task. So I would ask  
4 you to consider striking No. 3 out of that  
5 definition. Thank you.

6 CHAIR TAHAMTANI: Can you give me  
7 another example, besides proving meters, that  
8 should be covered, that's not covered?

9 MR. MILLER: Setting meters, there's  
10 a number of things that are not required in the  
11 specific operation and maintenance, new  
12 construction.

13 CHAIR TAHAMTANI: All right, thank  
14 you. The suggestion is to remove three.  
15 Comments from the committee? Mr. Felt.

16 MEMBER FELT: This Tim Felt with  
17 liquids group. I don't think we'd be opposed to  
18 proving meters, including that. There might be  
19 other tasks that could be included, as well. The  
20 problem is by striking that, we don't know what  
21 else it opens up to. The examples we were  
22 provided were proving meters, resetting meters.

1           There might be a whole lot of other  
2 ones. I just think that by striking three, we  
3 don't know what else is included. If you want us  
4 to make a decision now, I don't think I could  
5 support it. If you want to give us more time to  
6 think about it, then maybe we can come to grips  
7 with it. By striking three, I just want to have  
8 more time to think about it. That's all.

9           CHAIR TAHAMTANI: Wally, you're the  
10 expert here. Warren had a couple of concerns.  
11 Do you think --

12           MR. MCGAUGHEY: Correct. Over the  
13 years, there have been issues with the scope of  
14 the rule being limited to O&M tasks. Now we're  
15 going to expand that scope to O&M, emergency, and  
16 integrity management.

17           CHAIR TAHAMTANI: And construction.

18           MR. MCGAUGHEY: And new construction.  
19 So there are other areas of the regulation where  
20 covered tasks could be identified that will not  
21 be included in here. The original design of the  
22 covered task definition was to open that scope

1 out to any task performed on a pipeline facility  
2 that would affect the safety or integrity of the  
3 pipeline. The changes we've made here, and the  
4 proposal we've made to this change in the covered  
5 task definition, is going to retract that scope  
6 again down to a narrower picture. Granted, it  
7 will be larger, but not as large as we originally  
8 intended.

9 CHAIR TAHAMTANI: PHMSA's intention  
10 through this proposed rulemaking was to, by a new  
11 definition for covered task that would expand and  
12 cover all covered tasks. Now that we have  
13 limited the definition, by what we just did --

14 MR. MCGAUGHEY: That's correct.

15 CHAIR TAHAMTANI: -- you are pushing  
16 out some of the covered tasks.

17 MR. MCGAUGHEY: That's correct.

18 MR. MAYBERRY: Just from my  
19 perspective, as was mentioned before -- I think,  
20 Jim, you mentioned -- if this is where we end up,  
21 or however we end up, we take it as a  
22 recommendation. If there are tweaks that might

1 need to be made later, we will. We are expanding  
2 it. Construction, certainly, we were after that.  
3 We were after expanding the scope. We just have  
4 to take a look. I know there's been a lot of  
5 discussion on the fly here on this. I think  
6 we're close to being there. I'm happy we've  
7 expanded it, but let's just see -- we'll just  
8 take a look, as we move forward and we refine  
9 this and go to writing it, and see where stand.

10 CHAIR TAHAMTANI: Okay, you don't have  
11 any other comments, do you? Go ahead.

12 MEMBER FELT: Tim Felt, liquids group.  
13 The only thing I'd like to bring up is we don't  
14 -- I think during the course of this discussion  
15 today, we're seeing, at least from my standpoint,  
16 a lot of increase in the number of covered tasks.  
17 It's truly what you're intending to do, that  
18 there be more tasks covered. From our  
19 standpoint, we were trying to identify what that  
20 might look like. We've narrowed it somewhat.  
21 Your objective was to broaden it even more. That  
22 might be the right answer, but when we were



1 looking at the material, there was a cost  
2 estimate. The cost estimate that PHMSA had, I  
3 would say, was orders of magnitude off from what  
4 we were envisioning before any of these changes  
5 were made.

6 There's been some limiting that's been  
7 going on. We haven't in a sense, re-costed it,  
8 but I can tell you that if you took your original  
9 intent, in the way that we were interpreting it,  
10 the cost across the industry would be, again,  
11 many, many times greater than what was estimated.  
12 That would then be a different issue that we  
13 would bring up. I think we need to just -- I  
14 just want that to be noted. Thank you.

15 CHAIR TAHAMTANI: Thank you. Having  
16 said that, what we just worked through is on the  
17 screen. Take a second look at this. John,  
18 figure out what do you want a vote on.

19 MR. GALE: Yes, it would be great if  
20 we could get a motion on this language, and a  
21 second, I think we can move forward. If the  
22 committee's ready, we can move forward --

1 CHAIR TAHAMTANI: So I get a vote on  
2 this by the separate committees?

3 MR. GALE: Separate committees, yes.

4 CHAIR TAHAMTANI: Do you need any  
5 votes on the definitions that --

6 MR. GALE: If you notice up here, we  
7 have a bullet that says we would delete the  
8 definitions of covered and emergency response  
9 tasks. We also have reference to the other  
10 recommendations by PHMSA staff that we discussed  
11 earlier that was providing clarity.

12 CHAIR TAHAMTANI: Any questions about  
13 what's on the screen?

14 MEMBER WORSINGER: Rich Worsinger,  
15 City of Rocky Mount. I'd like to revisit span of  
16 control.

17 CHAIR TAHAMTANI: Because span of  
18 control is not part of this --

19 MEMBER WORSINGER: If it's not part of  
20 this one, I'm fine to sit tight.

21 CHAIR TAHAMTANI: It's not part of  
22 this --

1                   MEMBER WORSINGER: But if this is  
2 going to cover it under that others changes  
3 recommended. Yes.

4                   CHAIR TAHAMTANI: So this other  
5 changes recommended by PHMSA staff are adopted.  
6 That is within PHMSA's right, isn't it? Our  
7 recommendation's just a recommendation. Sue.

8                   MEMBER FLECK: Sue Fleck, Gas  
9 Committee. Yes, we're just asking what are they?  
10 You showed us those slides a long time ago, and  
11 we've been talking in great detail. You're  
12 saying the other changes recommended, can you  
13 just flash them back up for a second, so we can  
14 take a look? That's all we're asking. We think  
15 we're in agreement, but it has been a while since  
16 we saw that.

17                   I think it starts on 29, "PHMSA  
18 Recommendations."

19                   CHAIR TAHAMTANI: Twenty-nine is where  
20 we have --

21                   MEMBER FLECK: That's the covered  
22 tasks, but then -- no, that's responses. I think

1 you've got to go to 30 and 31.

2 Just so everybody can just take a  
3 quick look. Because we fixed this, right? I  
4 have a different Page 30.

5 Okay, because I have the one that  
6 starts with, "Significant changes means changes  
7 to a program which include". I just want to know  
8 what that list is, that's all, because I think it  
9 covers most of my issues. I'm not sure.

10 CHAIR TAHAMTANI: I think, if I may,  
11 would you put the slide up that revises the  
12 four-part test? You do a good job. Do what you  
13 do there because we're going to come back to  
14 this. Now, Sue, you're taking us to a whole  
15 different section, several other sections. At  
16 this rate, we're not getting through this.  
17 Please stay with me.

18 MEMBER FLECK: Didn't mean to do that.  
19 It's just when you say something at the bottom,  
20 other changes --

21 CHAIR TAHAMTANI: I want to go back to  
22 that. I want to go back and ask him to define

1 what they're saying. Is it that they're saying  
2 they're going to fix the definitions that work  
3 with that particular section we just worked  
4 through? Is that what you're saying, John, or  
5 you're saying all the other 805s and 809s?

6 MR. GALE: Right here on the slide  
7 presentation that's on the screen, there's some  
8 recommendations from PHMSA staff on Slide 30 and  
9 31. We've modified them to delete the definition  
10 of covered task and emergency response task. So  
11 those changes, plus the other changes that are  
12 referenced in those two slides, plus the change  
13 that would occur to 192.801(b) and 195.501(b)  
14 would go forward.

15 CHAIR TAHAMTANI: But those changes  
16 are to make it consistent with what we're going  
17 to vote on?

18 MR. GALE: Yes.

19 CHAIR TAHAMTANI: The industry reads  
20 a lot of stuff in that last statement. I think  
21 we need to -- go back to that slide, if you don't  
22 mind, where we have the four-part test revised.

1 These other changes recommended by PHMSA staff  
2 are adopted. Can we change that to make them  
3 more comfortable that it's to make other changes,  
4 other parts conform to this? That's what we're  
5 doing.

6 MR. GALE: How about, "The other  
7 changes recommended by PHMSA staff, as referenced  
8 on Slide 30 and 31"? Or as discussed at today's  
9 meeting?

10 CHAIR TAHAMTANI: I trust you.

11 MR. GALE: Thank you, Massoud.

12 CHAIR TAHAMTANI: Whatever makes them  
13 comfortable.

14 MR. GALE: I would recommend let's do  
15 the language that says, "As referenced in Slide  
16 30 and 31, as presented at today's meeting.

17 MEMBER GANT: I think what's being  
18 pointed out here is just a point of order. The  
19 committee is being asked to vote on this. It  
20 references a significant number of items that we  
21 didn't spend a lot of time on. I don't think the  
22 point is about the substance, so much, as a

1 process question. I'm not prepared to vote on  
2 this motion because I don't understand exactly  
3 what I would be voting on with regard to that  
4 last bullet.

5 CHAIR TAHAMTANI: Okay, take the last  
6 bullet out. With that said, any last comments on  
7 this? Tim.

8 MEMBER FELT: Tim Felt, liquids group.  
9 I just have a question. In the discussion today,  
10 are we going to talk about contractor  
11 qualifications on OQ? Because I've been waiting  
12 to discuss that, and it hasn't come up, so I  
13 don't know if it's going to come up, or is that  
14 all included in this vote? My question, in a  
15 sense, is there's a provision in here -- and I  
16 don't know if I'm interpreting it correctly --  
17 that the operator has to maintain all the records  
18 for a person -- training records and  
19 qualification records for a person performing an  
20 OQ task. Right now, we don't maintain the  
21 records for a contractor, another body does. If  
22 I have to maintain the records -- I just want to

1 make sure if we're voting on that, or if we have  
2 a time to discuss that.

3 Because this would mean that if a  
4 contractor was performing a task for me, I'd have  
5 to have that person's training records and  
6 qualification records, and Marathon would need to  
7 have the same training and qualification records  
8 for the same individual, and Phillips 66 would  
9 have to have the same training and qualification  
10 records for the same individual. That's how I  
11 interpret this. I don't know if we're going to  
12 talk about it or not.

13 CHAIR TAHAMTANI: I will respond by  
14 saying you are simply voting on this, and we have  
15 to talk about anything that anyone has any issues  
16 with the rest of it. There is no recordkeeping  
17 requirement in this language that I see. Rich.

18 MEMBER FELT: I didn't see an agenda  
19 where --

20 CHAIR TAHAMTANI: We have to go there.

21 MEMBER FELT: I didn't see on the  
22 agenda where we were going to talk about it.



1 That's why I ask.

2 CHAIR TAHAMTANI: If it's on your  
3 mind, we're going to talk about it. Rich.

4 MEMBER WORSINGER: Rich Worsinger,  
5 City of Rocky Mount. My suggestion was on the  
6 items of span of control and direct and observe,  
7 where we removed the word single, I believe we  
8 were in agreement that you could have more than  
9 one person on a task or could do more than one  
10 task. The words don't exactly say that, and I  
11 would recommend we say task or tasks, so that you  
12 can have one person backfilling and the other  
13 person tightening the bolts.

14 CHAIR TAHAMTANI: Your point is well  
15 taken. We have to go to the definition and take  
16 a separate vote on that.

17 MEMBER WORSINGER: I'm fine to wait on  
18 that. Thank you.

19 CHAIR TAHAMTANI: Every proposal  
20 you've seen this morning, when you saw these  
21 things, we have to take a vote on every single  
22 one of them. There's no other way to get through

1 this. So for now, please focus on what's on the  
2 screen. I'll go to the public for the last time.  
3 With that said, I need a motion from the Gas  
4 Committee.

5 MS. KURILLA: Cameron, just for  
6 process, can you say the proposed rule, relative  
7 to the definition of covered task? Thank you.

8 CHAIR TAHAMTANI: The proposed rule,  
9 relative to the definition --

10 MS. KURILLA: Or whatever you want to  
11 say there. Applicability, yes.

12 CHAIR TAHAMTANI: With that said, need  
13 a motion from the Gas Committee. There is no  
14 prize for making the motion. There is no  
15 punishment for making it. It is to move the  
16 ball.

17 MEMBER FLECK: Sue Fleck, gas. The  
18 proposed rule, relative to the applicability of  
19 Subpart N of Part 192 and Subpart G of Part 195,  
20 as published in the Federal Register and the  
21 Draft Regulatory Evaluation are technically  
22 feasible, reasonable, cost-effective, and

1 practicable if definition of covered and  
2 emergency response tasks are not adopted and  
3 192.801(b)/192.501(b) are revised to read as  
4 follows: (b) For the purpose of this subpart, a  
5 covered task is an activity identified by the  
6 operator that (1) is performed on a pipeline  
7 facility; (2) is an operations or maintenance  
8 task, including those conducted during an  
9 emergency response, or is a construction task or  
10 integrity management task; (3) is performed as a  
11 requirement of this part; (4) affects the  
12 operation or integrity of the pipeline -- and  
13 that should be (5), not (c), at the bottom --  
14 design and engineering tasks performed off the  
15 pipeline facility are not included.

16 MEMBER WORSINGER: I'll second that.

17 CHAIR TAHAMTANI: Thank you very much.

18 With the revision that (c) is (5), any other  
19 discussions from the Gas Committee?

20 Are you ready to take a vote?

21 MR. SATTERTHWAITTE: We'll do the roll  
22 call, aye, nay, or abstain. Paula Gant.

1 MEMBER GANT: Aye.

2 MR. SATTERTHWAITE: Cheryl Campbell.

3 MEMBER CAMPBELL: Aye.

4 MR. SATTERTHWAITE: Andy Drake.

5 MEMBER DRAKE: Aye.

6 MR. SATTERTHWAITE: Sue Fleck.

7 MEMBER FLECK: Aye.

8 MR. SATTERTHWAITE: Rich Worsinger.

9 MEMBER WORSINGER: Aye.

10 MR. SATTERTHWAITE: Rob Hill.

11 MEMBER HILL: Aye.

12 MR. SATTERTHWAITE: Bob Kipp.

13 MEMBER KIPP: Aye.

14 MR. SATTERTHWAITE: It's unanimous;  
15 the motion carries.

16 CHAIR TAHAMTANI: Thank you very much.  
17 The motion from the liquid side.

18 MEMBER PIERSON: Craig Pierson,  
19 liquids. The proposed rule, relative to  
20 applicability of Subpart N of Part 192 and  
21 Subpart G of Part 195, as published in the as  
22 published in the Federal Register and the Draft

1 Regulatory Evaluation are technically feasible,  
2 reasonable, cost-effective, and practicable if  
3 definition of covered and emergency response  
4 tasks are not adopted and 192.801(b)/192.501(b)  
5 are revised to read as follows: (b) For the  
6 purpose of this subpart, a covered task is an  
7 activity identified by the operator that (1) is  
8 performed on a pipeline facility; (2) is an  
9 operations or maintenance task, including those  
10 conducted during an emergency response, or is a  
11 construction task or integrity management task;  
12 (3) is performed as a requirement of this part;  
13 (4) affects the operation or integrity of the  
14 pipeline -- and revising (c) to (5) -- design and  
15 engineering tasks performed off the pipeline  
16 facility are not included.

17 CHAIR TAHAMTANI: Is there a second?

18 MEMBER MCCLAIN: Second.

19 CHAIR TAHAMTANI: Thank you. Any  
20 discussions? Take the vote.

21 MR. SATTERTHWAITTE: All right, I'm  
22 just going to go through the roll call. Brian

1 Salerno.

2 MEMBER SALERNO: Aye.

3 MR. SATTERTHWAITE: Massoud.

4 CHAIR TAHAMTANI: Aye.

5 MR. SATTERTHWAITE: Todd Denton.

6 MEMBER DENTON: Aye.

7 MR. SATTERTHWAITE: Tim Felt.

8 MEMBER FELT: Aye.

9 MR. SATTERTHWAITE: Craig Pierson.

10 MEMBER PIERSON: Aye.

11 MR. SATTERTHWAITE: Ron McClain.

12 MEMBER MCCLAIN: Aye.

13 MR. SATTERTHWAITE: Lanny Armstrong.

14 MEMBER ARMSTRONG: Aye.

15 MR. SATTERTHWAITE: Richard Kuprewicz.

16 MEMBER KUPREWICZ: Aye.

17 MR. SATTERTHWAITE: Carl Weimer.

18 MEMBER WEIMER: Aye.

19 MR. SATTERTHWAITE: It's unanimous;

20 the motion carries.

21 CHAIR TAHAMTANI: Thank you very much.

22 Now to address the span of control issue, can you

1 go to the slide where it shows the three  
2 definitions of covered task, direct and observe,  
3 and emergency response? It's proposed that we  
4 get rid of the definition of covered task and  
5 emergency response and now focus on direct and  
6 observe. Rich, what was your concern and  
7 solution?

8 MEMBER WORSINGER: Rich Worsinger,  
9 City of Rocky Mount. It says, "Direct and  
10 observe means the process where a qualified  
11 individual observes the work activities of an  
12 individual not qualified while performing a  
13 covered task." I'm recommending we add "or  
14 tasks," so it's a task or tasks, recognizing that  
15 they could be performing more than one -- you  
16 could have more than one person performing very  
17 basic tasks. I believe the examples we used, you  
18 could have two individuals that would be  
19 backfilling and compacting, when one of them  
20 finishes with that, he could be torquing the  
21 bolts, another basic task.

22 It needs to be in both this direct and

1 observe, as well as the definition for span of  
2 control. Span and control is where it has the  
3 wording "with consideration to complexity of the  
4 covered tasks."

5 CHAIR TAHAMTANI: Any comments to what  
6 Rich is suggesting with respect to direct and  
7 observe, the definition of direct and observe?

8 MEMBER HILL: I've got one. How do  
9 you know what's a basic task and what isn't a  
10 basic task? It's fine if it's only a basic task,  
11 such as he explained, but what if it's -- what  
12 would the evaluators do in a case like this? I'm  
13 just asking the question.

14 MR. MCGAUGHEY: Again, the original  
15 intent in the change and the modification of the  
16 definitions was that PHMSA did not believe that  
17 it was reasonable to believe an effective direct  
18 and observe could occur by a single qualified  
19 individual directing and observing multiple  
20 individuals performing multiple covered tasks.  
21 It was not reasonable to believe that could be  
22 safely done.



1 CHAIR TAHAMTANI: Carl.

2 MEMBER WEIMER: I guess my question is  
3 it seems like we're kind of creeping on the scope  
4 of this. I'm trying to decide what's to prevent  
5 this same qualified individual from overseeing a  
6 whole crew of people in a ditch?

7 MR. MCGAUGHEY: Exactly.

8 MEMBER WEIMER: At some point, you  
9 start losing how well they're observing and  
10 correcting.

11 CHAIR TAHAMTANI: Wally.

12 MR. MCGAUGHEY: That's exactly the  
13 case. The difficulty is, again, that we place an  
14 awful lot of responsibility on the qualified  
15 individual directing and observing multiple  
16 covered tasks at the same time, and at the same  
17 time being fully responsible for the performance  
18 of each of those covered tasks and responding and  
19 reacting to any abnormal operating conditions  
20 that might occur during the performance of those  
21 tasks. We just believe that it's an unreasonable  
22 assumption to think that can occur safely. The

1 other side of it is the original scope and the  
2 original concept of direct and observe and  
3 non-qualified and qualified was for the purposes  
4 of on-the-job training for training a person.

5 I've heard some conversations about  
6 cost. I don't fully understand why I have to pay  
7 a qualified individual to direct and observe a  
8 non-qualified individual and I have two pay rates  
9 going on to do one task. There's no cost  
10 effectiveness to that at all, other than for the  
11 need to train someone to become qualified.

12 CHAIR TAHAMTANI: Wally, not to put  
13 you on the spot, you don't agree with the change  
14 we made earlier, when we took the word single out  
15 of this definition? You were trying to limit it  
16 with a qualified person observing an individual  
17 doing a covered task, one task at a time?

18 MR. MCGAUGHEY: Correct.

19 CHAIR TAHAMTANI: Earlier we agreed --  
20 and I'm assuming you would speak for PHMSA -- we  
21 agreed that the word single should go out, so  
22 that we please some of the stakeholders here.

1 You don't agree with that?

2 MR. MCGAUGHEY: I don't agree with  
3 removing of the word single, but I can live with  
4 it.

5 MR. MAYBERRY: I think we acknowledged  
6 in our discussion earlier that there could be  
7 cases where it could be two tasks being observed.  
8 There could also be a case where it wouldn't be  
9 appropriate, where you couldn't adequately  
10 observe. I think we cracked the door open to  
11 acknowledge there are limited cases. But here,  
12 we're basically trying to swing it wide open. It  
13 just seems to open it up that much further. I'm  
14 not too big on that.

15 CHAIR TAHAMTANI: That is a concern  
16 Carl brings up that you have opened it too far.  
17 Go ahead.

18 MEMBER WORSINGER: Rich Worsinger,  
19 City of Rocky Mount. Again, going back to the  
20 definition under span of control, it's in here,  
21 "With consideration to complexity of the covered  
22 task and the operational conditions when

1 performing the covered task." I agree with you,  
2 Wally. I don't want to have, and I don't think  
3 any of us want to have, one person who's  
4 qualified watching one person who is not  
5 qualified for other than a training purpose. But  
6 I think we also recognize that we can have a  
7 covered person on, as Sue described, a  
8 three-person crew, where you've got a qualified  
9 person in charge and that person is directing the  
10 two non-qualified persons.

11 They would be the ones that would be  
12 backfilling the hole, tamping the hole. I think  
13 fits that definition with consideration of the  
14 complexity of the covered task. I certainly  
15 would not want to have two complex tasks going  
16 on, having one qualified person trying to direct  
17 that.

18 I don't think that's what industry  
19 does. In fact, it's not cost effective, either,  
20 if we have one person watching one other person  
21 or directing one person to work. I'm merely  
22 trying to recognize there are times where we can

1 have two people performing one task, or two very  
2 basic tasks being performed and observed by one  
3 qualified person.

4 CHAIR TAHAMTANI: Thank you. Rich.

5 MEMBER KUPREWICZ: We're parting words  
6 again, and I'm getting a little confused. We're  
7 talking about operator qualification, right?  
8 Someone's trying to train operators to be  
9 qualified. When they meet that threshold, then  
10 they can do this by themselves, without somebody  
11 watching them. I understand the complexity  
12 words, but we're talking about people qualifying.

13 Depending on what the task is, they  
14 better know what they're doing, and if they  
15 don't, the guy who's watching them better stop  
16 them, right? That's usually the kind of thing I  
17 see. I get a little nervous, as a representative  
18 of the public, when I start hearing the  
19 complexities or such that some judgment's  
20 required. I appreciate the need for that  
21 judgment, but in the regulations, it's not clear.

22 Yes, there will be people who will cut

1 corners because of cost and will have unqualified  
2 people performing tasks that they shouldn't be  
3 doing unless someone's really watching them and  
4 stopping them. We've got history after history  
5 of cases. You have some, I'm sure, that you  
6 could probably talk about. I'm a little  
7 concerned. I appreciate what you're saying about  
8 trying to keep the similar tasks being watched by  
9 one individual, but we've had too many incidences  
10 where the unqualified person -- and again, this  
11 is supposed to be just for training, not for  
12 doing the work, right? I'd have a hard problem  
13 making this multiple tasks for qualification and  
14 operator training. Thank you.

15 CHAIR TAHAMTANI: Thank you. Craig.

16 MEMBER PIERSON: Craig Pierson,  
17 liquids. Is there language around span of  
18 control that we can call up and try to clarify  
19 what exists today?

20 MEMBER WORSINGER: I think there's  
21 such language in the B31Q.

22 MR. MCGAUGHEY: Are you referring to

1 what the current language is in the proposed  
2 rule?

3 MEMBER PIERSON: Whatever language is  
4 out there, so we could all --

5 MR. MCGAUGHEY: Right there.

6 MEMBER PIERSON: Just for clarity, as  
7 I read that, it speaks to actually executing the  
8 work different than training. Is that correct?

9 MR. MCGAUGHEY: I'm not sure I  
10 understand your question.

11 MEMBER PIERSON: Rick's comment spoke  
12 to training. As I read this, this is speaking to  
13 executing a covered task.

14 MR. MCGAUGHEY: Correct. It's the  
15 definition of what span of control means, so that  
16 the opportunity --

17 MEMBER PIERSON: It speaks to  
18 executing covered tasks, as opposed to training  
19 for covered tasks. Is that correct?

20 MR. MCGAUGHEY: Yes, it doesn't  
21 address training in the definition of span of  
22 control.

1           MEMBER PIERSON: Right. Training's a  
2 higher road. We just want to be clear. We're  
3 not removing what this permits.

4           MR. MCGAUGHEY: Correct.

5           MEMBER PIERSON: We're not removing  
6 what this permits, that one person can watch work  
7 being -- one qualified person can watch OQ tasks  
8 being performed by others. This allows for that.

9           MR. MCGAUGHEY: That provision is in  
10 the rule so that training can occur. Otherwise,  
11 you couldn't ever do on-the-job training if span  
12 of control didn't exist. If direct and observe  
13 wasn't in the rule, you couldn't do training on-  
14 the-job. You would always have to have qualified  
15 persons performing covered tasks. There'd be no  
16 exceptions.

17          CHAIR TAHAMTANI: If you're finished  
18 talking about this, I have a question for both  
19 committees. We can dissect every one of these  
20 things and take a vote on every one of these  
21 issues that are before us going forward. It's  
22 going to take some time. Or we need to hear the



1        comments, adjust things when we feel it's  
2        appropriate, and bundle them and go to a vote.  
3        Any comments or preference? Tim, did you have a  
4        comment? They're telling me you had a comment.  
5        Did you have a comment?

6                    With respect to span of control and  
7        direct and observe, we've had plenty of  
8        discussions. We're moving on to your issue. Can  
9        we put his issue up?

10                   MR. GALE: Mr. Felt raised an issue  
11        earlier. I want to make sure we address it  
12        appropriately. I think it was the issue of  
13        contractor recordkeeping. I want to make sure we  
14        don't forget it. That's all.

15                   MEMBER FELT: We haven't talked about  
16        contractor yet, so I'm waiting for that to  
17        happen. Thank you.

18                   MR. MAYBERRY: Would you like to move  
19        forward on the vote on span of control?

20                   MR. GALE: PHMSA staff has several  
21        recommendations here on these two slides. I  
22        think it's 30-31. If we were to write that out

1 into vote language, it would get a little  
2 lengthy. That was why we were using that bullet  
3 earlier about the other staff recommended  
4 changes.

5 We have some language to request the  
6 change that Member Worsinger has asked for to  
7 change the phrase task to task or tasks. We  
8 could try to create a vote slide that encompasses  
9 Rich's recommendation. I'd like to try to get  
10 back to that bullet that says the other  
11 recommendations by PHMSA staff, as referenced on  
12 those slides.

13 CHAIR TAHAMTANI: But John, you heard  
14 that at least one committee member said we're not  
15 going to vote on something that has those words  
16 on it.

17 MR. GALE: Okay. Otherwise, it's just  
18 going to get very wordy. We can put that  
19 together real fast.

20 CHAIR TAHAMTANI: Again, I had a  
21 question for the committee. We can consider  
22 Rich's comments about adding the words "or tasks"

1 to this definition and go through the vote  
2 process, and then do the next thing, and on and  
3 on and on. Is that what you want to do?

4 MEMBER FLECK: This is Sue Fleck on  
5 the Gas Committee. Can we do the ones on these  
6 two pages together and vote on them as a chunk?  
7 There's two on this page, and then there's a  
8 couple on the next page. Can we just have  
9 discussions, fix the language, and -- we've done  
10 that yesterday on some of the plastic pipe rules.  
11 We put a couple of things together. I don't know  
12 if that's possible.

13 CHAIR TAHAMTANI: That's possible.  
14 Let's do it. Rich suggested we added the words  
15 "or tasks" after the covered task in the  
16 definition of direct and observe. Any comments?

17 MEMBER PIERSON: Craig Pierson,  
18 liquids, we'd support that.

19 MEMBER WEIMER: I don't support that  
20 because I think it's creeping the scope a little  
21 bit without adding some more language that would  
22 say that the qualified individual has to be able

1 to directly observe each non-qualified  
2 individual. Because we had the example earlier  
3 where you might have somebody do coating in a  
4 ditch, and you could see the same side of the  
5 pipe.

6 If they were on the other side of the  
7 pipe, you couldn't see what they were doing. If  
8 you're going to start observing a whole crew, you  
9 have to be able to directly observe each  
10 individual and be able to stop that individual if  
11 they're not doing it correctly. I can't support  
12 it with just adding "tasks" because we've already  
13 expanded it by taking out the word single.

14 CHAIR TAHAMTANI: Rich, doesn't the  
15 span of control language give you the flexibility  
16 to do this without adding the words you want to  
17 add?

18 MEMBER WORSINGER: Rich Worsinger,  
19 City of Rocky Mount. I think PHMSA staff has  
20 heard my comments. They heard the comments -- I  
21 believe the public had a similar comment. I'm  
22 sure they're going to take this under advisement

1 for the final language. That being said, I'm  
2 comfortable with this and moving on. We don't  
3 want to beat this horse any longer.

4 CHAIR TAHAMTANI: I think the horse is  
5 dead. So what are we voting on here? Do you  
6 want to vote on this page, or do you have other  
7 things behind this?

8 Can we look at the next page just to  
9 see if we can bundle this and the next page?

10 Wally, I think --

11 MR. MCGAUGHEY: I'm sorry.

12 CHAIR TAHAMTANI: You need to just  
13 refresh everybody what we're doing here.

14 MR. MCGAUGHEY: Correct. These were  
15 the original recommendations in my proposal this  
16 morning, some time ago -- several hours ago.

17 Anyway, significant change means changes to the  
18 program which include, but not limited to, and  
19 then a list of items: re-write of the program or  
20 sections of the program or program changes  
21 resulting from an acquisition or merger. The  
22 next change was to drop the one to five years out

1 of any increase in evaluation intervals. Removal  
2 of covered tasks, we dropped not including  
3 combining covered tasks. 805(b)(3)(ii) and  
4 505(b)(3)(ii), observation of on-the-job  
5 performance is not used as the sole method of  
6 evaluation.

7           However, when on-the-job performance  
8 is used as a part of an individual's evaluation  
9 of a covered task, the operator must define the  
10 measures used to determine a successful  
11 completion of on-the-job performance evaluation.  
12 Last one on that page is 805(b)(7) and 505(b)(7)  
13 says, "Establish and maintain a management of  
14 change program that will communicate changes that  
15 affect covered tasks to individuals performing  
16 those covered tasks, to include field employees,  
17 contractors, and supervisors."

18           807(c) and 507(c), these are the  
19 effectiveness measures. One of them was  
20 individual failed to recognize an abnormal  
21 operating condition. The individual failed to  
22 take -- and we dropped out of that language

1 whether it is task specific or non-task specific.  
2 That was the recommendation from industry, and  
3 that language has been removed in both of those  
4 instances. 809(a) is the recordkeeping portion,  
5 evaluation criteria used to recognize and react  
6 to abnormal operating conditions, both task  
7 specific and non-task specific.

8 Then 809(b) and 509(b), covered tasks  
9 lists and requalification intervals for each  
10 covered task. That was the three pages of  
11 recommendations by PHMSA staff that was that  
12 bullet on the first --

13 CHAIR TAHAMTANI: If I may, we  
14 discussed this page. Now go to the next page.  
15 Any comments about this, anything on this page?  
16 Yes, Sue.

17 MEMBER FLECK: Sue Fleck, Gas. Again,  
18 just management of change, it's a process, not a  
19 program. Programs have beginnings and end.  
20 Processes go on forever. I think we like that  
21 better.

22 CHAIR TAHAMTANI: Can somebody change

1 it?

2 MR. MCGAUGHEY: On the bottom  
3 paragraph?

4 MEMBER FLECK: Yes, the very bottom  
5 last line.

6 MR. MCGAUGHEY: Right there? Make  
7 program say process. That's a long way to shoot  
8 a laser.

9 CHAIR TAHAMTANI: Who's actually  
10 making the changes? Any other comments on this  
11 page? Any comments from the public on this page?  
12 Next page. Comments? Public? Is this the last  
13 page?

14 MR. MCGAUGHEY: Yes.

15 CHAIR TAHAMTANI: Last page? If I say  
16 to the Gas Committee who's going to make a motion  
17 -- are you going to read the whole thing?

18 MEMBER WORSINGER: I'm ready to make  
19 the motion.

20 CHAIR TAHAMTANI: Do we need to read  
21 the whole thing?

22 Can we somehow designate this as



1 slides or pages?

2 MR. GALE: If the committee's okay, we  
3 could refer to Slides 31 -- I think it's 30, 31,  
4 and 32, I think is what it is.

5 CHAIR TAHAMTANI: Rich, are you going  
6 to make a motion?

7 MEMBER WORSINGER: Yes, but I'm  
8 looking at the attorney to make sure this is  
9 acceptable to him because he's the guy that calls  
10 the shots here on this.

11 MR. PATES: So long as everybody  
12 understands that the reference is accurate, sure,  
13 that's fine.

14 CHAIR TAHAMTANI: Rich, you've got to  
15 realize I checked with him before I asked you to  
16 make a motion.

17 MS. STEVENS: We're going to refer to  
18 the subsections that are iterated here, just in  
19 case slide numbers change. Then that way, it'll  
20 be more specific.

21 CHAIR TAHAMTANI: Okay. I thought I  
22 asked for comments.

1 MS. KURILLA: I wasn't quick enough.

2 CHAIR TAHAMTANI: Who are you talking  
3 to?

4 MS. KURILLA: My boss.

5 CHAIR TAHAMTANI: What do you have?

6 MS. KURILLA: It's on 805, the  
7 qualification program.

8 CHAIR TAHAMTANI: 805? Hold on, 805?

9 MS. KURILLA: That's on your previous  
10 slide.

11 CHAIR TAHAMTANI: Previous slide, back  
12 up.

13 MS. KURILLA: It wasn't specifically  
14 on the slide, that's why I didn't move fast  
15 enough. One of the 12 items listed for program  
16 requirements include No. 10, which is providing  
17 supplemental training for individuals when  
18 procedures and specifications are changed. We  
19 support that, but we want to make sure that it  
20 has to be a significant change to the procedure,  
21 not just a change of date or a name change or  
22 something like that. We just propose that you

1 add the words "significant changes impacting the  
2 performance of that covered task."

3 CHAIR TAHAMTANI: Is that on the  
4 screen here?

5 MS. KURILLA: It's in 805(b). We made  
6 edits to three and seven. I'm proposing an edit  
7 to ten before we vote generally on all OQ  
8 changes.

9 We just were asking about process.  
10 The reason why I jumped up is because we weren't  
11 sure if they were voting generally for all OQ  
12 changes, and then we were going to move to the  
13 next topic, or are they just going to vote on the  
14 changes recommended by PHMSA, then open it up for  
15 additional questions on areas not addressed by  
16 PHMSA, but within the OQ sections?

17 MR. GALE: Other than the change that  
18 was going to be discussed by Mr. Felt, that was  
19 going to be the end of it, yes. It was going to  
20 be the end of OQ. If there's other issues that  
21 there would be to raise, this is the time to  
22 raise them.

1 MS. KURILLA: Right, so that's where  
2 -- yes, I'll throw in 805(b)(10) into the mix to  
3 be voted on with PHMSA's recommended changes.

4 MS. STEVENS: So 805(b)(10) reads,  
5 "Provide supplemental training for the individual  
6 when procedures and specifications are changed  
7 for the covered task." You are proposing to add  
8 the word significant where?

9 MS. KURILLA: I'll read our proposed  
10 wording: "Provide supplemental training for the  
11 individual when significant changes are made to  
12 procedures and specifications impacting the  
13 performance of a covered task." I can hand this  
14 to you.

15 CHAIR TAHAMTANI: For the record, that  
16 was not provided as part of AGA's comments to  
17 PHMSA?

18 MS. KURILLA: No, it was.

19 CHAIR TAHAMTANI: It was? Okay. The  
20 change being proposed by AGA to 805(b)(10) is  
21 going to be put on the screen so we can vote on  
22 it. Any concerns with what they're suggesting?

1           MEMBER FLECK: Sue Fleck. I support  
2 the change. Frequently, procedures for some of  
3 the smaller companies, and even some of the  
4 larger companies, include names of individuals,  
5 so you have to rewrite the procedure occasionally  
6 just to correct a name or to correct a date. You  
7 wouldn't want to have to trigger a retraining  
8 exercise for hundreds of thousands of employees  
9 just because of a change like that. I think Erin  
10 caught a kind of important point. Significant is  
11 defined, so we're covered in what it means, but  
12 it is an important point.

13           CHAIR TAHAMTANI: All right, as soon  
14 as they have it on the screen, we'll go ahead and  
15 vote on these, I think, three pages of revisions.

16           MR. GALE: Massoud, I would recommend  
17 moving forward with this language, and then  
18 trying to address Mr. Felt's concerns and the  
19 concerns that were raised by the public.

20           CHAIR TAHAMTANI: Okay.

21           MR. GALE: This would wrap up, at  
22 least, a good chunk of it. I think we can then

1 focus on the last two remaining issues.

2 CHAIR TAHAMTANI: Thank you very much.  
3 That's the language you want them to use? That's  
4 the motion, Rich, you can use.

5 MEMBER WORSINGER: Rich Worsinger,  
6 City of Rocky Mount. I'd like to make the motion  
7 that the proposed rule, relative to the operator  
8 qualification requirements in Subpart N of Part  
9 192 and Subpart G of Part 195, as published in  
10 the Federal --

11 CHAIR TAHAMTANI: Correction, just use  
12 the 192. You can't vote on 195. Leave that for  
13 the other side.

14 MEMBER WORSINGER: Strike that. Part  
15 192, as published in the Federal Register and the  
16 Draft Regulatory Evaluation are technically  
17 feasible, reasonable, cost effective, and  
18 practical, if the following changes are made:  
19 the changes recommended by PHMSA in 192.805,  
20 195.505, 192.807, 195.507, 195.509, 192.809.

21 CHAIR TAHAMTANI: Again, the gas is  
22 only voting on 192 changes. Thank you for

1 seconding that. Any discussions? Are you ready  
2 to take the vote?

3 MR. SATTERTHWAITE: Okay, we're just  
4 going to go to the roll call. Paula Gant.

5 MEMBER GANT: Aye.

6 MR. SATTERTHWAITE: Cheryl Campbell.

7 MEMBER CAMPBELL: Aye.

8 MR. SATTERTHWAITE: Andy Drake.

9 MEMBER DRAKE: Aye.

10 MR. SATTERTHWAITE: Sue Fleck.

11 MEMBER FLECK: Aye.

12 MR. SATTERTHWAITE: Rick Worsinger.

13 MEMBER WORSINGER: Aye.

14 MR. SATTERTHWAITE: Bob Hill.

15 MEMBER HILL: Aye.

16 MR. SATTERTHWAITE: Bob Kipp.

17 MEMBER KIPP: Aye.

18 MR. SATTERTHWAITE: It's unanimous;  
19 motion carries.

20 CHAIR TAHAMTANI: Thank you very much.  
21 Someone on the liquid side, and this time, don't  
22 mention 192 codes or code sections. Craig.

1                   MEMBER WEIMER: I'll take a crack at  
2                   it, now that you've made it more complicated.  
3                   The proposed rule, relative to the operator  
4                   qualification requirements in Subpart G of Part  
5                   195, as published in the Federal Register and the  
6                   Draft Regulatory Evaluation, are technically  
7                   feasible, reasonable, cost effective, and  
8                   practicable, if the following changes are made:  
9                   the changes recommended by PHMSA in 195.505,  
10                  195.507, and 195.509.

11                  CHAIR TAHAMTANI: Thank you very much.  
12                  That was perfect coming from the Liquid  
13                  Committee. Is there a second?

14                  MEMBER DENTON: Second.

15                  CHAIR TAHAMTANI: Second.  
16                  Discussions? Take the vote.

17                  MR. SATTERTHWAITE: All right, Brian  
18                  Salerno.

19                  MEMBER SALERNO: Aye.

20                  MR. SATTERTHWAITE: Massoud.

21                  CHAIR TAHAMTANI: Aye.

22                  MR. SATTERTHWAITE: Todd Denton.



1 MEMBER DENTON: Aye.

2 MR. SATTERTHWAITE: Tim Felt.

3 MEMBER FELT: Aye.

4 MR. SATTERTHWAITE: Craig Pierson.

5 MEMBER PIERSON: Aye.

6 MR. SATTERTHWAITE: Ron McClain.

7 MEMBER MCCLAIN: Aye.

8 MR. SATTERTHWAITE: Lanny Armstrong.

9 MEMBER ARMSTRONG: Aye.

10 MR. SATTERTHWAITE: Richard Kuprewicz.

11 MEMBER KUPREWICZ: Aye.

12 MR. SATTERTHWAITE: Carl Weimer.

13 MEMBER WEIMER: Aye.

14 MR. SATTERTHWAITE: It's unanimous;  
15 the motion carries.

16 CHAIR TAHAMTANI: Thank you. Now we  
17 have two issues, as I understand it. One is this  
18 --

19 MR. GALE: Massoud, if you give us a  
20 second, we can type up the vote language for the  
21 recommended change to 192, I think it's  
22 805(b)(10). While we're doing that, if maybe Mr.

1 Felt would like to talk about his concern, we'll  
2 get our stuff in order.

3 MEMBER FELT: Tim Felt, liquids group.  
4 Maybe it's just a clarification that I need. Let  
5 me just express some of the questions I have, and  
6 maybe concerns. When I look at the 195.505  
7 qualification program and 195.509 on  
8 recordkeeping, the language in here talks about  
9 the operator ensuring that each individual  
10 performing a covered task is qualified.

11 It talks about making sure that the  
12 person is trained and qualified, that there are  
13 records for that training and qualification.  
14 I've got to admit, I'm not sure exactly what the  
15 language says today, but I know the practice  
16 today is that we do this completely for  
17 employees, but for contractors, we rely on -- I  
18 can't think of the best word, but a system that  
19 records their qualifications. Then we make sure  
20 when that contractor's on site that they have met  
21 that certification or that qualification.

22 The implication, if I read this today,

1 is that I have to have contractor training  
2 records, and actually maybe even train the  
3 contractor -- all the details that are listed  
4 here as an employee, I would have to physically  
5 do and maintain for every contractor, as well.

6 Then if that person is qualified in my  
7 sense, he then goes to Marathon and does the same  
8 job, but he has to have qualification records and  
9 training records and who qualified the person,  
10 which would probably have to be a Marathon  
11 person, then, and then Phillips 66 would have to  
12 do the same thing.

13 I'm not sure if that's what the intent  
14 is of this or not. It would seem to me that if  
15 that is, it's a significant change from the way  
16 our company is performing or using operator  
17 qualification with contractors. I suspect that's  
18 the same way the other operators are doing it.  
19 I'm not sure how it applies to the gas side or  
20 not, but I do know how we handle it, and I  
21 believe the other operators handle it on the  
22 liquid side. Maybe I would ask for somebody to

1 clarify that and see if I'm misinterpreting what  
2 I'm reading.

3 MR. MCGAUGHEY: Okay, the  
4 qualification program that has the caveat in it  
5 for No. 9 that says, "Provide training to ensure  
6 that an individual performing a covered task has  
7 the necessary KSAs to perform the task," that's  
8 the part you're talking about?

9 That would be the training requirement  
10 placed on the operator for persons performing  
11 covered tasks on their facilities. Again, the  
12 scope of the rule has been, up until today,  
13 focused directly on the operator.

14 You have been required to keep  
15 records. If an operator's using a contractor and  
16 that contractor has their own OQ program or their  
17 own processes where they qualify people, you have  
18 to have that record in your house to demonstrate  
19 they were qualified. Essentially, what you're  
20 asking, I guess, then, is when we step away from  
21 805 and over into 809 or 509, we're now talking  
22 about the recordkeeping requirement. It simply

1 states -- let me find it here. No. 7, under 809,  
2 that would be (a)(7), says, "Training required to  
3 support an individual's qualification or  
4 requalification." So again, the operator's going  
5 to have the responsibility to have the record  
6 that demonstrates the person was trained for  
7 their qualification or their requalification.

8 I guess the answer to your question is  
9 yes, that would be an additional piece of  
10 information that you would have to have from the  
11 contractor for that individual who's qualified to  
12 your program. But again, it's a single piece of  
13 data concerning that individual for data you  
14 should already be having anyhow. What we state  
15 in the rule now, as it now stands, where  
16 training, as appropriate, is necessary for  
17 qualification, that should be information that  
18 you would have already.

19 MEMBER FELT: Again, I'm not sure if  
20 that's a change or not, but I can tell you --  
21 maybe I shouldn't be saying this, but we rely on  
22 a centralized, recognized training organization

1 that certifies contractors to certain OQ tasks.

2 MR. MCGAUGHEY: Correct.

3 MEMBER FELT: When that person is then  
4 on site, we make sure we can go online and check  
5 their current status, whether they're qualified  
6 or not, and then we allow them to perform the  
7 task. The way I interpret this is I now can't  
8 just check the record, I have to have those  
9 training records, the certification records, the  
10 date of their training, that I have to physically  
11 maintain those records. That's different than  
12 being able to refer to an online system that  
13 already retains that.

14 MR. MCGAUGHEY: No, sir, I don't agree  
15 with that statement.

16 MEMBER FELT: Okay.

17 MR. MCGAUGHEY: I think that what the  
18 rule is going to say is that you have to have  
19 access to those records and be able to  
20 demonstrate, during an inspection, that that's  
21 occurred. So if you're currently reaching out to  
22 a third party for that information, I don't see

1 where that would be any different here. You  
2 could still reach out to that third party, as  
3 long as those records were retrievable, and be  
4 able to demonstrate compliance.

5 MEMBER FELT: Okay, that's what I  
6 wanted to clarify.

7 MR. MCGAUGHEY: Okay. Good question.

8 (Simultaneous speaking.)

9 MEMBER FELT: Thank you.

10 MEMBER PIERSON: Craig Pierson,  
11 Liquid. Then the intent was what? If there's no  
12 change -- we have portability today. We could  
13 have portability tomorrow. The intent was? Are  
14 we missing something? Was there an intent to try  
15 to change anything? If there wasn't, then what  
16 was the need for --

17 MR. MCGAUGHEY: Good question. The  
18 addition of the recordkeeping requirement -- in  
19 the past, there were five items identified in the  
20 rule for records that you had to maintain,  
21 correct? In the original OQ rule, there were  
22 only five items that you had to maintain. Now

1 we're changing that requirement that says we also  
2 want you to keep that training record. We want  
3 to be able to see that. That's the change.

4 MEMBER PIERSON: The current way of  
5 using ISNetworld and those techniques, which  
6 you're probably aware of, those are sufficient?

7 MR. MCGAUGHEY: I believe if you can  
8 demonstrate compliance with those records, they  
9 would be sufficient, yes.

10 MR. MAYBERRY: Again, you have access  
11 to the records.

12 MEMBER FELT: This is Tim Felt. The  
13 problem is right now, because of the way I  
14 interpreted it, I don't know if ISNet or a  
15 certain system has that. I would want to be able  
16 to go back and check with that interpretation.  
17 If somebody can give that to me, that's great.  
18 If you want to let me call back to my folks and  
19 verify that, I'll do that.

20 Otherwise, to me, that's a big  
21 difference, and I'd want to make sure that we  
22 could comply in the spirit that we are today.



1 That's all. Again, as Craig said, if that was  
2 the case, then there wouldn't be a need for the  
3 change in language. Because there is a change in  
4 language, I just want to make sure I fully  
5 appreciate -- I may have misinterpreted what the  
6 intent of this was.

7 CHAIR TAHAMTANI: So today, Tim, even  
8 though there is this third party who trains and  
9 qualifies -- they qualify.

10 MEMBER FELT: Yes.

11 CHAIR TAHAMTANI: But there's a  
12 database where you can check to make sure that  
13 people that are working on your pipeline, or  
14 would be working on your pipeline, are qualified  
15 to the tasks that they're going to do, right?  
16 You have access to that qualification. The  
17 training, if training is required before  
18 qualification, who does that?

19 MEMBER FELT: I don't know. It sounds  
20 like I need to check that out now. In the past,  
21 I didn't necessarily check that. I made sure  
22 they were qualified and that contractor had a

1 program that they worked through this independent  
2 third party. By doing that, any one of us could  
3 use that same contractor for a task because we  
4 know they've been pre-qualified or per-certified.

5 CHAIR TAHAMTANI: I think the thing  
6 that we're talking about here is not the  
7 qualification piece of it because you have access  
8 to that. Inspector shows up and says, "Show me  
9 that these individuals working on your pipeline,  
10 they're qualified," you can either access that  
11 information or give them access to actually check  
12 that I'm qualified to work on your pipeline. The  
13 training, what I'm hearing is that if there is  
14 training required before qualification, the  
15 companies don't know what that training is?

16 MEMBER FELT: Today, I don't know what  
17 training is.

18 CHAIR TAHAMTANI: Is that acceptable?

19 MEMBER FELT: Today, that's the way  
20 the program is working. If it's not acceptable,  
21 I need to know that, so that I can then figure  
22 out what the implication is. By the way, we're

1 focusing on training records, but there's the  
2 whole 505 section that talks about the  
3 evaluation. That whole things applies to the  
4 individual, as well.

5 It's the portability of the training,  
6 the qualification, and then 509 is the  
7 recordkeeping for that same training. So it's  
8 not just the records. Right now, we're talking  
9 about just the records in this little discussion,  
10 but it applies to 505, as well. I honestly -- I  
11 wasn't aware of the difference. To me, it looked  
12 like a significant change, and I'd have to go  
13 back and try to figure out -- unless somebody  
14 else can answer that for me. Maybe someone's  
15 more familiar than I am.

16 CHAIR TAHAMTANI: Is this a liquid  
17 issue, or do the gas companies have the same  
18 issue?

19 MEMBER CAMPBELL: Cheryl Campbell,  
20 Xcel Energy, Gas Committee. I share the concern  
21 about do I have to have the record in my hand.  
22 So to me, the question is really more of can I go

1 back and get that historical record from that  
2 party to then prove to you. Because I would have  
3 checked it. I would have checked it before -- I  
4 check their program as part of contracting them,  
5 and then we also ensure that they have the right  
6 qualified people on the jobsite that day.

7 If an inspector's out, then they're  
8 producing the records, etc. All of that works  
9 today. Then the question in my mind comes down  
10 to if an incident were to occur and we go back  
11 and say it was that person, what was their OQ?  
12 Can I get that historical record from that third  
13 party? I'm fine with that. I don't have a  
14 problem. I like portability. I think that's a  
15 great idea.

16 CHAIR TAHAMTANI: Let me ask you the  
17 question do you have, or can you get access to,  
18 not only the qualification records, but the  
19 training records associated with that?

20 MEMBER CAMPBELL: I can't answer that  
21 off the top of my head. That would be something  
22 that I would need to -- again, it's an historical

1 record. In theory, if they're following the  
2 code, as well, they should be maintaining those,  
3 and I should be able to go back and put my hands  
4 on those, as well, but that's a question we need  
5 to ask the third parties.

6 CHAIR TAHAMTANI: Where is the  
7 language that has caused this confusion? Can we  
8 put that on the screen?

9 MR. MCGAUGHEY: So No. 9 in 805(b)(9)  
10 says, "Provide training to ensure that any  
11 individual performing a covered task has the  
12 necessary knowledge, skills, and abilities to  
13 perform the task in a manner that ensures the  
14 safety and integrity of the operator's pipeline  
15 facilities." This is simply saying that training  
16 is a requirement in the operator's program. It  
17 doesn't speak to contractors. Of course, we  
18 never have.

19 MEMBER FELT: No, but what this says  
20 is that I have to provide the training and  
21 Marathon has to provide the training and Phillips  
22 66 has to provide the training and any other

1 pipeline company has to provide the training. It  
2 doesn't say I have access to the records. For an  
3 individual that works for me, that makes sense.  
4 For a contractor, that's the issue that I'm  
5 trying to clarify.

6 MR. MCGAUGHEY: I understand your  
7 question, but based on No. 9, how that training  
8 is provided isn't stipulated. You, as an  
9 operator, have to make accommodations for that to  
10 occur. If that occurs through the contractor,  
11 then that's your choice. That's what your  
12 program says.

13 That's what you accomplished. The  
14 recordkeeping part of it simply means that you  
15 have to maintain a record of that, or have access  
16 to that record, to demonstrate with compliance  
17 that the training was done. We, at PHMSA, can't  
18 speak to how that gets accomplished with a  
19 third-party provider out there. That is  
20 something that the operator's going to have to  
21 negotiate with their third-party providers as to  
22 how that gets done.

1                   MEMBER PIERSON: Craig Pierson,  
2                   liquids. We're just simply trying to understand  
3                   whether you're trying to make a change and drive  
4                   some improvement that we're unaware of. That's  
5                   what we're trying to understand.

6                   CHAIR TAHAMTANI: Let me say this.  
7                   This is, again -- I've been -- you want to go  
8                   first?

9                   My comments are going to be sort of  
10                  the final comments.

11                  MEMBER DRAKE: Then I better go ahead.  
12                  This is Andy Drake with Spectra Energy. I think  
13                  what you're asking us is a little bit of an  
14                  unknown. In the past, we have provided records  
15                  for qualification. We use Veriforce or ISNet or  
16                  whomever, and we have portability. You're now  
17                  asking us to formally track training, which is  
18                  new. I think that informally, we probably have  
19                  those systems, and their training records are  
20                  probably in there or can become available. But  
21                  right now, you're asking us on the fly, which is  
22                  probably not appropriate for us to answer

1       formally. I think the other thing that is coming  
2       up is this issue about training people, we need  
3       to provide a provision in here where training is  
4       the same as qualification, with regards to  
5       records. Because when we start talking about  
6       contract personnel, we're not going to all train  
7       all of these contractor folks separately.

8                 We're going to draw off the same  
9       sources as ISNet or Veriforce, and those folks  
10      are going to retain those training records going  
11      forward, just like they have retained  
12      qualification records historically. I don't know  
13      if that language is that hard to adjust to make  
14      that happen, but that fundamentally is going to  
15      have to happen.

16                CHAIR TAHAMTANI: If you allow me,  
17      I'll fix it. First of all, I think, as an  
18      operator, you need to know that they are being  
19      trained and they're properly qualified. I  
20      understand the portability, and the fact that you  
21      don't want each operator to train the same people  
22      on the same tasks. Look at the language. This



1 is 50 -- is it 509? 509(b)(9), "Provide  
2 training," I think that's where -- Tim, is that  
3 where the problem comes from? What if we said  
4 provide or verify? Because you should at least  
5 verify, through electronic means, that there was  
6 training and there was qualification. That's  
7 something that you should be -- I think you're  
8 doing that now. Tim, you're on the record, so if  
9 you admit to some violations and if I can show up  
10 -- you're in Virginia, so I'll show up tomorrow.

11 MEMBER FELT: This is Tim Felt. I can  
12 only say I don't know if we have access. I've  
13 written a note, and I'm trying to find out if we  
14 have access to that information today. We may.  
15 My understanding was that we looked at the  
16 system. What the system was designed to provide  
17 for us was the certification or the  
18 qualification. It's based on training, for sure,  
19 but I don't know whether that system has the  
20 training. If you're asking me to agree to  
21 whether those training records are available, I  
22 don't know, so I can't support that because I

1 don't know the answer to that.

2 CHAIR TAHAMTANI: This new rule would  
3 have an effective date. Do you agree with the  
4 concept of verification of training and  
5 qualification?

6 MEMBER FELT: I do agree that there  
7 has to be some kind of verification process. I  
8 guess I'd like to know how those firms, those  
9 organizations that we're relying on today -- this  
10 wasn't something that just happened overnight.  
11 This happened over a period of time.

12 What I don't know, for example, is do  
13 they have the training records and they just have  
14 to make them accessible to us, or are those  
15 training records just not even available, and now  
16 all of a sudden, I need to produce them, but  
17 they're not available because they hadn't been  
18 tracked before? Because I don't know what that  
19 other program had. So maybe there's an  
20 implementation period.

21 CHAIR TAHAMTANI: The reason I'm  
22 asking --

1                   MEMBER FELT: I'm just speaking from  
2                   an unknown. I don't know right now. That's  
3                   where I'm a little bit lost.

4                   MEMBER DENTON: Massoud, Todd Denton.  
5                   I think your point's fair, and I think we could  
6                   work with that. The verification piece is good,  
7                   and with an implementation phase, I'm sure we  
8                   could work with the third parties to make that,  
9                   if it's not even already there.

10                  MR. MAYBERRY: I'm just curious. Did  
11                  the comments reflect that concern over training  
12                  records, or is it just -- it's not just coming to  
13                  light right now.

14                  CHAIR TAHAMTANI: I guess were they  
15                  officially filed?

16                  MR. MAYBERRY: This wasn't -- I'm kind  
17                  of surprised it's coming up right now, really.

18                  MEMBER FELT: I didn't file those  
19                  comments previously, but as I was getting ready  
20                  for the meeting, people inside our company  
21                  brought this up. I suspect that they saw an  
22                  issue, which is why they were bringing it up. So

1 if I'm not allowed to comment on it, I  
2 understand.

3 CHAIR TAHAMTANI: Look, I understand  
4 this is a common practice. At least in Virginia,  
5 we have a database where people are getting  
6 qualified, and contractors can work from one  
7 operator to the next, today here, tomorrow there.  
8 All of that is in place. Let's not look at the  
9 past practices and what has happened. I think  
10 verification makes sense. If it's okay with  
11 PHMSA, we can try to fix the language or trust  
12 PHMSA that we'll fix the language to put the  
13 words verification of some sort within 509(b)(9)  
14 and 505.

15 MR. MCGAUGHEY: Massoud, may I? If we  
16 go back to the beginnings of this qualification  
17 program requirement in 505 or 805, when we read  
18 (b), it says the program requirements, "The  
19 operator qualification program must, at a  
20 minimum, include provisions to."

21 This doesn't say that the operator has  
22 to provide training. It says the operator has to

1 provide provisions to provide training. If those  
2 provisions are to a third party, then that would  
3 be acceptable. Then the other piece of this, the  
4 discussion that we're having, is when that does  
5 occur, when you do provide those provisions to  
6 provide training, do you maintain a record of  
7 that?

8 The second part of it in 809 or 509 is  
9 asking you to keep that record or have access to  
10 that record. So there's no specific requirement  
11 here for you, as an operator, to train  
12 contractors. But you do have to have provisions  
13 to ensure that contractor is trained. I don't  
14 think it's necessary to add the language to the  
15 existing proposed rule to verify. I think we can  
16 do just fine with the way (b) is written.

17 CHAIR TAHAMTANI: In my mind, if there  
18 is confusion within this rule, there will be  
19 confusion out there. If you add a couple words  
20 here and there to clarify the intent, it's always  
21 helpful.

22 MR. MCGAUGHEY: Okay.

1           MEMBER FELT: This is Tim Felt. I  
2 just got a note back. What we are able to verify  
3 today -- it doesn't mean that the information  
4 isn't available somewhere else, but what we're  
5 able to verify through the system today is the OQ  
6 tasks that the contractor is qualified for, what  
7 the last qualification method was -- for example,  
8 whether it was a performance verification or CBT  
9 -- the history of task qualification with their  
10 dates, and the provider of the qualification.

11           There's no access to any training  
12 records today. It doesn't mean it isn't  
13 available; it means that we don't have access to  
14 that today. So if this is a change, then I don't  
15 know what the impact to implement that change  
16 would be.

17           CHAIR TAHAMTANI: So one way is to  
18 vote on what it is right now or talk about  
19 inserting some sort of word that indicates  
20 verification of training. As Wally said, you can  
21 read this code section to say that all you have  
22 to do is to have provisions to provide, that you

1 don't have to provide.

2 MEMBER FELT: But that says provisions  
3 to provide the training; it doesn't say the  
4 records. Again, it may not be a big deal. I  
5 just don't know if it is a big deal. So maybe if  
6 there was something that gave us the opportunity  
7 to -- I don't want to make a big deal out of  
8 something that isn't a big deal, but I don't want  
9 to be out of compliance in one day just because  
10 we have a process and a system that's been  
11 working for years, and all of a sudden, the rules  
12 change and we're not appreciating how to  
13 implement it. I think we're on board with the  
14 spirit of it; it's just how to get there.

15 MR. MAYBERRY: I was just going to add  
16 maybe if we could tweak the language, like  
17 Massoud had indicated, but then add an item there  
18 for PHMSA to consider a suitable phase-in period  
19 to consider going forward and acknowledging that  
20 systems will have to be brought up to date, be  
21 updated to address the training provision. It's  
22 already being done, I take it. I would imagine

1 that there are records for that. Not everyone's  
2 really speaking up to that level, but I imagine  
3 there's a certain level of training records  
4 already retained.

5 CHAIR TAHAMTANI: On the  
6 recordkeeping, 509, where it says, "Each operator  
7 must maintain records that demonstrate compliance  
8 with the subpart," and No. 7 says, "Training  
9 required to support," you could insert, "Each  
10 operator must maintain records or verify records  
11 that demonstrate."

12 MEMBER FELT: This is Tim Felt again.  
13 Again, I'm catching it on the fly, but you've got  
14 five abnormal operating conditions, the name of  
15 the evaluator and date. There are a few elements  
16 in here. I think if the whole thing, as a whole,  
17 could be allowed some kind of a phase in -- we've  
18 obviously got people who do this for a living  
19 that maintain these records for us. If the  
20 requirement's changed, I'm sure that we could  
21 adjust, and they would comply with it. That's  
22 their business model. I just want to make sure



1 that we recognize --

2 CHAIR TAHAMTANI: Alan just suggested  
3 some sort of phasing period. Is that were you  
4 want to go with this? We'll vote on the  
5 language, and PHMSA will come up with sort of  
6 phase-in period, right?

7 MR. GALE: Right.

8 CHAIR TAHAMTANI: Or we haven't changed  
9 the language -- John, do we need to vote on this?

10 MR. GALE: Massoud, what we have on  
11 the screen right now is a motion that includes  
12 the language that we earlier discussed on  
13 805(b)(10) and 505(b)(10). Then what we've also  
14 added here was a reference to 805(b)(9) and  
15 505(b)(9), as they were proposed. We weren't  
16 sure if the committee wanted to make changes. We  
17 were just trying to be a little proactive there.  
18 But if there's no need to make any changes, we  
19 can easily strip out the reference to (b)(9) if  
20 appropriate.

21 CHAIR TAHAMTANI: On this one, do we  
22 need to add, "Provide training or verify"? Do I

1 hear a yes?

2 MR. MAYBERRY: That's not withstanding  
3 Wally's earlier comment that it's really  
4 understood that way, but just to Massoud's point,  
5 just to make sure that it's clear.

6 MEMBER PIERSON: Chairman, you're  
7 suggesting you could include language to say  
8 provide or verify that training has been provided  
9 to ensure -- is that --

10 CHAIR TAHAMTANI: Yes.

11 MR. MAYBERRY: Then a point that PHMSA  
12 would consider a suitable phase-in period for  
13 implementation of that for the effective date of  
14 that part of the rule.

15 MEMBER DRAKE: This is Andy Drake with  
16 Spectra Energy. I think that this has created a  
17 good record of guidance to PHMSA, this discourse  
18 here that we've had. I think a lot of this can  
19 be resolved, without a lot of revisions here,  
20 with some sort of suitable ramp-up period, some  
21 sort of phase-in period. Because I think the  
22 contractors actually -- this is a change of venue

1 for them, as far as a formal requirement. Fine.  
2 I think a lot of this information's available.  
3 It's just not, to Tim's point, formally -- none  
4 of us are going to go on record saying we have it  
5 when it's new. But I think given a ramp-up  
6 period, the contractors will make the adjustment.

7 We'll require them to do so, and it  
8 will come out where it's very structured and  
9 formal and available for public review, or  
10 anybody's review, for that matter. I think that  
11 changing the language isn't really the biggest  
12 deal. I think the ramp-up period is the  
13 appropriate answer. Give the vendors a chance to  
14 get that structure into place.

15 CHAIR TAHAMTANI: Sue, you had a  
16 comment?

17 MEMBER FLECK: Yes, I don't want to  
18 overcomplicate this, but what do you mean by  
19 training record? Is it so-and-so was trained on  
20 such-and-such a date, on such-and-such a task, or  
21 is it the actual material that was used for  
22 training? Because if we're going to be directing

1 our contractors and our own people to keep  
2 training records, I'm not really sure what you  
3 mean by training records, so if you could clarify  
4 that a tiny bit, I would appreciate it.

5 MR. MCGAUGHEY: The way the 809 or 509  
6 would speak, "Each operator must maintain records  
7 that demonstrate with this subpart." Individual  
8 qualification records, "Individual qualification  
9 records must include," No. 7 says, "Training  
10 required to support an individual's qualification  
11 or requalification," so the training would need  
12 to be identified that was used to train the  
13 individual.

14 The actual content, I don't believe,  
15 but again, we're talking about, typically, what,  
16 three and five-year re-evaluation frequencies or  
17 something of that nature? Whatever training is  
18 available shouldn't have gone away in that short  
19 period of time if you needed to reach it.

20 CHAIR TAHAMTANI: Any comments from  
21 the public on this?

22 MR. CONDON: Dennis Condon, Henkels &

1 McCoy. I was on the Thirteen Issues Committee  
2 back in 2003. We discussed this, so I either  
3 want to bring it up or re-confirm, but as Richard  
4 Sanders said at the time, contractors cannot have  
5 an OQ plan, per the rule. We can't be  
6 accountable for those records. We might be made  
7 responsible through our relationship with the  
8 operator, we keep them if you get audited. But  
9 PHMSA doesn't audit us for them, they audit the  
10 operator, and then we have to produce them.  
11 Failure to do so is a civil issue. So I don't  
12 know if that's changed any, but there it is. We  
13 can't have an OQ plan. Contractors are  
14 constantly being asked, "What's your OQ plan?"  
15 We can't have one. We can only have an action  
16 plan that shows how we're going to facilitate the  
17 operator's plan.

18 MS. HERDES: Elizabeth Herdes with  
19 Greenberg Traurig. Just a wording suggestion  
20 that might solve this fairly quickly, and that is  
21 to just say that you ensure the individuals who  
22 operate are qualified, have had training. So

1 that's the obligation in the plan is that you  
2 ensure training has occurred, so that you're not  
3 having to do the training yourself, necessarily.

4 CHAIR TAHAMTANI: Anyone else? Thank  
5 you for your comments.

6 MR. HECK: Brad Heck with Miller  
7 Pipeline. I believe, from the contractor's  
8 perspective, we would be very supportive of the  
9 phase-in period, obviously, due to the nature of  
10 the contracting business. I would also offer for  
11 consideration to the committee that when we're  
12 talking about the training records and the  
13 training access, I think to your point, sir,  
14 having the provision of or to provide the  
15 training, I think we may be creating a mushroom  
16 cloud in that vein.

17 But rather, Massoud, to your language  
18 proposal, I think it hits the target better to  
19 either provide, if it's not there, or to validate  
20 that it has been there or has occurred somewhere  
21 for that task. I would support that from the  
22 contractor's perspective. I would also offer

1 something else to consider, as well, when it  
2 comes to the required training.

3 Richard, I believe you made the  
4 comment initially today relating to some older  
5 generational workers that perhaps have the  
6 training, they know the work, they even may hold  
7 the qualifications for those tasks, and have so  
8 on multiple re-evaluation intervals, but perhaps  
9 the record of training the individual has had is  
10 absent. I would offer that the committee give  
11 serious consideration to language that would  
12 reflect that, even if it's -- permit me to think  
13 out loud here -- even if it's language to talk  
14 about grandfathering in historical activities  
15 that have occurred, as it relates to training,  
16 but the records aren't there to reflect that, for  
17 those folks. Then of course, obviously, an  
18 implementation period from this point forward to  
19 be able to demonstrate those records and to be  
20 able to demonstrate the training has taken place,  
21 so that we actually are able to accommodate the  
22 older worker or the historical practices in the

1 industry, where there's no records to reflect  
2 that. Thank you.

3 CHAIR TAHAMTANI: Thank you. Anyone  
4 else?

5 MS. LIVINGSTON: Amy Livingston from  
6 Kinder Morgan. Just to add to what Brad Heck was  
7 just saying, if you say that a training record is  
8 required for any initial qualification going  
9 forward, it totally negates the need to go back  
10 into history for those folks who have been  
11 performing, have been qualified. Those records  
12 are already there. They continue to make those,  
13 so just a suggestion.

14 MR. ERICKSON: I'm John Erickson with  
15 American Public Gas Association, but I'm also  
16 chief operating officer of the Security and  
17 Integrity Foundation. We do OQ training and  
18 recordkeeping for master meter operators and  
19 small utilities that don't have their own  
20 training. For sure, we're going to change our  
21 recordkeeping to match whatever the regulation,  
22 when it finally comes out -- but we probably



1 can't go back and re-create training records that  
2 have already occurred, so I do hope any new  
3 records that are required to be kept that it's  
4 from the effective date of the rule going  
5 forward. Thanks.

6 MR. HECK: Brad Heck, Miller Pipeline  
7 again.

8 CHAIR TAHAMTANI: Weren't you just  
9 here?

10 MR. HECK: You get to see the ugly  
11 face again. Coat-tailing Amy's comment, I would  
12 also offer for the committee to consider, as  
13 well, I'm not sure -- perhaps my limited cerebral  
14 ability did not capture Wally's response to it,  
15 but I would offer that perhaps we should  
16 consider, also, training, as it relates to the  
17 re-evaluation or the re-qualification, as we're  
18 wording it, process, so that we don't necessarily  
19 have to have a re-training every time we  
20 re-qualify an individual on that task. I'm not  
21 sure; maybe that was covered earlier in the  
22 conversations between Richard and Wally. I don't

1 recall that. But it would seem logical that we  
2 would want to be able to train them the initial  
3 time, to Amy's point, and then subsequently,  
4 thereafter, only in the event that we have  
5 incidents that would demonstrate that there's a  
6 contributory event that we would need to make  
7 sure that we have a re-training if there's a  
8 disqualification, etc. Thank you.

9 MS. KURILLA: I just want to make sure  
10 that we don't miss the fact that the motion  
11 language up here for 805(b)(9) should still  
12 capture our concerns and that the phasing-in is  
13 for (b)(10), or vice versa, sorry, (b)(10).  
14 Okay.

15 CHAIR TAHAMTANI: Anyone else?

16 MEMBER FELT: This is Tim Felt. I  
17 just want to thank everybody that made comments  
18 because you certainly added a lot of clarity and  
19 validation that we had an issue that I wasn't  
20 sure if we had or not, so thank you for your  
21 comments. I personally think they added a lot of  
22 value, and I hope that we can take those into

1 consideration.

2 CHAIR TAHAMTANI: Ron.

3 MEMBER MCCLAIN: Ron McClain with the  
4 liquid group. I think this is for Alan. You've  
5 considered an implementation period for this one  
6 narrow aspect, but it seems like some of the  
7 previous changes that we've talked about also  
8 require some implementation time. Could we  
9 consider the same implementation for all these  
10 changes? Because some of the ones earlier may be  
11 even more difficult than what this one is.

12 MR. MAYBERRY: To have you some  
13 examples of some? We typically do consider that  
14 in new regulations that might require a change  
15 and take some time. I guess we could take that  
16 as a recommendation to consider it.

17 MR. GALE: Massoud, we'll have some  
18 motion language here just shortly. Massoud, we  
19 were able to get the motion language up. If  
20 there's no other concerns being raised by the  
21 members, I think this is something that can --

22 CHAIR TAHAMTANI: All right, thank

1 you, Tim, for thanking the public. That's  
2 normally my role to do that, but it's okay.  
3 Appreciate all the comments from the public. I  
4 just want the committee to consider their  
5 comments as you are going to vote on this. The  
6 comments were related to other parts of the OQ  
7 rule, too. If you have considered the public  
8 comment and you are ready to vote --

9 MR. GALE: Just one point of  
10 clarification from Mr. Felt. Was it a phase-in  
11 period for 509, Tim? I'm assuming it's a similar  
12 one for 809?

13 MEMBER FELT: Yes, the phase-in period  
14 was for 509. I think that the 505 piece, I think  
15 we're comfortable with that with the way Wally  
16 explained it.

17 MR. GALE: Okay, so we can pull out --  
18 sorry, so we can pull out the reference to (b)(9)  
19 and just reference the 50 --

20 MEMBER FELT: 509.

21 MR. GALE: 509? Okay. Is that  
22 better?

1 CHAIR TAHAMTANI: I believe we're  
2 ready. John?

3 MR. GALE: I think so.

4 CHAIR TAHAMTANI: All right, take a  
5 look at what's on the screen. Are you making the  
6 motion?

7 MEMBER CAMPBELL: Yes, sir.

8 CHAIR TAHAMTANI: Go ahead.

9 MEMBER CAMPBELL: No pressure. Cheryl  
10 Campbell, Xcel Energy. The proposed rule,  
11 relative to 192.805(b)(10) and 192.809, as  
12 published in the Federal Register and the Draft  
13 Regulatory Evaluation, are technically feasible,  
14 reasonable, cost effective, and practicable, if a  
15 phase-in period is implemented and (b)(10) is  
16 revised to read as follows: "Provide  
17 supplemental training for the individual when  
18 significant changes to procedure and  
19 specifications impacting the performance of a  
20 covered task."

21 CHAIR TAHAMTANI: Is there a second?

22 MEMBER WORSINGER: Second.

1 CHAIR TAHAMTANI: Any discussions?

2 Take the vote.

3 MR. SATTERTHWAITE: All right, we're  
4 just going to do the roll call. Paula Gant.

5 MEMBER GANT: Aye.

6 MR. SATTERTHWAITE: Cheryl Campbell.

7 MEMBER CAMPBELL: Aye.

8 MR. SATTERTHWAITE: Andy Drake.

9 MEMBER DRAKE: Aye.

10 MR. SATTERTHWAITE: Sue Fleck.

11 MEMBER FLECK: Aye.

12 MR. SATTERTHWAITE: Richard Worsinger.

13 MEMBER WORSINGER: Aye.

14 MR. SATTERTHWAITE: Bob Hill.

15 MEMBER HILL: Aye.

16 MR. SATTERTHWAITE: Bob Kipp.

17 MEMBER KIPP: Aye.

18 MR. SATTERTHWAITE: Richard Pevarski.

19 I'm sorry; he's not here today. All right, it is  
20 unanimous; the motion carries.

21 CHAIR TAHAMTANI: Thank you very much.

22 Tim Felt, would you make a motion? There is a

1 price to pay.

2 MEMBER FELT: Okay, the proposed rule,  
3 relative to 195.505(b)(10) and 195.509, as  
4 published in the Federal Register and the Draft  
5 Regulatory Evaluation, are technically feasible,  
6 reasonable, cost effective, and practicable, if a  
7 phase-in period is implemented and (b)(10) is  
8 revised to read as follows: "Provide  
9 supplemental training for the individual when  
10 significant changes are made to procedures and  
11 specifications impacting the performance of a  
12 covered task." Not said here, but I would assume  
13 that the comments that were made relative to  
14 other aspects will be taken into account as part  
15 of this phase-in period consideration, Alan.

16 CHAIR TAHAMTANI: Is that part of your  
17 motion?

18 MEMBER FELT: No, I said not part of  
19 the motion, but just a comment -- clarification.

20 CHAIR TAHAMTANI: Is there a second to  
21 the motion, itself?

22 MEMBER PIERSON: Second, without

1 having to put in the language.

2 CHAIR TAHAMTANI: Thank you. Any  
3 discussions? This is when you could have said  
4 what you said earlier. All right, would you take  
5 the vote?

6 MR. SATTERTHWAITE: All right, roll  
7 call, Brian Salerno.

8 MEMBER SALERNO: Aye.

9 MR. SATTERTHWAITE: Massoud.

10 CHAIR TAHAMTANI: Aye.

11 MR. SATTERTHWAITE: Todd Denton.

12 MEMBER DENTON: Aye.

13 MR. SATTERTHWAITE: Tim Felt.

14 MEMBER FELT: Aye.

15 MR. SATTERTHWAITE: Craig Pierson.

16 MEMBER PIERSON: Aye.

17 MR. SATTERTHWAITE: Ron McClain.

18 MEMBER MCCLAIN: Aye.

19 MR. SATTERTHWAITE: Lanny Armstrong.

20 MEMBER ARMSTRONG: Aye.

21 MR. SATTERTHWAITE: Richard Kuprewicz.

22 MEMBER KUPREWICZ: Aye.



1 MR. SATTERTHWAITE: Carl Weimer.

2 MEMBER WEIMER: Aye.

3 MR. SATTERTHWAITE: It's unanimous;  
4 the motion carries.

5 CHAIR TAHAMTANI: Thank you very much.  
6 I think this concludes the OQ discussion. Do you  
7 all need a break before we come back and do the  
8 easy part? Ten minutes?

9 MR. MCGAUGHEY: My I just say thank  
10 you --

11 CHAIR TAHAMTANI: Be back by 3:00  
12 please.

13 MR. MCGAUGHEY: May I just say thank  
14 you very much for your participation and your  
15 hard work at this. It's deeply appreciated.

16 CHAIR TAHAMTANI: Thank you, Wally,  
17 for all your hard work.

18 (Whereupon, the above-entitled matter  
19 went off the record at 2:51 p.m. and resumed at  
20 3:06 p.m.)

21 CHAIR TAHAMTANI: All right, we're  
22 back in session. I believe the next item is farm

1 taps. Chris.

2 MR. McLAREN: Thank you, Massoud. I'm  
3 Chris McLaren with PHMSA state programs. It's a  
4 pleasure to present on the farm tap topic to you  
5 all today. Thank you for letting me be here. We  
6 have, now, the farm taps up. PHMSA regulates  
7 farm taps as service lines, which is a subset of  
8 distribution pipelines. Our discussion on this  
9 topic initiated when PHMSA published the final  
10 rule in December of 2009, and then subsequently  
11 published FAQ C-3-7 around the time of the  
12 implementation date of the final rule on August  
13 2011. The topic of farm taps came up.

14 Just to initiate the discussion, in  
15 past rulemakings, PHMSA's defined a farm tap as  
16 industry jargon for a pipeline that branches from  
17 a transmission or gathering line to deliver gas  
18 to a farmer or other landowner. We went into  
19 discussions with the industry groups regarding  
20 how they all viewed farm taps and viewed the  
21 issue of having had them in the distribution IM  
22 program.

1           We also received two interpretation  
2 letters, one from Northern Natural and one from  
3 Atmos, where we provided information on  
4 establishing that farm taps are distribution  
5 service lines. Following extended discussions  
6 with the industry groups -- and primarily, that  
7 was then led by the Texas coalition group of  
8 operators, primarily from the Texas/Oklahoma area  
9 -- we then investigated how farm taps were being  
10 handled in our distribution IM inspections, as  
11 well as what we were finding of the threat from  
12 farm taps from an incident rate, as well as what  
13 we were seeing in the field, implemented from  
14 their inclusion in DIMP.

15           Following all these discussions, we  
16 then proposed to exclude farm taps from the DIMP  
17 requirements, as requested by the industry  
18 groups, and to amend Part 192 to add a new  
19 section that prescribes inspection activities for  
20 pressure regulators and over-pressurization  
21 protection equipment on these service lines that  
22 originate from transmission gathering or

1 production pipelines, where there is a single  
2 service, which hadn't been covered in the  
3 regulation previously.

4 We see that as covering a needed  
5 safety benefit. Next slide. We received several  
6 comments. One was to maintain enforcement  
7 flexibilities for operators by allowing operators  
8 to treat farm taps as either distribution or  
9 transmission. Second on, as drafted, the 740(a)  
10 could be interpreted to exempt additional lines  
11 from the requirement of the section because it  
12 was not directly connected to an upstream  
13 production gathering or transmission pipeline.  
14 That comment you'll see in some of the amendments  
15 to the language. One comment was to limit the  
16 exception proposed in 192.103(b) that the  
17 components of the farm tap regulator and valve  
18 assembly between the transmission gathering or  
19 production line and that service line pipe.

20 Another comment was to provide a  
21 five-year interval for inspection of farm taps.  
22 Another was to define a farm tap as a pipeline

1 that maintains the same designation as the  
2 pipeline from which originates, whether that be  
3 transmission, gathering, production, storage,  
4 etc.

5 One other comment that was part of a  
6 comment that didn't make it on this was to  
7 include the exception for rupture disks from the  
8 inspection piece of the regulation, similar to  
9 that that was provided in 793. That included the  
10 limitation that the operator need only verify  
11 that a rupture disk was, with the correct ranges,  
12 installed at the location because rupture disks  
13 are inherently not able to be tested. They are a  
14 one-time usage component for that overpressure  
15 protection. In our responses, PHMSA does not see  
16 the need to maintain flexibility for operators.  
17 They do not have the option of treating a farm  
18 tap as either a distribution or transmission line  
19 because farm taps are inherently distribution  
20 service lines. All the rules and discussion was  
21 laid out in the interpretation letters that are  
22 posted.

1           We did recommend to revise the  
2           language in 740(a) to reflect the comment that  
3           the language be clear, and we'll see that in red  
4           as we go through these comments. We also  
5           recommended to revise 103(b) to reflect the  
6           comment that the exemption be limited to the farm  
7           tap regulator and valve assembly between the  
8           service and the upstream line.

9           At this time, PHMSA believes the  
10          five-year interval that was suggested by a  
11          commenter is too long and recommends keeping the  
12          interval as proposed at three years. Regarding  
13          to define a farm tap as suggested, there is no  
14          new definition as a farm tap, as it is a  
15          distribution service line and should stay in that  
16          classification, as shown through all the previous  
17          final orders, interpretation, and rulemakings.  
18          Here we can see the recommended language, where  
19          we included the comment about directly connected  
20          to within that language for 740 and 103(b), which  
21          is actually within that DIMP Subpart P rule.  
22          Also, to treat the comment on the use of rupture

1 disks in a similar manner to that that was used  
2 in 192.739, we recommend revising 740(b) to  
3 reflect that comment, including the exception in  
4 parentheses that you see below, in 740(b), so  
5 that these components would be required to have  
6 these inspections done on this time frame with  
7 regards to relief devices, except for rupture  
8 disks. That concludes the presentation.

9 CHAIR TAHAMTANI: Thank you, Chris.

10 Questions/comments from the committee, Gas  
11 Committee?

12 MEMBER DRAKE: Andy Drake with Spectra  
13 Energy. I just want to clarify something that I  
14 think I'm getting out of this, and that is you  
15 say that the farm taps are distribution systems,  
16 but do farm taps then have to provide an annual  
17 report under DIMP, even if it's off of a  
18 transmission system?

19 MR. MCLAREN: DIMP would not require  
20 that report. They would not have to be included  
21 in a DIMP program following this amendment, but  
22 it would be reported as a distribution service

1 line, as such, on a distribution annual report,  
2 as they should have been to date.

3 CHAIR TAHAMTANI: Sue.

4 MEMBER FLECK: Sue Fleck representing  
5 the gas. If it's a distribution service line,  
6 and we see it as an asset that has a risk  
7 associated with it and we want to manage that  
8 risk, why couldn't we include it in our DIMP  
9 plan?

10 MR. MCLAREN: I think that you  
11 certainly could, but it would not be required  
12 within this amendment, this proposed change.

13 MEMBER FLECK: So it would be optional  
14 to the operator on how they treated that?

15 MR. MCLAREN: It certainly could be  
16 treated within DIMP, but you would not be exempt  
17 from the requirements of inspection and  
18 maintenance in the proposed 740 regulation.

19 MEMBER FLECK: So we'd still have to  
20 look at it every five years. We could do more,  
21 but we couldn't do less?

22 MR. MCLAREN: That would be correct.



1 Currently, the language stands at three years,  
2 prior to this committee's discussion.

3 MEMBER FLECK: Three years, okay,  
4 thank you.

5 CHAIR TAHAMTANI: Any other comments  
6 from the gas committee? Any comments from the  
7 public? Can we put the language for the motion  
8 up? I need a motion from the Gas Committee.

9 MEMBER HILL: Mr. Chairman, Robert  
10 Hill, Brookings County, South Dakota. I'd like  
11 to make the motion that the proposed rule,  
12 relative to the farm tap, as published in the  
13 Federal Register and the Draft Regulatory  
14 Evaluation, are technically feasible, reasonable,  
15 cost effective, and practicable, if the 192.740  
16 and 192.1003 are revised as specified in the  
17 preceding slide.

18 CHAIR TAHAMTANI: Thank you very much.  
19 Is there a second?

20 MEMBER WORSINGER: Second.

21 CHAIR TAHAMTANI: Any discussions?  
22 Please take the vote.

1 MR. SATTERTHWAITE: We'll go straight  
2 to a roll call. Paula Gant.

3 MEMBER GANT: Aye.

4 MR. SATTERTHWAITE: Cheryl Campbell.

5 MEMBER CAMPBELL: Aye.

6 MR. SATTERTHWAITE: Andy Drake.

7 MEMBER DRAKE: Aye.

8 MR. SATTERTHWAITE: Sue Fleck.

9 MEMBER FLECK: Aye.

10 MR. SATTERTHWAITE: Rich Worsinger.

11 MEMBER WORSINGER: Aye.

12 MR. SATTERTHWAITE: Bob Hill.

13 MEMBER HILL: Aye.

14 MR. SATTERTHWAITE: Bob Kipp.

15 MEMBER KIPP: Aye.

16 MR. SATTERTHWAITE: It's unanimous;  
17 the motion carries.

18 CHAIR TAHAMTANI: Thank you very much.  
19 The next item is special permit, I believe,  
20 right? Steve, you ready?

21 MR. NANNEY: I'm glad everyone's got  
22 their changes out, so when I go over the special

1 permit, it'll be real easy. With that, the item  
2 here is special permit renewal. Again, the  
3 background on it is under 190.341(a), when  
4 requested by an operator, PHMSA will look at a  
5 special permit and sometimes waive compliance  
6 with one or more of the pipeline safety  
7 regulations if it's determined that granting this  
8 permit would not be inconsistent with pipeline  
9 safety. What PHMSA had in the notice of proposed  
10 rulemaking was to amend 341 to add procedures for  
11 renewing expiring special permits. Some of the  
12 comments that we got on it was PHMSA should make  
13 it clear that any renewal applications will be  
14 treated the same as current initial applications,  
15 in that they will be public, published on the  
16 PHMSA website, and subject to NEPA.

17 The second comment we have outlined  
18 above is that PHMSA should re-examine the extent  
19 of the documentation it requires as part of the  
20 renewal process. For example, aerial photography  
21 data would not provide any meaningful information  
22 and should be deleted. Third, PHMSA should not

1 review the special permit to confirm satisfactory  
2 performance by permitting continued pipeline  
3 operation without expiration date.

4 Last, the proposed language in 341(e)  
5 is ambiguous and unclear. The responses that  
6 PHMSA has to this is PHMSA agrees that renewal  
7 applications should be treated the same as the  
8 initial applications. Therefore, we recommend  
9 revising the amendatory language in 341(d)(1) by  
10 replacing the word application with application  
11 or renewal. Also, No. 2, PHMSA believes that 341  
12 has the correct requirements for special permit  
13 renewal documentation. PHMSA does recommend  
14 revising 341(f) to limit aerial photography of  
15 pipeline segments where the special permits  
16 affect public safety, such as a class location  
17 special permit that allows a less stringent  
18 design factor in a populated area and revising  
19 341(f)(1)(v)(f) to allow only a summary of inline  
20 inspection survey results to be submitted with a  
21 permit renewal.

22 Bullet No. 3, PHMSA will evaluate each

1 special permit renewal, determine if its issuance  
2 and conditions are consistent with pipeline  
3 safety, environmental protection, and in the  
4 public safety interest. That's what we do on  
5 every special permit and every special permit  
6 renewal.

7 Then last, in response to comments,  
8 PHMSA recommends revising 341(e) to make it clear  
9 that a special permit renewal must be submitted  
10 180 days prior to the grant expiration. The  
11 PHMSA recommendation for changes in the permit  
12 based upon comments we got, in re-looking at it,  
13 if you look here at 190.341(d), we recommend that  
14 we add renewal, that upon receipt of an  
15 application or renewal of a special permit, PHMSA  
16 will provide notice to the public of its intent  
17 to consider the application and invite comment.  
18 In actuality, that is what we do, so that is  
19 documenting exactly what we do, as one of the  
20 commenters stated. Going to the second bullet,  
21 341(e), how does PHMSA handle special permit  
22 renewals.

1           Again, we've knocked out some language  
2           there, "To continue using a special permit after  
3           the expiration date," and we changed it, "The  
4           grantee of the special permit must apply for a  
5           renewal of the permit 180 days prior to the  
6           permit expiration." Just to give a little input,  
7           we have gone through, in 2015, the renewal of  
8           probably 20 to 30 special permits.

9           What we're going through here is  
10          exactly what we did on those renewals and  
11          everything worked fine. Then last, 341(f)(iii)  
12          is on inline inspection, "Summary of ILI survey  
13          results from all ILI tools used on the special  
14          permit segments during the previous five years or  
15          latest ILI survey result." Again, if it's a  
16          class location or something that deals with  
17          integrity, we do want a summary of what the ILI  
18          information is showing the operator.

19          CHAIR TAHAMTANI: Thank you, Steve.  
20          Questions from the committee? Sue. Any  
21          questions, comments? Anything from the public?  
22          Do you have a comment? Then why don't you speed

1 it up?

2 (Laughter.)

3 MR. BURDEAUX: DeWitt Burdeaux with  
4 FlexSteel. Steve, I had just a couple of  
5 comments. One I noticed that was not up there as  
6 taken into consideration was a comment that we  
7 made regarding handling of the new and novel  
8 technologies and so forth, recognizing the  
9 difference in a class location change or  
10 whatever. The expectation is in looking at new  
11 and novel technologies, you are trying to  
12 evaluate whether its performance is as  
13 anticipated upon the initial granting.

14 It's unclear, and you provided no  
15 discussion in the proposed rule, why an operator  
16 would be required to submit all of the original  
17 data and so forth again. I would assume that  
18 PHMSA would keep that as part of the original  
19 package submitted to the docket and so forth as  
20 part and as contained in the stipulations for  
21 evaluating continued performance throughout the  
22 five-year period. Then once the five-year period

1 is up and subject to renewal, basically all  
2 you're going through is the exercise of  
3 validating whether that material has performed as  
4 it was anticipated and could reasonably be  
5 expected to for the next five years. I don't see  
6 any kind of accommodation for any of those  
7 comments that were filed to the original  
8 document. Thank you.

9 CHAIR TAHAMTANI: Steve, you want to  
10 comment on that?

11 MR. NANNEY: Yes. Any time we have a  
12 special permit submitted, whether it's for a new  
13 or novel technology or for an existing pipeline,  
14 we put the information on the docket. If, from  
15 the past, that information is not on the docket,  
16 for whatever reason, and it's not available,  
17 we're going to ask for the information when a  
18 renewal comes up.

19 That's our normal procedure. On a  
20 special permit, it's a right that we give the  
21 operator to operator at that, with that, whether  
22 it's a new technology or reduced class location



1 factor, so we're going to look at it each time,  
2 whether the renewal is five years or some other  
3 different amount, based upon what we think we  
4 need to do for public safety.

5 CHAIR TAHAMTANI: Thank you, Steve.  
6 Please put the motion language up. I need a vote  
7 from the committees separately here, so we'll  
8 start with the liquid. Can I have a motion from  
9 somebody on the liquid?

10 MEMBER KUPREWICZ: I'll motion it, but  
11 I can't see that to read it.

12 CHAIR TAHAMTANI: Then you shouldn't  
13 offer to motion.

14 MEMBER KUPREWICZ: Pardon me?

15 CHAIR TAHAMTANI: Then you shouldn't  
16 offer to make a motion.

17 MEMBER KUPREWICZ: Oh, I'm sorry.

18 CHAIR TAHAMTANI: Somebody who is  
19 younger than Rich.

20 MEMBER KUPREWICZ: Which is just about  
21 everybody.

22 CHAIR TAHAMTANI: Can you all make

1 that bigger print? It's late in the day, so we  
2 have to be easy on each other here. Craig, go  
3 ahead.

4 MEMBER PIERSON: The proposed rule,  
5 relative to special permit renewal, as published  
6 in the Federal Register and the Draft Regulatory  
7 Evaluation, are technically feasible, reasonable,  
8 cost effective, and practicable, if the following  
9 changes are made: In 190.341(d)(1), the  
10 mandatory language is revised by replacing the  
11 word application with the phrase application or  
12 renewal; revise 190.314(f) to limit aerial  
13 photography of pipeline segments where special  
14 permits affect public safety, such as a class  
15 location special permit that allows a less  
16 stringent design factor in a populated area, and  
17 allow operators to submit a summary of inline  
18 inspection survey results with permit renewals;  
19 revise 190.341(e) to clarify special permit  
20 renewals must be submitted 180 days prior to the  
21 grant expiration.

22 CHAIR TAHAMTANI: Thank you. Is there

1 a second?

2 MEMBER WEIMER: Second.

3 CHAIR TAHAMTANI: Discussions? Please  
4 take the vote.

5 MR. SATTERTHWAITE: All right, go  
6 straight to the roll call. Brian Salerno.

7 MEMBER SALERNO: Aye.

8 MR. SATTERTHWAITE: Massoud.

9 CHAIR TAHAMTANI: Aye.

10 MR. SATTERTHWAITE: Todd Denton.

11 MEMBER DENTON: Aye.

12 MR. SATTERTHWAITE: Tim Felt.

13 MEMBER FELT: Aye.

14 MR. SATTERTHWAITE: Craig Pierson.

15 MEMBER PIERSON: Aye.

16 MR. SATTERTHWAITE: Ron McClain.

17 MEMBER MCCLAIN: Aye.

18 MR. SATTERTHWAITE: Lanny Armstrong.

19 MEMBER ARMSTRONG: Aye.

20 MR. SATTERTHWAITE: Richard Kuprewicz.

21 MEMBER KUPREWICZ: Aye.

22 MR. SATTERTHWAITE: Carl Weimer.

1 MEMBER WEIMER: Yes.

2 MR. SATTERTHWAITE: It's unanimous;  
3 the motion carries.

4 CHAIR TAHAMTANI: Thank you. Motion  
5 from the Gas Committee.

6 MEMBER FLECK: Sue Fleck from the gas  
7 team. I can't read quite as fast as my friend  
8 Craig over there, but I'll try. Proposed rule,  
9 relative to the special permit renewal, as  
10 published in the Federal Register and the Draft  
11 Regulatory Evaluation, are technically feasible,  
12 reasonable, cost effective, and practicable, if  
13 the following changes are made: In  
14 190.341(d)(1), the mandatory language is revised  
15 by replacing the word application with the phrase  
16 application or renewal; revise 190.341(f) to  
17 limit aerial photography of pipeline segments  
18 where special permits affect public safety, such  
19 as a class location special permit that allows a  
20 less stringent design factor in a populated area  
21 and allows operators to submit a summary of  
22 inline inspection survey results with permit

1 renewals; revise 190.341(e) to clarify that  
2 special permit renewals must be submitted 180  
3 days prior to the grant expiration.

4 MEMBER CAMPBELL: Second.

5 CHAIR TAHAMTANI: Second, thank you.

6 Discussions? Please take the vote.

7 MR. SATTERTHWAITE: All right, going  
8 straight to the roll call. Paula Gant.

9 MEMBER GANT: Aye.

10 MR. SATTERTHWAITE: Cheryl Campbell.

11 MEMBER CAMPBELL: Aye.

12 MR. SATTERTHWAITE: Andy Drake.

13 MEMBER DRAKE: Aye.

14 MR. SATTERTHWAITE: Sue Fleck.

15 MEMBER FLECK: Aye.

16 MR. SATTERTHWAITE: Richard Worsinger.

17 MEMBER WORSINGER: Aye.

18 MR. SATTERTHWAITE: Bob Hill.

19 MEMBER HILL: Aye.

20 MR. SATTERTHWAITE: Bob Kipp.

21 MEMBER KIPP: Aye.

22 MR. SATTERTHWAITE: It's unanimous;

1 the motion carries.

2 CHAIR TAHAMTANI: Thank you. Next  
3 item is pipeline assessment tools for the Liquid  
4 Committee.

5 MR. NANNEY: Pipeline assessment tools  
6 is the next item. The background is when  
7 integrity management regulations were  
8 established, there were several consensus  
9 standards that did not exist at the time. What  
10 we're trying to do is catch up with some of the  
11 new standards that are out now. In the proposed  
12 rule, again, PHMSA proposed to incorporate by  
13 reference in Part 195 API Standard 1163, inline  
14 inspection systems qualification standard, also  
15 NACE Standard Practice SP-0102-2010, Inline  
16 Inspection of Pipelines, NACE SP-0204-2008,  
17 Stress Corrosion Cracking Direct Assessment, and  
18 ANSI/ASNT ILI-PQ 2010, Inline Inspection  
19 Personnel Qualification and Certification.

20 Some of the comments that we got, the  
21 first one is incorporating by reference the  
22 industry consensus standards listed in Section 7

1 of the notice will improve operator pipeline  
2 assessment, consistency, accuracy, and quality.

3 The second one is why is PHMSA proposing  
4 additional requirements, above and beyond NACE  
5 SP-0204-2008?

6 The third one was why incorporate API  
7 Standard 1163-2005, when the standard has been  
8 updated recently? No. 4 is NACE SP-0102-2010  
9 does not provide detailed procedures that are  
10 applicable in all situation, on all pipelines,  
11 and instead provides general recommendations.

12 Also, ANSI ILI-PQ-2010 should not be incorporated  
13 by reference in Part 195. Clarify any instances  
14 where the requirements outlined in SP-0204-2008  
15 are intended to serve as industry guidance.

16 Last, NACE SP-0204-2008 is out of date and  
17 creates ambiguity both in terms of interpretation  
18 and enforcement. Then last on this slide, the  
19 language in 591 removes the ability of operating  
20 personnel to use their engineering judgment when  
21 outlining a company strategy for inline  
22 inspection. The capabilities of inline

1 inspection tools should be the operator's choice.

2 The pipeline operator should be  
3 responsible for determining the required testing  
4 parameters. PHMSA's responses. PHMSA's  
5 incorporating NACE SP-0204-2008 in Part 195  
6 because it provides comprehensive guidelines on  
7 conducting stress corrosion cracking direct  
8 assessment which are commensurate with the  
9 state-of-the-art technology.

10 The second bullet is PHMSA recommends  
11 adopting the 2013 version of API Standard 1163.  
12 When we went out for notice, the 2013 version was  
13 not completed, and we went out instead with the  
14 2005 version, but we are proposing the 2013  
15 version of API Standard 1163 to be in Part 195.

16 The third bullet, as to the comments on the  
17 proposed industry standards, PHMSA is planning to  
18 incorporate API Standard 1163-2013, NACE Standard  
19 Practice SP-0102-2010, NACE SP-0204-2008, and  
20 ANSI/ASNT ILI-PQ-2010 into the regulations to  
21 provide clearer guidance. These standards  
22 complement each other, and they promote a higher



1 level of safety by establishing a consistent  
2 methodology to qualify the equipment, people,  
3 processes, and software utilized by the ILI  
4 industry.

5 Then the last bullet, with regard to  
6 inspection tool selections, operators always have  
7 the option of using their alternative to these  
8 standards, as long as the alternative tools meet  
9 equivalency or exceed the provisions in these  
10 standards. With that, PHMSA recommendations is  
11 adopt as proposed.

12 CHAIR TAHAMTANI: Questions from the  
13 Liquid Committee?

14 MEMBER DENTON: A comment, Todd  
15 Denton, liquids. I believe we agree with the  
16 intent, and we are not opposed with the specific  
17 reference for use of an ILI inspection tool  
18 capable of detecting cracks, but the description  
19 of the proposed rule change and how it would  
20 address the NTSB recommendation seems to imply  
21 that a crack tool be required to be run on all  
22 pipelines. Looking at the NPRM, it states that,

1 "The NTSB issued the following safety  
2 recommendation to revise 195.452 to state when an  
3 engineering assessment of crack defects must be  
4 performed." Then the PHMSA NPRM states, "This  
5 proposal addresses those parts of NTSB  
6 recommendation identifying crack defects by using  
7 crack tools." The rule change seems to indicate  
8 that, as well.

9           The concern is that there's already  
10 some confusion in the field where we're seeing  
11 inspectors that believe that we should be  
12 required to run crack tools on all pipelines. I  
13 think this would further exacerbate that, unless  
14 it's modified to state that it's a tool, based on  
15 our engineering analysis on whether that needs to  
16 be run.

17           Again, I think the intent is there.  
18 Looking at the cost benefit analysis, you're  
19 stating that it's basically what we're doing  
20 today, and we would agree with that. We just  
21 want to make sure that is clarified in the code,  
22 so that it can be interpreted properly.

1 CHAIR TAHAMTANI: Steve, any comments?

2 MR. NANNEY: Which -- where are you  
3 talking about? These are just incorporating the  
4 standards in the referenced standards in the  
5 document. For this particular part, I'm trying  
6 to make sure I understand what you're talking  
7 about.

8 MEMBER DENTON: Talking about the use  
9 of crack tools, in addition to -- specifically  
10 calling out crack tools, in addition to --

11 MR. NANNEY: Where did we -- I guess  
12 I'm lost. I don't know where --

13 MEMBER DENTON: Am I in the wrong one?

14 MR. NANNEY: I called out crack tools  
15 here is what I'm not understanding.

16 MEMBER DENTON: The bottom --

17 MR. NANNEY: This is incorporation by  
18 reference into Part 195. This is basically the  
19 API standards. I'm trying to make sure I  
20 understand.

21 MEMBER DENTON: So is this not a  
22 change to 195.452?

1 MR. NANNEY: You're talking about  
2 195.452(a)(C)(1)(a), I guess, inline inspection  
3 tools are tools capable --

4 MEMBER DENTON: Correct.

5 MR. NANNEY: -- of detecting  
6 corrosion, cracks, and deformation anomalies,  
7 including dents, gouges, and grooves. Is that  
8 the part?

9 MEMBER DENTON: Correct.

10 MR. NANNEY: Okay. I don't think this  
11 is the section we're talking about that on. This  
12 is incorporation by reference, API segments, but  
13 I hear your comment and everything.

14 MEMBER DENTON: Okay.

15 MEMBER KUPREWICZ: Maybe it might help  
16 that everybody take a deep breath, but I don't  
17 think the public wants you guys to run crack  
18 tools if cracks aren't a bona fide threat on your  
19 pipeline. That's megabucks. Running the crack  
20 tool's the cheap part. I think we're going to  
21 get somewhere that's kind of driving you guys  
22 that way.

1 I think what PHMSA was trying to say  
2 -- and maybe this is going to come up later --  
3 you run the right tool if you have the right --  
4 identify the threat, and then match it with the  
5 assessment method. That's kind of what 454  
6 always said, unless I'm missing something here.  
7 We'd support -- if your concerns are there that  
8 it says required to run a crack tool and you  
9 don't have cracks we'd be supporting that effort  
10 not to do that.

11 MR. NANNEY: We hear your comment  
12 there.

13 MR. MAYBERRY: What I take that is  
14 we'll address it, just to make sure that it --  
15 that's really what we're -- what are we after?  
16 You've got to run the right tool for the right  
17 threat, so we'll make sure it covers that.

18 CHAIR TAHAMTANI: Any other comments?  
19 If you're okay, then put the language up, please,  
20 for the motion.

21 CHAIR TAHAMTANI: Comments from the  
22 public? Whoever is driving the machine needs to

1 put some -- there you go. Somebody from the  
2 liquid needs to make a motion. Rich, you can  
3 read this?

4 MEMBER KUPREWICZ: I can read that.  
5 I'll make a motion. As a member of the Liquid  
6 Pipeline Committee, I suggest that the proposed  
7 rule, relative to the pipeline assessment tools,  
8 as published in the Federal Register and the  
9 Draft Regulatory Evaluation, are technically  
10 feasible, reasonable, cost effective, and  
11 practicable.

12 CHAIR TAHAMTANI: Thank you. Is there  
13 a second?

14 MEMBER FELT: Second.

15 CHAIR TAHAMTANI: Second.  
16 Discussions? Please take the vote.

17 MR. SATTERTHWAITE: Okay, go straight  
18 to the roll call. Brian Salerno.

19 MEMBER SALERNO: Aye.

20 MR. SATTERTHWAITE: Massoud.

21 CHAIR TAHAMTANI: Aye.

22 MR. SATTERTHWAITE: Todd Denton.

1 MEMBER DENTON: Aye.

2 MR. SATTERTHWAITE: Tim Felt.

3 MEMBER FELT: Aye.

4 MR. SATTERTHWAITE: Craig Pierson.

5 MEMBER PIERSON: Aye.

6 MR. SATTERTHWAITE: Ron McClain.

7 MEMBER MCCLAIN: Aye.

8 MR. SATTERTHWAITE: Lanny Armstrong.

9 MEMBER ARMSTRONG: Aye.

10 MR. SATTERTHWAITE: Richard Kuprewicz.

11 MEMBER KUPREWICZ: Aye.

12 MR. SATTERTHWAITE: Carl Weimer.

13 MEMBER WEIMER: Aye.

14 MR. SATTERTHWAITE: It's unanimous;  
15 the motion carries.

16 MR. GALE: Massoud, real quick, we're  
17 going to move to a discussion of confidential  
18 treatment, and Ms. Karen Christian's going to  
19 come to the table to help us read that  
20 discussion.

21 MS. CHRISTIAN: Good afternoon.

22 CHAIR TAHAMTANI: Any time you're

1 ready.

2 MS. CHRISTIAN: Good afternoon. My  
3 name is Karen Christian. I'm an attorney in the  
4 general law division in the PHMSA Chief Counsel's  
5 Office. I work a lot on FOIA issues. My  
6 presentation today is on the proposed new section  
7 190.343, which is a procedural section.

8 Just to give you a little bit of  
9 background, PHMSA staff receives a lot of  
10 questions from people who have concerns about  
11 submitting information that's confidential  
12 commercial information. We get those questions  
13 regularly. People ask how can they protect their  
14 information and what steps can they take to  
15 ensure that the information's protected. The  
16 agency proposed to set out, in 190.343, steps  
17 that you can follow to help ensure that  
18 information is protected and handled properly.  
19 The proposal was actually modeled after a similar  
20 provision that's in the hazardous materials  
21 regulations in 49 C.F.R. 105. Basically, those  
22 procedures propose steps for including marking



1 the records, providing a redacted copy along with  
2 the original, and explaining to us why that  
3 information is confidential.

4 Those are really things that you can  
5 do now, already, but they would be in the  
6 regulations so that we could turn to them and  
7 point to them there. We also included in the  
8 proposal a paragraph regarding PHMSA's decision  
9 regarding the request for confidentiality. It  
10 also includes notification to the submitter of  
11 the decision.

12 We received a number of comments  
13 requesting clarification of PHMSA's decision  
14 making process. Most of the comments were  
15 focused on that decision paragraph. Commenters  
16 asked what criteria would PHMSA be using and  
17 referenced the FOIA exemptions and asked for  
18 confirmation that those existing protections were  
19 going to be retained. Commenters also asked  
20 about whether they would have an opportunity to  
21 provide input, and several commenters requested  
22 appeal rights. With regard to the notification

1 of PHMSA's decision, requesters asked for five  
2 business days' notification. Several commenters  
3 raised concerns about protecting security-related  
4 information.

5 After carefully reviewing all those  
6 comments, we're making some recommendations to  
7 clarify the regulatory text to include to state  
8 that the criteria under FOIA will be used, and  
9 also to reference DOT's FOIA regulations, which  
10 currently set out the process for how you handle  
11 when records are marked confidential. That  
12 includes a consultation process, so we're making  
13 clear that submitters will have that consultation  
14 process.

15 The departmental FOIA regs allow for  
16 a reasonable number of days for that  
17 consultation. Then after the consultation is  
18 completed, there's a notification of the decision  
19 to the submitter. For that notification, we're  
20 recommending the five business days that  
21 commenters requested as a reasonable number of  
22 days for the notification. That's in addition to

1 the reasonable number of days that submitters get  
2 for the consultation. With regard to the  
3 comments, the concerns about protecting security  
4 information, the intent of this particular  
5 provision was to set up a process for protecting  
6 confidential commercial information. It wasn't  
7 intended to address security. Security is a  
8 completely different subject and a different  
9 decision making process.

10 It involves the expertise of security  
11 people within DOT. The pipeline program has an  
12 Office of Pipeline Safety, Emergency Support, and  
13 Security division that reviews information to  
14 make sure that security information is protected.  
15 PHMSA will consider all applicable federal laws  
16 and regulations that may include the sensitive  
17 security information regulations.

18 PHMSA may need to consult with other  
19 DOT security people, and also the Department of  
20 Homeland Security. It's a completely different  
21 decision making process that we don't want to  
22 intertwine in these steps in this decision for

1 the protection of confidential commercial  
2 information. What we're proposing, we're  
3 recommending that we should clarify the  
4 regulatory text to clarify in the title and the  
5 regs text that this pertains to confidential  
6 commercial information. That pretty much  
7 concludes the presentation.

8 CHAIR TAHAMTANI: So PHMSA  
9 recommendations on the screen. Any questions  
10 from the committee members? Any questions from  
11 the public?

12 MS. SAMES: Christina Sames, American  
13 Gas Association. Could you provide a definition  
14 of commercial information?

15 MS. CHRISTIAN: Commercial or  
16 confidential commercial?

17 MS. SAMES: Not the confidential.  
18 Going back to the previous slide, there were a  
19 number of references to the confidential  
20 commercial information.

21 MS. CHRISTIAN: What we use is the  
22 FOIA criteria. Under FOIA, we look at Exemption

1 4. Under Exemption 4, it defines commercial.  
2 Commercial is very broad. It pretty much covers  
3 anything that we're getting from a business. The  
4 commercial is almost always met. It's whether  
5 that information is confidential.

6 MS. SAMES: Pipeline-specific  
7 information could be considered commercial, based  
8 on that response?

9 MS. CHRISTIAN: Yes.

10 MS. SAMES: Thank you.

11 CHAIR TAHAMTANI: Anyone else? If no  
12 comments from the committees, again, this one you  
13 have to vote by committee. I need a motion from  
14 the liquid.

15 MR. GALE: Massoud, just give us one  
16 second and we'll have some vote language up.

17 MEMBER FELT: Tim Felt, Liquids  
18 Committee. Just a question. Who makes the  
19 determination of whether it's going to be  
20 disclosed or not? I'm assuming there was a  
21 suggestion for an appeal process, and we're  
22 saying there's no appeal process? You're not

1 entertaining that, is that correct?

2 MS. CHRISTIAN: That's correct. The  
3 decision would be made by the Chief Counsel's  
4 Office, in consultation with the pipeline  
5 program. The two would work together. Because  
6 it is following a FOIA-type process, the FOIA  
7 officer is in the Chief Counsel's Office, so that  
8 person would have the lead, but it's going to be  
9 in close consultation with the pipeline program.  
10 What we're doing is we are tracking the  
11 departmental FOIA regulations that don't provide  
12 an appeals process. However, they provide the  
13 consultation process, and then the notification  
14 to the submitter. We're not going to create an  
15 additional process that doesn't exist in the FOIA  
16 regs right now.

17 CHAIR TAHAMTANI: Any other questions,  
18 comments from the committee members? If not,  
19 then motion from the liquid, the language is on  
20 the screen.

21 MEMBER FELT: Tim Felt from the liquid  
22 side. I'll make the following proposal that the

1 proposed rule, relative to the protection of  
2 confidential commercial information, as published  
3 in the Federal Register and the Draft Regulatory  
4 Evaluation, are technically feasible, reasonable,  
5 cost effective, and practical, if the PHMSA  
6 recommended revisions to Section 190.343 -- I'm  
7 not sure if that's complete. That's not a  
8 correct sentence, is it, Massoud?

9 CHAIR TAHAMTANI: Add your own words  
10 to it.

11 MEMBER FELT: Are implemented.

12 CHAIR TAHAMTANI: There's the motion.  
13 Is there a second?

14 MEMBER PIERSON: Second.

15 CHAIR TAHAMTANI: Discussions? Please  
16 take the vote.

17 MR. SATTERTHWAITE: All right, go  
18 straight to a roll call. Brian Salerno.

19 MEMBER SALERNO: Aye.

20 MR. SATTERTHWAITE: Massoud.

21 CHAIR TAHAMTANI: Aye.

22 MR. SATTERTHWAITE: Todd Denton.

1 MEMBER DENTON: Aye.

2 MR. SATTERTHWAITE: Tim Felt.

3 MEMBER FELT: Aye.

4 MR. SATTERTHWAITE: Craig Pierson.

5 MEMBER PIERSON: Aye.

6 MR. SATTERTHWAITE: Ron McClain.

7 MEMBER MCCLAIN: Aye.

8 MR. SATTERTHWAITE: Lanny Armstrong.

9 MEMBER ARMSTRONG: Aye.

10 MR. SATTERTHWAITE: Richard.

11 MEMBER KUPREWICZ: Aye.

12 MR. SATTERTHWAITE: Carl Weimer.

13 MEMBER WEIMER: Aye.

14 MR. SATTERTHWAITE: It's unanimous;  
15 motion carries.

16 CHAIR TAHAMTANI: Thank you. Motion  
17 from the Gas Committee.

18 MEMBER HILL: Mr. Chairman, Robert  
19 Hill would like to make the motion the proposed  
20 rule, relative to the protection of confidential  
21 commercial information, as published in the  
22 Federal Register and the Draft Regulatory



1 Evaluation, are technically feasible, reasonable,  
2 cost effective, and practicable, if the PHMSA  
3 recommended revisions to Section 190.343 are  
4 implemented.

5 MEMBER WORSINGER: Second.

6 CHAIR TAHAMTANI: Second, thank you.

7 Discussions? Please take the vote.

8 MR. SATTERTHWAITE: All right, go  
9 straight to the roll call. Paula Gant.

10 MEMBER GANT: Aye.

11 MR. SATTERTHWAITE: Cheryl Campbell.

12 MEMBER CAMPBELL: Aye.

13 MR. SATTERTHWAITE: Andy Drake.

14 MEMBER DRAKE: Aye.

15 MR. SATTERTHWAITE: Sue Fleck.

16 MEMBER FLECK: Aye.

17 MR. SATTERTHWAITE: Richard Worsinger.

18 MEMBER WORSINGER: Aye.

19 MR. SATTERTHWAITE: Bob Hill.

20 MEMBER HILL: Aye.

21 MR. SATTERTHWAITE: Bob Kipp.

22 MEMBER KIPP: Aye.

1                   MR. SATTERTHWAITTE:  It's unanimous;  
2  motion carries.

3                   CHAIR TAHAMTANI:  Thank you so much.  
4  I think we have one more, and that is the  
5  post-accident drug and alcohol testing, right?

6                   MR. GALE:  We had planned to present  
7  the drug and alcohol testing proposals to the  
8  committee.  In talking to the member that had  
9  some concerns with it, she believes that it's  
10 going to be worked out.  If the committee wishes,  
11 of course, we can continue to present it, or we  
12 can continue on with the rest of the program.  If  
13 there's any objections, or would you like to hear  
14 -- we can give the presentation on drug and  
15 alcohol.  I think I'm seeing some looks that I  
16 think we should go ahead and move forward with  
17 drug and alcohol.

18                   MR. MAYBERRY:  You're giving the  
19 committee the choice of --

20                   MR. GALE:  We're giving the committee  
21 the choice, yes.  We're going to go ahead and tee  
22 up the drug and alcohol.  It should be short.  We

1 were assuming the Committee wanted to get right  
2 to that gas transmission rule, since it's so  
3 early in the day.

4 CHAIR TAHAMTANI: John, so I'm clear,  
5 you don't have the proposed rule on --

6 MR. GALE: No, we do. We weren't sure  
7 if -- we try to raise those issues that are of  
8 the utmost importance to the committee, so we'll  
9 move forward on this.

10 CHAIR TAHAMTANI: Okay. If we could  
11 go through the voting process because I know a  
12 couple members have to leave at a certain time.  
13 Presentations can wait for others.

14 MR. NANNEY: Are you ready? Okay, the  
15 next presentation is post-accident drug and  
16 alcohol testing. Background is the NTSB  
17 recommended to PHMSA that we should amend 105 and  
18 225 of 199 to eliminate operator discretion with  
19 regard to testing of covered employees.

20 In other words, we should require drug  
21 and alcohol testing of each employee whose  
22 performance either contributed to the accident or

1 cannot be completely discounted as a contributing  
2 factor to an accident. The proposed rule, PHMSA  
3 proposed to modify 199.105 and .225 by requiring  
4 drug testing of employees after an accident and  
5 allowing exemption from drug testing only when  
6 there's sufficient information that established  
7 the employee had no role in the accident.

8 In addition, PHMSA proposed to require  
9 documentation of the decision and to keep the  
10 documentation for at least three years. Some of  
11 the comments that we got is the NTSB commented  
12 that it believes the proposed change is  
13 responsive to its recommendation. The second  
14 bullet was that this requirement could be  
15 misinterpreted to require the operator to  
16 document actions of every utility employee after  
17 a reportable incident occurs. The third bullet  
18 was PHMSA should generate a standard form to be  
19 used for decisions not to test. Then fourth, the  
20 word severity should be removed from the proposed  
21 language because severity of any accident will  
22 vary, but does not affect whether tests be

1 conducted.

2 PHMSA responses, the first bullet is  
3 as requirements, this rulemaking does not  
4 establish new requirements for post-accident drug  
5 and alcohol testing. It would only modify the  
6 conditions under which an operator may decide not  
7 to test covered employees and establish a  
8 recordkeeping requirement for these decisions.  
9 The second bullet, as to creating a standard  
10 form, each accident is unique.

11 PHMSA cannot either state  
12 affirmatively which employees must be tested, nor  
13 create a template for making the decision about  
14 post-accident testing. The last bullet, as to  
15 removing the word severity, an individual could  
16 contribute to an accident by causing it or by  
17 making the consequences more severe. The overall  
18 severity of the accident is irrelevant to the  
19 post-accident testing decision. The relevant  
20 question for severity is whether an employee's  
21 performance of a covered function affected the  
22 severity of the accident. PHMSA recommends

1 deleting the last part of the second sentence of  
2 199.105(b), "Starting or because of the time by  
3 drug use."

4 Possible vote language, as you can see  
5 for 105(b), post-accident testing, "As soon as  
6 possible, but not later than 32 hours after an  
7 accident, an operator must drug test each  
8 surviving covered employee whose performance of a  
9 covered function either contributed to the  
10 accident or cannot be completely discounted as a  
11 contributing factor to the accident.

12 An operator may decide not to test  
13 under this paragraph, but such a decision must be  
14 based on specific information that the covered  
15 employee's performance had no role in the cause  
16 or severity of the accident. We did delete, "Or  
17 because of the time between the performance of  
18 the accident, it is not likely that a drug test  
19 would reveal whether the performance was affected  
20 by drug use."

21 CHAIR TAHAMTANI: Thank you, Steve.

22 Questions/comments from the committee members?

1 Sue.

2 MEMBER FLECK: Sue from the Gas  
3 Committee. I think I was the member that John  
4 mentioned had an issue here. My only issue with  
5 this is when this affects union employees, we  
6 have to bargain the impact.

7 The only concern for me would be the  
8 time frame upon which this becomes active because  
9 we do -- because it's a rule, we can enforce it,  
10 but we still do have to bargain with each and  
11 every one of our unions to make sure those  
12 impacts are covered and that they have a say in  
13 how things are implemented. Timing here is a  
14 little bit of an issue. I don't know how long  
15 that takes, and I don't know when this piece  
16 becomes active, but that was the only concern for  
17 me, really.

18 CHAIR TAHAMTANI: Rich.

19 MEMBER WORSINGER: Rich Worsinger,  
20 City of Rocky Mount. Just a clarification.  
21 Appreciate that PHMSA's trying to clarify with  
22 the words "surviving covered employee," and,

1 "whose function of a covered function," to  
2 clarify that this proposed requirement only  
3 requires the operator to consider testing those  
4 employees who performed covered functions at the  
5 location of the incident, either when the  
6 incident occurred or for some time period  
7 immediately prior to the incident. I'm assuming  
8 it does not require documentation for employees  
9 working elsewhere in the system. I guess that's  
10 my question of PHMSA. I just want to make sure  
11 we're not going to be required to document why we  
12 decided every other employee was not involved.

13 MR. NANNEY: Yes, that's correct.

14 MEMBER WORSINGER: Thank you.

15 CHAIR TAHAMTANI: Any comments from  
16 the committee? Any comments from the public?  
17 All right, both committees have to vote on this  
18 one. We'll start with the liquid, need a motion.

19 MEMBER MCCLAIN: I'll make the motion  
20 for the Liquids Committee. We move that the  
21 proposed rule, relative to post-accident drug and  
22 alcohol testing, as published in the Federal



1 Register and the Draft Regulatory Evaluation, are  
2 technically feasible, reasonable, cost effective,  
3 and practical, if the PHMSA recommended revision  
4 to Section 199.105(b) is made.

5 CHAIR TAHAMTANI: Is there a second?

6 MEMBER SALERNO: Second.

7 CHAIR TAHAMTANI: Second.

8 Discussions? Take the vote, please.

9 MR. SATTERTHWAITE: Go straight to the  
10 roll call. Brian Salerno.

11 MEMBER SALERNO: Aye.

12 MR. SATTERTHWAITE: Massoud.

13 CHAIR TAHAMTANI: Aye.

14 MR. SATTERTHWAITE: Todd Denton.

15 MEMBER DENTON: Aye.

16 MR. SATTERTHWAITE: Tim Felt.

17 MEMBER FELT: Aye.

18 MR. SATTERTHWAITE: Craig Pierson.

19 MEMBER PIERSON: Aye.

20 MR. SATTERTHWAITE: Ron McClain.

21 MEMBER MCCLAIN: Aye.

22 MR. SATTERTHWAITE: Lanny Armstrong.

1 MEMBER ARMSTRONG: Aye.

2 MR. SATTERTHWAITE: Richard Kuprewicz.

3 MEMBER KUPREWICZ: Aye.

4 MR. SATTERTHWAITE: Carl Weimer.

5 MEMBER WEIMER: Aye.

6 MR. SATTERTHWAITE: It's unanimous;  
7 the motion carries.

8 CHAIR TAHAMTANI: Thank you. Need a  
9 motion from the Gas Committee.

10 MEMBER CAMPBELL: Cheryl Campbell,  
11 Xcel Energy. The proposed rule, relative to  
12 post-accident drug and alcohol testing, as  
13 published in the Federal Register and the Draft  
14 Regulatory Evaluation, are technically feasible,  
15 reasonable, cost effective, and practicable, if  
16 the PHMSA recommended revision to Section  
17 199.105(b) is made.

18 CHAIR TAHAMTANI: Motion and second.  
19 Discussion? Take the vote, please.

20 MR. SATTERTHWAITE: All right, I'll go  
21 straight to roll call. Paula Gant.

22 MEMBER GANT: Aye.

1 MR. SATTERTHWAITE: Cheryl Campbell.

2 MEMBER CAMPBELL: Aye.

3 MR. SATTERTHWAITE: Andy Drake.

4 MEMBER DRAKE: Aye.

5 MR. SATTERTHWAITE: Sue Fleck.

6 MEMBER FLECK: Aye.

7 MR. SATTERTHWAITE: Richard Worsinger.

8 MEMBER WORSINGER: Aye.

9 MR. SATTERTHWAITE: Bob Hill.

10 MEMBER HILL: Aye.

11 MR. SATTERTHWAITE: Bob Kipp.

12 MEMBER KIPP: Aye.

13 MR. SATTERTHWAITE: It's unanimous;  
14 motion carries.

15 CHAIR TAHAMTANI: Thank you very much.

16 As far as I know, this is the end of the  
17 discussions and voting on proposed rules. We  
18 have a presentation that's going to be made by  
19 Mike Israni and Steve Nanney. They can come to  
20 the table. That is on gas transmission NPRM.

21 MR. IRSANI: Good afternoon. I'm Mike  
22 Israni. I'm senior technical advisor at PHMSA.

1 In the interests of time, I'm trying to cover  
2 this subject very briefly. Since this is a  
3 briefing, no vote here required, so I'll give you  
4 an overview of the proposed rule and clarify  
5 certain features of the gas proposal.

6 As you notice, we extended this  
7 comment period to July 7, 2016, and the rule was  
8 published on April 8th. The purpose of this  
9 presentation is to give you an overview of the  
10 proposed rule and clarify certain features of  
11 this rule. Steve and I will do our best to  
12 answer your technical questions after this  
13 presentation. This gas rule makes critical  
14 updates to improve safety of gas transmission and  
15 gas gathering line. It examines pretty broad  
16 range of issues, including risk-based integrity  
17 assessment, repair, and validation, and also, it  
18 addresses the lessons that we have learned from  
19 recent incidents that occurred in last few years.  
20 It also implements four Congressional mandates,  
21 six NTSB recommendations, one GAO recommendation.

22 Our goal is that after the proposed

1 rule, after the final rule gets published, we  
2 should be seeing fewer incidents and could also  
3 lead to reduction of the gas released to the  
4 atmosphere as greenhouse gasses. Timeline.

5 Advanced notice of proposal making, the notice  
6 was way back in 2011 when we issued. It had  
7 several topics, 15 topics, 122 questions.

8           Some of these things occurred before  
9 even the incidents happened because there were  
10 many areas that we -- what we had learned from  
11 the past integrity management rule, some of those  
12 improvements we wanted to bring in this  
13 rulemaking. Also, as a result of the San Bruno  
14 and Marshall, Michigan accidents, with all the  
15 mandates and NTSB recommendations, we tried to  
16 accommodate all of this in this rulemaking. A  
17 quick summary of what proposed changes are in  
18 this rulemaking. There are 16 areas that we are  
19 suggesting in this proposed rule, assessment for  
20 non-high-consequence areas, repair criteria for  
21 both high-consequence and non-high-consequence  
22 areas. We are strengthening some requirements

1 for assessment methods. Four, five, six, they  
2 are pretty much on the data collection  
3 integration and validation.

4 We also want to emphasize that  
5 operators take into consideration their IM  
6 lessons learned. We are strengthening corrosion  
7 control. We are adding some of the preventative  
8 and mitigative measures; we are specifying them  
9 in the rulemaking so that operators take a good  
10 note off that and take those into consideration.

11 Other changes are this management of  
12 change. This is pretty significant since the San  
13 Bruno incident happened. We want to emphasize  
14 that even though this requirement was already in  
15 the integrity management rule, we wanted to bring  
16 this forward in the rulemaking. Requiring  
17 inspecting after extreme events, like hurricanes  
18 and floods and earthquakes and all those, we  
19 wanted inspections to be followed within a short  
20 time after that. Some of the changes which came  
21 from the mandate, like six-month grace period,  
22 reporting of the MAOP exigence, and also

1 addressing the seismicity of the pipeline. We  
2 also added a feature for launchers and receivers  
3 here, safety features, which most operators  
4 probably have them. Also, we are addressing  
5 gathering lines. This is a bigger topic.

6 Gathering lines, we want to cover the  
7 gathering lines especially in the shale rock  
8 areas where lots of gathering lines have not been  
9 regulated. We're trying to collect data on some  
10 of those. One of the biggest subjects in this  
11 rulemaking is introducing grandfather clause.  
12 The IVP portion of it Steve is going to cover.

13 A little bit of detail on each of  
14 these assessments. Assessment for  
15 non-high-consequence areas. Incidents have  
16 happened in the non-high-consequence areas. We  
17 had Carlsbad, New Mexico in 2000. We had, also,  
18 incidents in Louisiana in 2007, Sissonville, West  
19 Virginia. All of these were non-high-consequence  
20 areas where incidents happened, so we are  
21 requiring some of the assessments also in  
22 high-consequence areas, but we are looking at

1 specific locations, like Class 3 and 4 location  
2 and newly modified, what we call  
3 moderate-consequence areas. In  
4 moderate-consequence areas, also, if you notice,  
5 we are only picking up the lines which are  
6 piggable, not all over. These assessments in the  
7 non-high-consequence areas will be within 15  
8 years and, subsequently, every 20 years.

9 The moderate-consequence area, by  
10 definition, is an area within a potential impact  
11 circle containing five or more buildings intended  
12 for human occupancy or an occupied site. An  
13 occupied site could be any outside area structure  
14 or a building with five or more persons who  
15 gather 50 days in a year, or ten weeks with a  
16 five-year consecutive days.

17 We're also including the interstate  
18 highways in this moderate-consequence area, also  
19 the four-lane roads. With all of that together,  
20 we think we can pick up additional 30,000 miles  
21 of pipeline. Revising repair criteria. This  
22 criteria, what we have in the gas rule, we felt



1 we have learned over the years is not adequate.  
2 We wanted to kind of update this criteria to be  
3 consistent with what we have in the liquid side,  
4 so some of the listing that you see, 80 percent  
5 metal loss and corrosion near the seams, these  
6 are all the new proposals in the gas rule. We  
7 are including all of them -- for high-consequence  
8 areas, we have immediate one-year condition;  
9 whereas, for non-high-consequence areas, it will  
10 be immediate and two-year condition.

11 The failure conditions are same, but  
12 the time frame is increased for  
13 non-high-consequence areas. Some of the  
14 important ones that we are adding here are the  
15 stress corrosion cracking and the selected seam  
16 weld corrosion. These are the significant faults  
17 that appeared in the latest incidents that  
18 occurred in San Bruno and Marshall, Michigan.

19 We are also strengthening the  
20 selection and use of assessment metrics. We  
21 didn't want operators to use just only simple  
22 indexing model, and also, we wanted to clarify

1 that operators use guided way ultrasonic testing  
2 methods. We are also requiring excavation in  
3 situ direct examination. We are also introducing  
4 the spike hydrostatic pressure tests in this  
5 rulemaking. The current rule is pretty much  
6 silent on the quality of assessments which has  
7 been done. Earlier, questions came about this  
8 cracking and all those tools which are being  
9 used. In the gas rule, also, we are addressing  
10 same issue. We are adopting the same standards  
11 what we adopted in the liquid rule that you just  
12 heard in the OQ rule.

13 Those standards came into place --  
14 they were not available when these integrity  
15 rules were written. They certainly will provide  
16 a lot more improvement over current selection  
17 process, whether operator decides on taking crack  
18 tools -- if they want to use a crack tool,  
19 they'll have to collect data on the cracking  
20 first, which is in the hazardous liquid rule, as  
21 it is now in the gas rule, also.

22 As I mentioned, the data collection

1 and integration and validation process was not  
2 being done properly, not adequately, as we wanted  
3 it to be. Also, what we have learned over the  
4 years from the industry, from inspections, and  
5 what operators' results are, emphasis was given  
6 only to high-risk areas or highest threat on the  
7 pipeline. But now we want to emphasize that  
8 operators use interacting threats, that could be  
9 pipeline corrosion, as well as foreign crossing  
10 on the pipeline and all of those interactive  
11 threats, as well as deciding on the tool  
12 tolerance and other factors. Many of the  
13 anomalies before were not being picked up, this  
14 data collection.

15           Introducing some of the factors that  
16 they consider in the rule body, we believe that  
17 we're going to improve on the data selection, as  
18 well as integrating the information, so they can  
19 make the right decision on the pipeline. This  
20 one I'll just mention, the risk models some of  
21 our operators were using, just indexing models  
22 which only -- take care of only high-level

1 threats, and not necessarily the threats which  
2 are secondary or tertiary.

3           These risk models have to consider all  
4 those threats, interacting threats and  
5 contribution of each risk factor. Also, they  
6 have to look at their performance and what  
7 lessons they have learned. We want them to  
8 account for data, not theoretical data, but what  
9 data they actually found from the accidents  
10 happening. All that has been emphasized in this  
11 rulemaking. I already covered this part,  
12 strengthening corrosion control. This wasn't any  
13 mandate or anything, but from what we have  
14 learned from the past, current corrosion  
15 requirements in the gas rules or in the gas code  
16 are not as strong, especially the external and  
17 internal corrosion requirements. There's a very  
18 generic language, currently, in the rulemaking.

19           Here we are emphasizing on what things  
20 to look for, especially in terms of disbonded  
21 coating and some other factors. We are also  
22 emphasizing that operators do the coating surveys

1 to find the coating damage and degradation in the  
2 pipeline, close interval surveys, and also look  
3 for interference current surveys.

4 Preventive and mitigative measures we  
5 had in the integrity rulemaking, but there, also,  
6 it was very much left to the discretion of  
7 operators what they picked and what they really  
8 chose from the ASME B31.8S listing. Here, what  
9 we are trying to do in the proposal, we are  
10 bringing in some of those requirements which we  
11 feel that operators all have to consider for  
12 preventive and mitigative measures and special  
13 emphasis on this external and internal corrosion.  
14 Those are, as I mentioned, also were the  
15 contributing factors for Marshall, Michigan and  
16 the West Virginia incidents. Management of  
17 change, this was in the integrity management rule  
18 before. It was buried somewhere in the ASME  
19 B31.8S standard. Operators may not have paid  
20 much attention to it.

21 Some of the prudent operators may be  
22 following this; others are not. Codifying this

1 in the regulations now and emphasizing what  
2 operators are supposed to look for, we think  
3 it'll have much better results. Now operators  
4 will have to give reasons for why the change took  
5 place and whether information was communicated  
6 within the organization and some analysis and  
7 implications of those changes.

8 After the extreme events, all those  
9 earthquakes, floods, landslides, hurricanes, and  
10 storms, there's a good chance that a pipeline  
11 would be damaged from the debris and the flowing  
12 water, so a quick inspection after the incident  
13 happens. Specified time frame here is 72 hours,  
14 but the 72 hours is first for visual and  
15 preliminary examination. When they think they  
16 need to run the ILI tool because they see  
17 possible damage to the pipeline, they're to do  
18 that to rectify any potential problems that  
19 happen in the pipeline. This was a result of  
20 Yellowstone Park flooding that happened to the  
21 Exxon Mobil pipeline. These are smaller changes,  
22 six-month grace period after the regular

1 seven-year re-assessment interval's been granted,  
2 also reporting of the MAOP exceedance.

3 This is important because if some  
4 operators have, more frequently, this happening,  
5 it can cause, really, accident to happen or  
6 incident to happen. Once we have a record of how  
7 often it's happening, we can also bring to the  
8 attention of the operators to take care of this  
9 issue. It can really make the pipeline fail.

10 Also to incorporate seismicity in  
11 their initial evaluation and data integration  
12 also required. Many of the operators may not be  
13 considering these different zones, where they  
14 have seismicity levels different, so operators  
15 will consider that. Launchers and receivers,  
16 there have been incidents where operators have  
17 inadvertently opened the covers without checking  
18 the pressures in the line has been released or  
19 not. By having the safety-relieving pressure  
20 devices and gauges there, the less chance of that  
21 happening. One of the most important one, as I  
22 mentioned, is the -- since 2007, there have been

1        tremendous increase in the gas production and the  
2        liquid production, so with that, there's a large  
3        number of gathering lines that have come into  
4        play here in many areas. Those are unregulated  
5        lines currently.

6                Goal is, here, to first collect data  
7        on those lines, so we can make a right decision  
8        whether we should regulate those lines or not,  
9        and also in the gathering lines, another area  
10       that we want to change is this API RP 80, which  
11       was referenced before.

12                API RP 80 certainly was an improvement  
13        over what we had before, but still some of the  
14        areas of where the production ends and where the  
15        gathering line begins and where the gathering  
16        line ends were pretty ambiguous language in the  
17        RP 80. We are trying to clarify that further.  
18        Some other things that we use the language is  
19        from RP 80, but we have put more teeth to that,  
20        so we can clearly define where the gathering line  
21        ends. Also, we are picking up Type A lines.  
22        Type A are more than 20 percent SMYS lines in



1 Class 1 location, which were previously not  
2 regulated lines. So those eight inches and  
3 larger diameter pipeline we are picking up in  
4 this rulemaking. Those lines will have very  
5 minimal requirements. Other than reporting,  
6 they're corrosion, damage prevention,  
7 surveillance, etc., markers, emergency response  
8 plan, etc. That's pretty much on the gathering  
9 lines that we're covering. Now Steve's going to  
10 cover IVP.

11 MR. NANNEY: Of this rulemaking, the  
12 integrity verification process, it deals with the  
13 statutory mandates, the NTSB recommendations, and  
14 from that, records, material documentation, and  
15 MAOP determination. The actual regulations that  
16 we're looking for on the grandfathered pipe and  
17 related issues was the Pipeline Safety Act.

18 You can see Section 23 has the mandate  
19 on the testing regulations, pressure testing or  
20 alternative equivalent means, such as an ILI  
21 program for all gas transmission pipe in Class 3,  
22 4, and all HCAs that previously has not been

1 tested. Then NTSB Recommendation P-11-14, delete  
2 the grandfather clause is the name of it. It  
3 recommends that all grandfathered pipe be  
4 pressure tested, including a spike test. Again,  
5 this is just the testing portion of it. It has  
6 nothing to do if you've got a grandfathered pipe  
7 and you operate above 72 percent of SMYS. NTSB  
8 P-11-15 is seam stability. It recommends a  
9 pressure test to at least 1.25 times MAOP before  
10 treating the manufacturing and construction  
11 defects as stable.

12 Then last is P-11-17 is pigable lines,  
13 configure all lines to accommodate smart pigs,  
14 with priority given to the older pipelines. With  
15 that, some of the areas in IVP that we've looked  
16 at is one, to apply to the high-risk areas.  
17 Again, that's Class 3 and 4 locations,  
18 high-consequence areas, and moderate-consequence  
19 areas.

20 Two is to screen the segments of  
21 concern, in other words, the grandfathered  
22 segments or where there's lack of records.

1 Three, assure that you have adequate material and  
2 documentation, and then perform the assessments  
3 to establish the MAOP. The first principle that  
4 we looked at in this is to apply it to high-risk  
5 locations. You can see there that the HCA's  
6 approximately 20,000 miles, Class 3, 4, and  
7 non-HCAs is approximately 18,000 miles. Then the  
8 Class 1 and 2 locations that are MCAs, pigable is  
9 about 13,000 miles, non-pigable is about 9,000  
10 miles. The second principle that we looked at is  
11 screen the areas of concern, in other words, to  
12 apply this process to pipeline segments which  
13 would be grandfathered pipe, lack of material  
14 documentation, and a history of failures  
15 attributable to manufacturing and construction  
16 defects.

17 That would be in HCAs, Class 3  
18 locations, Class 4 locations, and pigable  
19 moderate-consequence areas. You can see, as I  
20 think I talked about earlier, we estimate that  
21 there's approximately 8,000 miles of gas  
22 transmission pipe that would meet this screening

1 criteria.

2 Principle No. 3, O&M document the pipe  
3 material. Again, we do have a procedure for  
4 HCAs, Class 3 and 4 locations for material  
5 documentation, which is different than presently  
6 is in the code, as far as the destructive testing  
7 procedures that are in there that basically are  
8 cut out in test-pipe samples. We do have some  
9 non-destructive testing procedures that could be  
10 used instead of the destructive test procedures,  
11 as long as they're validated and approved based  
12 upon the principles that we'll have in the code.  
13 Then field verification of items that are  
14 code-stamped components, such as valves, flanges,  
15 fabrications. In there, we will have some other  
16 verifications called out. Then the fourth  
17 principle is methods to establish an MAOP.

18 We want to let the operator, of a  
19 number of different options, establish the way  
20 that they want to use to establish the MAOP. The  
21 main options in there are pressure test, with a  
22 spike test if there's cracking-type issues,

1 pressure reduction, engineering critical  
2 assessment, or of course, you always have the  
3 option of replacing the pipe.

4 The section 624(c) is the MAOP  
5 determination method. Again, the first method  
6 there is pressure test. The second method there  
7 is pressure reduction. Method 3 is engineering  
8 critical assessment, which is something that we  
9 probably have not spelled out in the code and  
10 allowed as we will in the MAOP determination. We  
11 do say that the ECA analysis for MAOP should be  
12 based upon the lowest predicted failure pressure.  
13 Then Method 4 would be pipe replacement. Method  
14 5, we do have a method based upon smaller  
15 diameter pipelines with a lower PIR. Then Method  
16 6 is you can always come in to PHMSA with an  
17 alternative approach. Compliance deadlines, as  
18 you'll see in 624(b), is develop the plan in one  
19 year, and then 50 percent of the mileage by the  
20 end of Year 8, 100 percent by the end of the Year  
21 15.

22 Then operational or environmental

1 constraints, if that limits you from meeting the  
2 deadlines, you may petition the associate  
3 administrator for an extension of up to one year.  
4 Then for re-assessments, it would be a maximum of  
5 a 20-year interval for any re-assessments going  
6 forward.

7 Also, if there's areas in there where  
8 you could have cracking or fatigue cracking  
9 growth analysis, we do have a procedure in there  
10 for doing that under 624(d). It'd be pipes  
11 susceptible to cracks or crack-like defects.  
12 Fatigue analysis techniques would be required  
13 there. Again, we do have spike testing in  
14 192.506. You can see that would apply to  
15 pipeline that are required to be assessed, have a  
16 hoop stress of 30 percent SMYS, and have  
17 integrity threats that cannot be otherwise  
18 addressed by ILI or have their MAOP established  
19 in accordance with Method 1 pressure test in 624  
20 and have pipe that includes legacy pipe or  
21 segments that have had certain incidents, crack  
22 issues, manufacturing, or installation related.

1 The test method for spike would be the minimum or  
2 the lesser of 1.5 times MAOP or 105 percent of  
3 SMYS for cracking, spike duration of 30 minutes,  
4 and a total test duration of eight hours. That's  
5 it.

6 CHAIR TAHAMTANI: Thank you Mike and  
7 Steve. There's got to be a lot of questions for  
8 these two gentlemen.

9 MR. NANNEY: I think the questions  
10 will come July the 8th or 7th.

11 CHAIR TAHAMTANI: This is a briefing.  
12 You're not really asking for any comments.

13 MR. NANNEY: That's correct.

14 CHAIR TAHAMTANI: Sorry, Andy, unless  
15 you have some general comments to make.

16 MEMBER DRAKE: Thank God, just a few.  
17 This is Andy Drake with Spectra Energy.  
18 Recognizing the obvious, appreciate how you've  
19 tried to move through that, but for everybody  
20 that hasn't looked in there, this is a 550-page  
21 regulation. This is probably one of the most  
22 significant regulations that's been passed,

1 period, and it's an extraordinarily complex  
2 regulation, for those that haven't had the time  
3 to read it yet. It is very complex and  
4 interdependent.

5 I think that thematically, I think we  
6 agree with a lot of the things that are in there,  
7 the need to test the older pipes, the need to  
8 expand integrity management, need for repair  
9 criteria outside HCAs. I think those things make  
10 a lot of sense. They align with a lot of things  
11 that we've been trying to do as an industry, as  
12 well.

13 We want to try to, obviously,  
14 constructively advance this. I think the concern  
15 that I see when I look at this is the value of  
16 the proposition. We get 80 percent out of a  
17 certain amount of effort, but to get to this next  
18 level requires 100 times more energy. Some of  
19 the words that are added into these requirements  
20 become so -- the requirements become so  
21 burdensome and so prescriptive and onerous that  
22 the rule actually becomes almost impossible. I



1 think that's where a conversation needs to  
2 happen. I think thematically, we're lined up,  
3 but when you stack so many adjectives on to some  
4 of these descriptors, all the pipe needs to go  
5 through this process. We're trying to solve  
6 every possible problem, and we're not looking at  
7 what are the biggest issues that we're facing?

8 I think fundamentally, one of the  
9 things that we need to keep in front of us is  
10 this is iterative. We're going to keep learning,  
11 and we're going to keep doing. What is the  
12 biggest value add that we can make? Timing is  
13 relevant. When we try to pass a 550-page rule  
14 that's complex and going to invoke huge  
15 requirements over huge parts of our system, this  
16 rule's going to take a lot of debate and a lot of  
17 time.

18 That's not constructive to anybody  
19 because we need to come out with a practicable  
20 rule that can be put into place. We're already  
21 many years behind San Bruno. I expect with just  
22 the complexity of this rule, it will take years

1 to arbitrate this rule to become something that's  
2 practicable. I hope that we can meet on a  
3 playing field to talk about how to get this rule  
4 to address the significant concerns we have and  
5 make it practicable to get it out into play  
6 sooner than later. I think that particularly,  
7 there's three things that I see that are areas or  
8 opportunities for us to work on here. One, I  
9 think TVC needs to be a part of the rule. It's a  
10 huge aspect of what drives through some of these  
11 filters.

12 We don't want that to be subjective.  
13 It needs to be something that's incorporated  
14 explicitly into the rule. I think hydrostatic  
15 testing is misused a little bit, quite frankly.  
16 Spike testing deals with, particularly, a lot of  
17 very active defects, like SCC. We've had a lot  
18 of history with that.

19 When we start applying it to  
20 manufacturing flaws and other things, that's not  
21 how it was intended to be used. You're, frankly,  
22 going to find that those pipes can't survive

1 that, and there's no reason to subject them to  
2 that test. I think we need to differentiate  
3 between active flaws and manufacturing flaws. I  
4 think that some of the repair criteria issues, I  
5 think we really need to sit down and talk about  
6 what we're trying to accomplish here. A lot of  
7 the original conversation is about extending  
8 repair criteria beyond the HCAs. Now we've come  
9 up with repair criteria that's so onerous we'll  
10 be replacing anything that we find on pigs, to a  
11 large degree. That's not really the intent of  
12 what we're trying to get after.

13 I think there's just some things we  
14 really need to create venues to talk about it. I  
15 think that in the past, we have used this  
16 committee very constructively in that regard,  
17 although I would caution us to try to bite this  
18 off in reasonable bites, just given what we've  
19 been through today, and for those that missed  
20 yesterday, what we went through yesterday.

21 I think the committee has to be a  
22 little bit better prepared to come into the

1 meeting to talk about the issues and deal with a  
2 certain amount that we can bite off in a  
3 reasonable amount of time. I really hope that  
4 there's an opportunity here to talk about how to  
5 make this rule practicable, so we can get  
6 something out that can be put into place sooner  
7 than later.

8 CHAIR TAHAMTANI: Thank you, Andy, for  
9 those comments. I'm sure PHMSA is very sensitive  
10 to everything you said. Just advice to Alan  
11 about scheduling this 500-page rule, two weeks  
12 for the committee. If no other comments, I want  
13 to thank the committee members -- you want them  
14 to comment on the presentation? Any comments on  
15 the presentation?

16 MS. SAMES: The question, in case you  
17 didn't hear, was will the presentations be  
18 posted, and the answer is yes. Christina Sames,  
19 AGA, completely echo Andy's comments, very  
20 extensive. We have 13 task groups working on  
21 just probably 80 percent of the rule.

22 We've had three workshops, where we've

1 sequestered people for multiple days and didn't  
2 leave them out for sunlight until they came away  
3 with comments and concerns, and we're still  
4 working. There's just a lot to this. There are  
5 elements that we think were unintentional, for  
6 example, it goes far beyond transmission to  
7 distribution. It has retroactive requirements  
8 that shouldn't be retroactive. As an example,  
9 there are records in there that we've never been  
10 required to keep that now we're being asked to  
11 have. That's a bit of an issue. There are many,  
12 many elements. I'm personally thinking that --  
13 first, I'm in agreement that this is probably one  
14 of the largest rulemakings, if not the largest  
15 rulemaking the gas industry has ever looked at.

16 I think we'll have a lot of discussion  
17 when we get to the advisory committee meeting,  
18 and hopefully we'll be able to spend quality time  
19 getting this right. Also, commit on the AGA  
20 side, we have probably about 75,000 miles of  
21 mostly intrastate transmission, which is very  
22 different than just the interstate, definitely

1 echo willingness to work with whoever to make  
2 this right.

3 CHAIR TAHAMTANI: Anyone else? For  
4 the record, I want to emphasize what Mike said  
5 over and over again, that a lot of these rules or  
6 proposed rules stem from accidents, from issues  
7 that have happened. I don't think government  
8 generally enjoys sitting back and saying what  
9 other rules can we come up with to throw at the  
10 industry? That's not the case. I suggest that  
11 the reason all of these rules have come together  
12 and made up a 500-page thing that we have to look  
13 at is because it's been piling up. It may be  
14 difficult to get through them, and we have to get  
15 through them and come up with something that's  
16 reasonable for both the industry and the  
17 government, but most importantly, public safety.  
18 Having said that, I believe my task is done. I  
19 want to thank both committees for their  
20 engagement and helping to get through the votes  
21 we needed. Also want to thank the public for  
22 their comments. With that, I will turn it over

1 to Alan for final comments.

2 MR. MAYBERRY: I'm just going to add  
3 one comment, really, on the rule -- rather large  
4 rule. We do want to urge people to comment.  
5 Certainly, we're used to and we like getting  
6 comments from the usual stakeholders, but we  
7 really want to encourage the non-traditional  
8 commenters from the public.

9 To the extent this is on the record,  
10 I'm establishing in the record my challenge is to  
11 the public to please comment and provide comments  
12 to us on the rule. We'll consider the time frame  
13 that we allow for consideration of the final  
14 rule. Massoud, I appreciate your service today  
15 as the chair. You almost got us out of here on  
16 time. That's pretty good, actually. Within the  
17 range, just a little bit over ten minutes, so  
18 nice job today, very much appreciated. I won't  
19 keep you. I would just say thank you for bearing  
20 with me as the official here these last couple  
21 days, and then tomorrow for learning the job.  
22 Appreciate the dialogue. I think this forum is

1 extremely important to us.

2           Again, as Carl had asked earlier, I  
3 want to stress that the input from this group is  
4 extremely important. We will take it seriously  
5 and use it as we go forward. Thank you very  
6 much, and I will call the meeting adjourned and  
7 safe travels back. We'll see most of you back  
8 tomorrow, we hope. Thank you.

9           (Whereupon, the above-entitled matter  
10 was concluded at 4:42 p.m.)

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