

**Official Transcript of Proceedings**  
**NUCLEAR REGULATORY COMMISSION**

Title: Public Meeting on Non-Power Production or  
Utilization Facility License Renewal Rulemaking  
Proposed Implementation Date

Docket Number: (n/a)

Location: Rockville, Maryland

Date: Thursday, April 25, 2019

Work Order No.: NRC-0310

Pages 1-41

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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PUBLIC MEETING ON NON-POWER PRODUCTION OR UTILIZATION  
FACILITY LICENSE RENEWAL RULEMAKING PROPOSED

IMPLEMENTATION DATE

+ + + + +

THURSDAY

APRIL 25, 2019

+ + + + +

ROCKVILLE, MARYLAND

+ + + + +

The meeting convened at 1:00 p.m., at One White Flint North, 11555 Rockville Pike, Room 012 B04, Robert Beall, Project Manager for the NPUF License Renewal Rulemaking, presiding.

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PRESENT

ROBERT BEALL, Senior Project Manager, Office of Nuclear  
Material Safety and Safeguards

DUANE HARDESTY, Senior Project Manager, Research and  
Test Reactor Licensing Branch

ALEXANDER ADAMS, Senior Project Manager, Research  
and Test Reactor Licensing Branch

HOWARD BENOWITZ, ESQ., Office of the General Counsel

WILLIAM KENNEDY, Acting Branch Chief, Research  
and Test Reactor Licensing Branch

ALSO PRESENT

GLENNA LAPPERT, Regulations Specialist, Office of  
Nuclear Material Safety and Safeguards

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

1:02 p.m.

1  
2  
3 MR. BEALL: Good afternoon. I would like  
4 to thank everyone for your interest in today's public  
5 meeting.

6 My name is Bob Beall, Rulemaking Project  
7 Manager in the Office of Nuclear Material Safety and  
8 Safeguards, and I'm also the Project Manager for the  
9 Non-power Production or Utilization Facility License  
10 Renewal Rulemaking. I'll also be acting as the  
11 facilitator for today's public meeting.

12 At this public meeting, we'll be focusing  
13 on the proposed implementation date for this final rule  
14 and also provide information about the issuance of  
15 orders to licensees to convert their current licenses  
16 to non-expiring licenses.

17 This final rule will amend the NRC's  
18 regulations that govern the license renewal process  
19 for non-power reactors and certain other production  
20 or utilization facilities, collectively referred to  
21 as NPUFs. Next slide, please. Thank you.

22 Okay, before we begin, I would like to cover  
23 a few of the meeting logistics. For those  
24 participating via the webinar and the bridge line, there  
25 will be designated points during the meeting where you

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1 will be invited to ask questions.

2 We also have a number of people  
3 participating by phone and on the webinar today, so  
4 I'm going to do my best to try to allow everybody to  
5 participate in the meeting. That means, everybody  
6 should be able to follow the discussions, as well as  
7 have time to ask questions.

8 For those participating here in the room,  
9 please turn off or silence your cell phones and any  
10 electronic devices you may have.

11 I'd also like to ask the folks on the phone  
12 to please mute your phones to minimize any background  
13 noise during the meeting. If you do not have a mute  
14 button on your phone, you can press \*6 and that should  
15 silence your line.

16 We'll first take comments from the room,  
17 and then from those on the phone, and then from anybody  
18 on the webinar.

19 I will ask webinar participants to type  
20 your question into the chat function of the webinar,  
21 while the other groups are commenting.

22 All speakers in the room, as well as those  
23 on the phone, I'm asking to please identify yourself,  
24 by providing your name and any company or organization  
25 that you are with, when you are speaking, so everyone

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1 knows who is talking and, of course, please always be  
2 respectful of the other speakers.

3 When you come to ask a question, if you're  
4 in the room, please come towards the table, so we can  
5 ensure that you can be picked up by the microphones  
6 here, from both on the phone and for the transcript.

7 I'd like to remind visitors in the room  
8 that you must be escorted at all times above the first  
9 floor of this building, so if you need to leave for  
10 any reason, please leave by the door over there and  
11 somebody will escort you out of the building. Next  
12 slide, please.

13 The purpose of this meeting is to receive  
14 feedback on the proposed implementation date for the  
15 draft final NPUF rule. We will also be discussing the  
16 issuance of the orders to convert to non-expiring  
17 licenses.

18 This is a Category 3 Public Meeting, which  
19 means that public participation is actively sought in  
20 the discussion of these regulatory issues. The meeting  
21 is not designed, nor intended to solicit or receive  
22 comments on other topics than the proposed  
23 implementation date of the final rule. Also, no  
24 regulatory decisions will be made at today's meeting.

25 Next slide.

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1                   This meeting is scheduled to last from 1:00  
2 to 3:00 p.m. today. Once the introductions are  
3 complete, the NRC staff will discuss the background  
4 of the draft final NPUF rulemaking and then, the staff  
5 will talk about the length and considerations of the  
6 proposed implementation date and the issuance of the  
7 FSAR orders.

8                   The public may provide comments on the  
9 proposed implementation date during the presentation  
10 and also at the end of the meeting. Next slide.

11                   For those who are attending in person,  
12 please sign in before you leave today. There are two  
13 sign-in sheets floating around the room on clipboards,  
14 and if you have not gotten one yet, please sign-in,  
15 please let me know, we can give you the clipboard.

16                   A list of attendees and phone participants  
17 will become part of the meeting summary that will be  
18 prepared for today's meeting and will be made publicly  
19 available.

20                   Copies of the presentation can also be  
21 found at the end of the table here, so if you don't  
22 have a copy of the slides, please let us know.

23                   Also, a transcript is being recorded of  
24 today's meeting, and that too will also be made publicly  
25 available.

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1           We appreciate any feedback you have about  
2 the meeting and how we can improve our public meeting  
3 process. If you'd like to provide feedback, please  
4 send me an email at robert.beall@nrc.gov.

5           Finally, I would like to ask speakers to  
6 please remember to speak loud enough to ensure that  
7 those on the phone can hear you, and also, remember  
8 if you have a question, please move towards the table,  
9 so we can hear you on the transcript.

10           For those on the phone, if at any point  
11 you are not able to hear the meeting discussion, please  
12 let us know.

13           Are there any questions about the logistics  
14 and how we're going to be running the meeting today?  
15       Okay.

16           With that, I would like to start with the  
17 introduction of today's presenters. So, please say  
18 your name and what office you're with. Duane?

19           MR. HARDESTY: Duane Hardesty, Senior  
20 Project Manager in the Research and Test Reactor  
21 Licensing Branch.

22           MR. ADAMS: Al Adams, Senior Project Manager  
23 from the Research and Test Reactor Licensing Branch.

24           MR. BENOWITZ: Howard Benowitz in the Office  
25 of the General Counsel.

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1 MR. BEALL: Okay. With that, let's start  
2 the presentations. Next slide. Okay.

3 So, as background for the draft final rule,  
4 we've done -- the NRC published the proposed rule back  
5 in March of 2017. The draft final rule, with all the  
6 associated documents, went out for a 75-day public  
7 comment period.

8 We received 16 comment submissions, from  
9 TRTR and other public citizens. And in general, the  
10 public comments we received on the proposed rule were  
11 in favor of the proposed rulemaking.

12 We've had three public meetings on the NPUF  
13 rulemaking. We had one in May of 2017, which was during  
14 the public comment period, to help the public understand  
15 the questions and what the proposed rule was all about.

16 And we recently had two meetings with ACRS,  
17 one in January of this year, and with the full Committee  
18 in February of 2019.

19 All documents related to the NPUF  
20 rulemaking can be found on regulations.gov. That's  
21 the main site for the public to see documentation  
22 related to rulemaking. And if you search for the NRC  
23 Docket Number NRC-2011-0087, you can find copies of  
24 all the public documents related to this rulemaking.

25 Next slide.

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1           So, the implementation date that the staff  
2 is proposing for the draft final rule is the same as  
3 was in the proposed rule. It's 30 days after  
4 publication in the Federal Register.

5           This is -- we considered, we looked at the  
6 nine rulemaking objectives in the final rule and right  
7 now, there's no immediate actions required by our  
8 licensees within those first 30 days.

9           But the 30 days do allow licensees to become  
10 familiar with the final rule. You can read the rule  
11 and understand it and make any changes, if required,  
12 to any of your processes.

13           And with that, I'll turn it over to Duane  
14 and he'll go through the nine rulemaking objectives  
15 in more detail and the implementation process.

16           MR. HARDESTY: Thanks, Bob. Good  
17 afternoon, everybody. My name is Duane Hardesty, as  
18 I said before. I'm from the Research and Test Reactor  
19 Licensing Branch.

20           In the next few slides, I will discuss  
21 implementation requirements for the nine objectives  
22 of the draft final rule.

23           If the Commission approves the draft final  
24 rule package, the licensees will have 30 days to  
25 implement the new requirements. But as I will discuss

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1 next, because of the nature of the new requirements  
2 in the draft final rule, there are no applicable 30-day  
3 implementation requirements.

4 For example, in this first objective on  
5 the screen now, it's for establishing a new term for  
6 non-power production or utilization facilities, or  
7 NPUFs, and for revising the terms and definitions for  
8 research reactor and testing facility.

9 This changes a criterion that  
10 distinguishes between research reactors and testing  
11 facilities to be based on a dose consequence instead  
12 of a power level. Because it is only a change in  
13 terminology, there won't be any new requirements for  
14 the licensees to implement. Next slide, please.

15 After the objective date of the final rule,  
16 the NRC will issue non-expiring licenses for Class 104a  
17 and 104c facilities, except for testing facilities.  
18 This will be accomplished by orders or by renewed or  
19 initial licenses that are issued in the future.

20 Al Adams is going to discuss the timing  
21 for implementation later in the presentation, but  
22 because these will be done after the rule's effective  
23 date, there are no 30-day implementation requirements.

24 Slide 10, please.

25 Class 103 NPUFs and Class 104c testing

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1 facilities will still be required to undergo license  
2 renewal.

3 For clarity, the rule consolidates the  
4 existing requirements for license renewal in a new  
5 section of the regulations, 10 CFR 50.135. There are  
6 no new requirements, but there are some adjustments  
7 in the rule text to clarify that renewed licenses will  
8 be effective immediately and to preserve the maximum  
9 40-year license term allowed under the Atomic Energy  
10 Act.

11 Here, again, this applies to the future,  
12 therefore, there are no 30-day implementation  
13 requirements.

14 Objective four is a new requirement under  
15 10 CFR 50.71(e), for NPUFs to submit an updated final  
16 safety analysis report and subsequent final safety  
17 analysis report updates at intervals not to exceed five  
18 years.

19 Al Adams will discuss the timing for these  
20 FSAR submittals later in the presentation, but since  
21 these will be done after the rule's effective date,  
22 there are no 30-day implementation requirements.  
23 Slide 12, please.

24 This objective amends the timely renewal  
25 provision for those facilities that still have a license

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1 term and are still subject to license renewal.

2 The current default to submit an  
3 application 30 days before license expiration to be  
4 considered timely will continue to apply to the one  
5 licensee that is not required to submit a renewal  
6 package or application until after the effective date  
7 of the rule. Therefore, this applies only to future  
8 renewals for certain licensees and there are no 30-day  
9 implementation requirements.

10 Objective six adds an accident dose  
11 criterion for NPUFs in 10 CFR 50.34, except testing  
12 facilities.

13 The one rem total effective dose equivalent  
14 is also part of the criteria for determining whether  
15 a given facility needs to be licensed as a testing  
16 facility.

17 Since all current licensees have  
18 previously demonstrated compliance with the lower dose  
19 criterion provided in 10 CFR Part 20, there are no 30-day  
20 implementation requirements.

21 Objective seven is to extend the  
22 applicability of 10 CFR 50.59 to all NPUFs, regardless  
23 of their decommissioning status. This change only  
24 clarifies existing regulations and will only apply to  
25 NPUF licensees when they transition to decommissioning.

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1                   Since this only applies to facilities that  
2 go into decommissioning after the effective date of  
3 the rule, there are no 30-day implementation  
4 requirements.

5                   The eighth objective clarifies Part 51,  
6 which is our environmental regulations, and clarifies  
7 the environmental reporting under 10 CFR 51.56. The  
8 rule only clarifies existing regulations, therefore,  
9 there are no 30-day implementation requirements.

10                  The final objective of the draft final rule  
11 eliminates the requirement to submit financial  
12 qualification information at license renewal. Because  
13 this change removes the regulation, there are no 30-day  
14 implementation requirements.

15                  And with that, I will turn the presentation  
16 over to my colleague, Alexander Adams, who will discuss  
17 the implementation of non-expiring licenses and timing  
18 of the submission of updated final safety analysis  
19 reports.

20                  MR. ADAMS: Thanks, Duane. Good afternoon,  
21 I'm Al Adams from the Research and Test Reactors  
22 Licensing Branch. In the next few slides, I will  
23 discuss implementation of non-expiring licenses and  
24 the timing of the submission of updated FSARs.

25                  As we have said, Atomic Energy Act Class

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1 104a and 104c licenses will not expire, except those  
2 for testing facilities.

3 The version of the slide released earlier  
4 in preparation for this meeting has been clarified,  
5 as seen here, to point out that testing facility  
6 licenses will have a term and will expire if not  
7 successfully renewed.

8 MIT has the only Class 104a license. This  
9 class of license is discussed in Section 10 CFR 50.21(a)  
10 of the regulations.

11 All current non-power reactor licensees  
12 have Class 104c licenses. This class of license is  
13 discussed in 10 CFR 50.21(c) of the regulations.

14 Although there are currently no Atomic  
15 Energy Act Class 103 NPUF operating licenses for  
16 commercial/industrial facilities, as discussed in 10  
17 CFR 50.22 of the regulations, any future Class 103 NPUF  
18 operating license will have a license term and will  
19 expire.

20 Any Class 104a or 104c licenses, except  
21 for testing facilities, issued in the future will not  
22 have an expiration date. Future licenses for testing  
23 facilities will continue to have an expiration date.

24 Slide 18, please.

25 For existing licensees eligible for a

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1 non-expiring license, how you will transition to that  
2 non-expiring license will depend if, on the effective  
3 date of the final rule, you have had a license renewal  
4 where the NRC staff completed the renewal using  
5 NUREG-1537.

6 For those licensees that have already  
7 undergone a license renewal using NUREG-1537, the NRC  
8 staff will issue an order, which will modify the license  
9 to remove the expiration date.

10 For those licensees who have not yet  
11 undergone license renewal using NUREG-1537, if they  
12 are renewed, the renewed license will be issued without  
13 an expiration date. Slide 19.

14 Now, I would like to discuss the timing  
15 of updated FSARs. Because we don't know when the  
16 Commission will take action on the final rule, some  
17 of this discussion is based on assumptions of the timing  
18 of future actions.

19 All NPUF licensees will be required to  
20 submit an initial updated FSAR and subsequent FSAR  
21 updates to the NRC.

22 For facilities that currently have  
23 operating licenses, the timing for updated FSARs will  
24 depend on whether you have a license renewal that was  
25 completed under NUREG-1537 by the effective date of

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1 the final rule.

2 For facilities receiving an initial  
3 operating license, the timing for updating FSARs will  
4 depend on whether your initial license was issued before  
5 or after the effective date of the final rule.

6 If your initial operating license or  
7 license renewal using NUREG-1537 was issued after the  
8 effective date of the final rule, you must submit an  
9 updated FSAR within five years of the issuance date  
10 of the initial operating license or license renewal  
11 per a new 10 CFR 50.71(e) (3) (iv) requirement.

12 If your initial operating license or  
13 license renewal using NUREG-1537 was issued before the  
14 effective date of the final rule, you will be issued  
15 an order that will establish the date when the updated  
16 FSAR must be submitted to NRC. This could be the same  
17 order that removes the expiration date from your  
18 license.

19 Subsequent updates after the initial  
20 update must be submitted no more than five years from  
21 the date of the previous update, per a new 10 CFR  
22 50.71(e) (4) (ii) requirement. Slide 20, please.

23 Those licensees that have undergone a  
24 license renewal using NUREG-1537 before the effective  
25 date of the final rule will be placed into two groups.

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1       The groups are based on the date the license was renewed  
2 using NUREG-1537.

3               Licensees with the most recent license  
4 renewals will be in the group that will submit updated  
5 FSARs to the NRC first. We selected this timing  
6 approach based on the principle that licensees with  
7 recent renewals will need less effort to update their  
8 FSARs than licensees whose renewal was further in the  
9 past.

10              The requirement to submit an updated FSAR  
11 and the date to submit to the NRC will be established  
12 by order.

13              This slide lists the licensees proposed  
14 for the first group. We anticipate that these  
15 licensees will be ordered to submit an updated FSAR  
16 one to three years after the effective date of the final  
17 rule.

18              When selecting the specific date for an  
19 updated FSAR submission for each facility in this group,  
20 the NRC staff will consider NRC project manager  
21 workloads and the amount of licensee effort needed to  
22 update the FSAR, but in every case, the date will be  
23 no later than three years from the effective date of  
24 the rule.

25              Three licensees in this group, Texas, UMass

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1 Lowell, and NC State, are currently in license renewal.

2 We anticipate that these renewals will be issued before  
3 the effective date of the final rule, which means they  
4 will receive an order to submit the first updated FSAR.

5 If any of these renewals are not completed  
6 by the effective date of the final rule, these  
7 facilities will be moved to Group 3, which I will discuss  
8 in a few slides. Slide 22.

9 This slide shows the second group of  
10 facilities, those that have undergone license renewal  
11 using NUREG-1537 further back in time than those  
12 facilities in the first group. This group also  
13 contains three facilities currently in  
14 decommissioning.

15 We anticipate that these licensees will  
16 be ordered to submit an updated FSAR two to five years  
17 after the effective date of the final rule.

18 When selecting the specific date for an  
19 updated FSAR submission for each facility within this  
20 group, the NRC staff will consider NRC project manager  
21 workloads and the amount of licensee effort needed  
22 to update the FSAR, but in every case, the date will  
23 be no later than five years from the effective date  
24 of the rule. Slide 23.

25 This last group consists of facilities that

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1 we assume will have not undergone a license renewal  
2 using NUREG-1537 or have not received their initial  
3 license on the effective date of the final rule.

4 In accordance with the new regulation under  
5 10 CFR 50.71(e) (3) (iv), these facilities must submit  
6 an updated FSAR within five years of either license  
7 renewal or issuance of the initial license.

8 If these facilities are renewed or receive  
9 their initial operating license before the effective  
10 date of the final rule, they will be moved to Group  
11 1 and issued an order to submit their updated FSAR.

12 I will point out that Aerotest has applied  
13 to the NRC to amend its license to remove authorization  
14 to operate their reactor. How Aerotest will update  
15 their FSAR will depend on the status of their license  
16 on the effective date of the final rule. Slide 24.

17 Once the licensee has submitted its initial  
18 updated FSAR, in accordance with new 10 CFR  
19 50.71(e) (4) (ii), subsequent FSAR updates must be  
20 submitted no more than five years from the date of the  
21 previous FSAR submittal.

22 A licensee may submit an updated FSAR less  
23 than five years from the previous update, but that  
24 submission will reset the clock back to no more than  
25 five years for the next updated FSAR.

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1                   We have developed a Regulatory Guide, 2.7,  
2                   Preparation of Updated Final Safety Analysis Reports  
3                   for Non-power Production or Utilization Facilities.  
4                   The Reg Guide contains guidance on updating FSARs and  
5                   will be issued with the final rule.

6                   I would now like to turn the presentation  
7                   over to Howard Benowitz from our Office of the General  
8                   Counsel, who will discuss the Nuclear Energy Innovation  
9                   and Modernization Act, known as NEIMA.

10                   MR. BEALL: Before we get to Howard, we've  
11                   gone over a lot of stuff here in the past couple of  
12                   slides, so I would like to see if there's any questions  
13                   right now, because these topics are directly related  
14                   to the draft final rule.

15                   So, I would like to open up the floor here  
16                   in the room, to see if there's been any questions the  
17                   public may have to the staff. Yes, sir? Please say  
18                   your name and who you're from.

19                   MR. NEWTON: Tom Newton from the NIST Center  
20                   for Neutron Research. Duane mentioned that, with the  
21                   redefinitions coming on, there wasn't any  
22                   implementation processes or whatever.

23                   So, if in the case of NIST, we're going  
24                   to be reclassified, if you want to call it that, from  
25                   a testing facility to a research reactor, is there a

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1 process or is it automatic?

2 MR. HARDESTY: This is Duane Hardesty from  
3 Research and Test Reactor Licensing Branch. You will  
4 not automatically be reclassified. You can be  
5 reclassified, but you'll have to apply to do so.

6 MR. NEWTON: So, what's the process of that  
7 application?

8 MR. HARDESTY: So, it's included in our FRN,  
9 a basic description of what we're going to do, but  
10 basically, what it amounts to is that you'll be required  
11 to submit an amendment. And because you're already  
12 --

13 MR. NEWTON: Okay, so --

14 MR. HARDESTY: -- a testing facility --

15 MR. NEWTON: -- submit a LAR?

16 MR. HARDESTY: Yes.

17 MR. NEWTON: Okay.

18 MR. HARDESTY: And we will give you, if we  
19 grant the license, we would give you a new number, an  
20 R-number instead of a TR-number.

21 MR. NEWTON: Yes.

22 MR. HARDESTY: But the biggest nuance that  
23 you need to understand is that, because you're already  
24 a testing facility, you'll continue to be a testing  
25 facility until you've been reclassified.

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1 MR. NEWTON: Yes.

2 MR. HARDESTY: So, all the things that  
3 you're used to, going to ACRS and noticing and things  
4 like that, will still apply until you're reclassified.

5 MR. NEWTON: Okay, thank you.

6 MR. BEALL: Okay. Any questions from the  
7 phone? Please state your name and your organization.

8 THE OPERATOR: For those participating on  
9 the phone, if you would like to ask a question, please  
10 press \*1 on your phone and record your name. I do need  
11 your name in order to introduce your question. If you  
12 choose to withdraw your question, please press \*2.

13 Again, to ask a question, please press \*1.

14 One moment. We do have questions coming in, one moment  
15 please.

16 MR. BEALL: Okay.

17 THE OPERATOR: Our first question comes from  
18 Clive Townsend. The line is open.

19 MR. TOWNSEND: Hi, Clive Townsend of Purdue.  
20 Is Reg Guide 2.7 available currently for review?

21 MR. HARDESTY: This is Duane Hardesty from  
22 the Research and Test Reactor Licensing Branch. Reg  
23 Guide 2.7 is part of the rulemaking package, so you  
24 can find it with the rulemaking documents. If you go  
25 to the regulatory --

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1 MR. BEALL: Regulations.gov.

2 MR. HARDESTY: -- regulations.gov website  
3 and put in our TR number, you will find that document.

4 MR. ADAMS: And that Reg Guide was released  
5 in draft at the draft rule stage.

6 MR. BEALL: Right, this is the draft  
7 Regulatory Guide 2.7. The final Reg Guide is still  
8 under development and will be released when the package  
9 goes to the Commission, sometime this summer.

10 MR. ADAMS: But we did consider any comments  
11 that were provided during the draft rule stage on the  
12 Reg Guide.

13 MR. BEALL: Right.

14 MR. ADAMS: Does that answer your question,  
15 Clive?

16 MR. TOWNSEND: That does. I have followup  
17 on a different topic.

18 MR. BEALL: Okay, go ahead, please.

19 MR. TOWNSEND: Can you petition for group  
20 membership? To be included in a certain group?

21 MR. ADAMS: Right now, we are not looking  
22 in going in that direction. If you have a reason why  
23 you believe you should be in one group versus another,  
24 we would listen to what your reasoning is. But what  
25 we're proposing is our initial cut at dividing up the

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1 licensees into groups.

2 MR. TOWNSEND: Okay, great. Is there a  
3 mechanism for the NRC to ensure that in 15 or 20 years,  
4 you don't have grouping, you don't get clustering of  
5 licensees?

6 MR. HARDESTY: This is Duane Hardesty. The  
7 clustering that we've experienced in the past was  
8 largely due to license renewals and the timeliness in  
9 which they would all come in, which is all explained  
10 in the Federal Register Notice for the proposed rule  
11 and will be also in the final rule.

12 Because we're going to non-expiring  
13 licenses, we won't have a similar type of burden on  
14 the NRC staff as we witnessed during license renewal.

15 With regard to your previous question about  
16 the groupings and why we're not really entertaining  
17 moving between groupings, we are looking very carefully  
18 -- and we will work with the project managers, and have  
19 the projects managers work with the facilities  
20 individually.

21 But we're trying to spread those out as  
22 far apart as we can, so that no one individual project  
23 manager is receiving all of their updates at the same  
24 time, because there is a level of review that we're  
25 going to do with those updates.

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1           So, we don't anticipate, if we carry it  
2 out as planned, that there will be any type of congestion  
3 with the FSAR submittals.

4           MR. TOWNSEND: Okay, great. Last question,  
5 if you receive a license amendment request, can the  
6 FSAR be combined with the LAR for a complete five-year  
7 reset?

8           MR. HARDESTY: So, this is Duane Hardesty,  
9 again. Yes, you are allowed to submit an FSAR update  
10 at any point that you want to, understanding that your  
11 clock also resets.

12           So, if you submit one year after your last  
13 update, your next requirement is five years from that  
14 last update, not from the -- five years from the first  
15 one. So, you don't gain any additional time, is what  
16 I'm trying to explain.

17           However, I would tell you that, when you  
18 do that, we need to talk about that as far as any of  
19 the application materials, because it's very important  
20 that the staff understand what is being put into the  
21 safety analysis report for purposes of the amendment  
22 versus what's being put under there because the facility  
23 carried out some 50.59 changes or there was some other  
24 changes that are documented in the SAR.

25           This is just to provide clarity and

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1 understanding between the NRC and the facility, to  
2 ensure that we're performing our analysis and asking  
3 questions on only the things that you're requesting  
4 the amendment for and not things that have already been  
5 predetermined by you to be introduced and completed  
6 with prior NRC approval.

7 MR. ADAMS: And this is Al Adams. I'll add  
8 that, if you submit a safety analysis with an amendment,  
9 there's always the chance that the NRC staff could ask  
10 RAIs, requests for additional information, that would  
11 lead to changes beyond what was in the original  
12 application. So, a licensee may want to consider if  
13 they want to take the route that you're proposing.  
14 Did we answer the question okay?

15 MR. TOWNSEND: Yes, just for clarity,  
16 suppose that my -- I renew my FSAR in 2020. I get a  
17 license amendment with full FSAR submittal in 2021.  
18 When is my next FSAR requirement?

19 MR. HARDESTY: 2025.

20 MR. ADAMS: Or 2026.

21 MR. BEALL: 2026.

22 MR. HARDESTY: Oh, did he say full FSAR?

23 MR. ADAMS: Yes.

24 MR. BEALL: Yes.

25 MR. ADAMS: So, 2026.

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1 MR. BEALL: 2026, yes.

2 MR. ADAMS: Yes. So, if you submit one year  
3 -- this is Al, again. If you submit one year into a  
4 five-year period of time, you don't get nine years until  
5 your next due date. Whenever you submit, you reset  
6 the clock back to five years.

7 MR. TOWNSEND: Okay, perfect, I understand.  
8 Thank you.

9 MR. BEALL: Okay. Tara, next question?

10 THE OPERATOR: As a reminder, for those on  
11 the phone, if you would like to ask a question, please  
12 press \*1 and record your name. The next question comes  
13 from Dan Cronin. Your line is open.

14 MR. CRONIN: Hi, this is Dan Cronin,  
15 University of Florida. To follow up on Clive's  
16 questions about the SAR updates and the timing of those  
17 updates, what's your expected date of implementation  
18 for the final rule?

19 You mentioned sending the final package  
20 to the Commission this summer, based on historical data,  
21 when would you think that the final rule would come  
22 out?

23 MR. BEALL: It depends on the priority of  
24 the Commission. It could be a couple months, it could  
25 be longer than that. So, it depends on what other

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1 rulemakings are up there, plus the Commission's  
2 workload.

3 So, we really can't say when it will be  
4 fully implemented, other than that it's up to the  
5 Commission to determine what their priority of this,  
6 their view of this rulemaking is. Since we have a full  
7 complement now, all five Commissioners will be  
8 reviewing the package.

9 MR. CRONIN: Well, I guess then, to follow  
10 up, when you go back to Slides 20 and 21 and 22, first  
11 bullet, update of SARs will be due one to three years  
12 from effective date, on Slide 21. Where does that one  
13 to three years come from?

14 MR. ADAMS: This is Al Adams. That one to  
15 three years comes from after the effective date of the  
16 final rule. So, at some point, the Commission will  
17 complete their deliberations and give us an answer on  
18 the rule.

19 And if they tell us that they're approving  
20 the rule, and sometimes they might have some changes  
21 to the rule language, but they may tell us they approve  
22 the rule and then, we will go forward with publishing  
23 the final rule, which will become effective 30 days  
24 after it is published.

25 And that's when the effective date of the

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1 final rule is and that's when that one to three year  
2 clock would start.

3 MR. CRONIN: Where is the clock talked  
4 about? Is that in the Reg Guide?

5 MR. HARDESTY: No. Dan, this is Duane, let  
6 me see if I can clarify, because I think I understand  
7 your question. The date of the implementation of the  
8 rule, the effective date of the rule is the day it's  
9 signed by the Commission.

10 The 30 days is the standard period to  
11 implement any requirements of the rule, but because  
12 all of the requirements are future-based, there's  
13 nothing that you have to do immediately.

14 And with the case of the FSAR updates, we  
15 are not saying that it has to be done based on the  
16 effective date of the rule. Rather, we are saying that  
17 it has to be done per the order. However, the timing  
18 of the orders, from the staff perspective, when they  
19 issue them, will be based on the effective date of the  
20 rule.

21 So, we're going to start issuing them from  
22 Group 1, as soon as the rule is in effective, but they  
23 will have different dates for each facility, that's  
24 negotiated between the project manager and the  
25 facility, within the constraints that Group 1 has to

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1 be between one and three years and Group 2 will between  
2 two and five years.

3 So, your date will be determined, your  
4 specific date will be determined at a future time.

5 MR. CRONIN: And that's where, I guess, I'm  
6 wondering what consideration has been given to how far  
7 -- you mentioned that the reason you have a Group 1,  
8 a Group 2, is that you think that the Group 1 will be  
9 easier, or it will be harder for Group 2 to update their  
10 SARs, is what I heard you say, because if it's been  
11 longer since they were renewed.

12 But the other side of that coin is, for  
13 those who renewed most recently, it may be less than  
14 five years since renewal, in which case you're kind  
15 of imposing an additional burden, an additional  
16 constraint, above and beyond what 50.71(e) is intended  
17 to do.

18 So, I'm -- those orders that are going to  
19 be issued, is there any consideration to the date of  
20 the license renewal, relative to -- making sure that  
21 it's one to three years, let's say, not to exceed five,  
22 or one to three years, or five years, whichever is  
23 longer, that kind of thing?

24 Do you follow me? So that somebody doesn't  
25 renew their SAR twice in three years, that kind of thing?

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1 MR. HARDESTY: This is Duane Hardesty.  
2 There will be no reason why you would have to submit  
3 twice. Everyone will get one date and that will be  
4 your first submittal, your updated FSAR.

5 And then, you will have a five-year clock  
6 from that period to submit your subsequent FSAR updates.

7 And as we said before, you can submit early, if you  
8 want, but that's a no-later-than date.

9 That has nothing to do with the one to three  
10 year requirement or the two to five year requirement.

11 The one to three year requirement and the two to five  
12 year requirement are based on the NRC staff trying to  
13 even the workload between the project managers and the  
14 facilities.

15 There is a certain amount of things that  
16 we have to do with those FSAR updates and implementation  
17 on our side for these FSAR updates. So, we are  
18 coordinating, like we said, with the project managers,  
19 with the facility, and also, among the staff in the  
20 Research and Test Reactor Licensing Branch, so that  
21 we don't get all of the FSAR updates at the same time.

22 If we told everybody it was going to be  
23 not to exceed five years, we would set ourselves up  
24 to fail and everyone would submit at the five-year point  
25 and we would have a backlog. We are consciously doing

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1 this to prevent that from happening.

2 MR. ADAMS: And this is Al. And this is  
3 the reason why we're making the licensees aware of this  
4 timing now, we're trying to give you as much lead time  
5 as possible, so that you know what the expectations  
6 will be once the rule becomes a final rule. Any other  
7 --

8 MR. CRONIN: Okay, a followup question on  
9 another topic. Regarding the initial updated SAR and  
10 then, the subsequent SARs every five years, were any  
11 changes made to the draft Reg Guide to note that these  
12 SAR updates, including the initial SAR update,  
13 post-license renewal, are not intended for a licensee  
14 to redo their SAR, quote/unquote, and submit it, but  
15 rather, just to ensure the changes that have been made  
16 by the licensee under 50.59 or LAR since the license  
17 renewal?

18 Was there any verbiage added to the Reg  
19 Guide to clarify that fact, so that -- you may recall  
20 -- so that we're not going through a license renewal  
21 type process with the SAR every five years?

22 MR. KENNEDY: Dan, this is Duke Kennedy,  
23 I'm the acting Chief of the Research and Test Reactor  
24 Licensing Branch. This question is starting to get  
25 a little bit outside the scope of the meeting, but the

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1 simple answer to your question is yes.

2 MR. CRONIN: So, yes, the draft Reg Guide  
3 has been modified since it was put out for comment?

4 MR. KENNEDY: Yes. It's been modified and  
5 clarified to address the issues that you're raising.

6 MR. CRONIN: Okay, good.

7 MR. HARDESTY: And to add just a slight bit  
8 to that, Dan, this is Duane. If you go look at the  
9 current 50.71(e) requirements for power reactors and  
10 the tie-in to the 50.4 standard for submitting, you'll  
11 see the nuances between electronic submissions and  
12 paper submissions.

13 And we're following, essentially, that  
14 same thing, and you can see that in the proposed rule.

15 So, whether you do change pages or a full submittal  
16 is a choice that the facility makes.

17 MR. CRONIN: Well, the question was really  
18 more about the content of the required update. If  
19 NUREG-1537 changes, between now and my next five-year  
20 update, will I be expected to go back to NUREG-1537  
21 and perform whatever changes are necessary?

22 That's what I'm talking about is, that has  
23 been a topic of discussion since this rule was first  
24 proposed and I don't know that -- and I know, verbally,  
25 we've heard from you guys that the intent is not to

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1 go through a renewal process every five years, but I  
2 want to make sure that something is actually added to  
3 the Reg Guide that is very explicit about that.

4 MR. KENNEDY: This is Duke Kennedy, again.  
5 Yes, that's been added.

6 MR. CRONIN: Okay, thank you.

7 MR. ADAMS: Any other questions, then?

8 THE OPERATOR: We show no further questions  
9 at this time.

10 MR. BEALL: Okay, great. Okay. So, Howard  
11 Benowitz from the Office of the General Counsel will  
12 now talk about the Nuclear Energy Innovation and  
13 Modernization Act and its impact on NPUFs.

14 MR. BENOWITZ: Thanks, Bob. Good  
15 afternoon. So, NEIMA, as we're calling the new  
16 statute, went into effect on January 14, 2019.

17 One provision of the Act is likely of  
18 interest tuned into this meeting, and that is Section  
19 106, which amended Section 104c of the Atomic Energy  
20 Act.

21 Section 106 includes a new test to  
22 determine whether a utilization facility is going to  
23 be licensed under Section 104c or Section 103 of the  
24 Atomic Energy Act. This new test is a financial test  
25 that looks at how a facility recovers its cost.

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1           In the NRC's current regulations, in 10  
2 CFR 50.22, we have a test that looks at how a facility  
3 spends its money. So, this new NEIMA test is different  
4 than our current test. Slide 26, please.

5           So, who does this new test apply to? As  
6 of January 14, 2019, the new test applies to all new  
7 and renewed licenses that are issued by the NRC after  
8 January 14, 2019.

9           If you have already submitted an  
10 application to the NRC for a new or renewed license  
11 and we have not issued that license yet, or if you plan  
12 to submit an application for a new or renewed license,  
13 then this test applies to you or will apply to you.

14           For all other NPUFs, the NRC is considering  
15 how to apply the new test. We will conduct a rulemaking  
16 to gather information from the public and make a  
17 recommendation to the Commission.

18           Our first public outreach is planned for  
19 the September TRTR meeting in Idaho. It will be an  
20 NRC public meeting, separate from the actual TRTR  
21 conference.

22           The NRC staff is working to finalize that  
23 public meeting, so we can provide the date and time  
24 information to you as soon as possible. Please come  
25 to that public meeting prepared to discuss how this

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1 new test may impact you, as compared to the current  
2 test in 50.22.

3 On the next slide, Slide 27, this is the  
4 actual language of Section 106 of NEIMA. We're not  
5 going to discuss this any further during this meeting,  
6 because that's not the purpose of this meeting.

7 The discussion of this language on this  
8 slide and its impact on you, potential impact, is the  
9 purpose of the fall meeting in Idaho. We just want  
10 to inform you of our plans going forward on this subject  
11 and encourage you to come to that meeting, to provide  
12 your input.

13 Back to you, Bob.

14 MR. BEALL: Okay, thank you.

15 (Laughter.)

16 MR. BEALL: Okay. So, at this time, I'd  
17 like to see if there's any additional questions or  
18 comments. So, in the room, are there anything? Okay.

19 Tara, on the phone, is there any other additional  
20 questions?

21 THE OPERATOR: Yes. Clive, your line is  
22 open.

23 MR. TOWNSEND: Jonathan Wallick asked a  
24 question in the chat window that I would like to address.

25 MR. BEALL: Okay, please.

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1 MR. TOWNSEND: Do you guys have the chat  
2 window, or should I read it?

3 MR. BEALL: Just go ahead and read it.

4 MR. TOWNSEND: I don't know, maybe  
5 Jonathan's on the line, but he asked if the five-year  
6 timer is started from the initial submission of the  
7 FSAR or from the NRC, I guess, that's a separate  
8 question, but the NRC's acceptance of the review or  
9 the approval of it? What is the exact timing of that?  
10 And how do RAIs play into the timing?

11 MR. KENNEDY: This is Duke Kennedy, again.  
12 The timer begins when you date the letter submitting  
13 the updated submittal to us. And we don't expect RAIs  
14 to be issued related to FSAR updates.

15 MR. TOWNSEND: Can you restate that?

16 MR. KENNEDY: Yes. The timer, the  
17 five-year timer begins on the date of the submittal.  
18 So --

19 MR. TOWNSEND: Okay. So, I'm required to  
20 resubmit my subsequent FSAR five years following my  
21 initial submission?

22 MR. KENNEDY: Correct. Or more correct  
23 would be, following the previous submission.

24 MR. TOWNSEND: Yes, okay, correct. And can  
25 I quote you on the, you don't expect RAIs?

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1 (Laughter.)

2 MR. KENNEDY: This is discussed in the  
3 rulemaking package, so you don't need to quote me here.

4 MR. TOWNSEND: Okay. So noted.

5 MR. BEALL: Do you have any additional  
6 questions?

7 MR. TOWNSEND: No, I do not.

8 MR. BEALL: Okay, thank you. Are there any  
9 additional questions for the folks online?

10 THE OPERATOR: Yes. Dan, your line is open.

11 MR. CRONIN: Hi, Dan Cronin, again,  
12 University of Florida. Thank you. I missed part of  
13 that, in order to get into the queue here, so I may  
14 have missed the answer.

15 A comment, I know we're here to talk about  
16 the timing of the implementation, but some of the  
17 difficulty, at least from my perspective, is that,  
18 there's nothing on the docket that the public can see,  
19 or at least that I've been able to see, that talks about  
20 this rulemaking post-2017.

21 I mean, we did have a meeting earlier in  
22 the year and we do have some slides from that, but it's  
23 not clear what the changes were, it's not clear to me  
24 anyway, what the changes were from the draft to the  
25 final.

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1 MR. BEALL: That's correct, Dan. This is  
2 Bob Beall, Rulemaking PM. The changes we have made  
3 are still pre-decisional, they have not been reviewed  
4 by the Commission and approved by them. So, we're not  
5 allowed to post that information on there.

6 There is some information on there that  
7 should be from our ACRS meeting in February. If you  
8 can't find that, please let me know, I'll see what  
9 happened to it. My email address is copied in the  
10 slides. But it should be there from the ACRS meeting.

11 And so --

12 MR. CRONIN: It may be available in ADAMS,  
13 I'm not sure, but it's not in the --

14 MR. BEALL: Okay.

15 MR. CRONIN: -- regulations.gov.

16 MR. BEALL: Well, if you could send me your  
17 email address, send me an email, I'll be happy to send  
18 it to you.

19 MR. CRONIN: Okay, thank you.

20 MR. BEALL: Sure, no problem.

21 MR. CRONIN: That's all I had, thanks.

22 MR. BEALL: Okay, then. Any other  
23 questions?

24 THE OPERATOR: There are no further  
25 questions on the phone.

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1 MR. BEALL: Okay. Next slide. So, our  
2 next steps is that the staff will review any of the  
3 feedback we got from today's meeting and determine if  
4 any changes need to be made for the implementation date.

5 The final implementation date will be  
6 documented in the final rule, in the Federal Register  
7 Notice. Like I said, we expect right now to be issuing  
8 a final NPUF rule sometime in late 2020. And also,  
9 the final Reg Guide, Reg Guide 2.7 will be issued the  
10 same time as the final rule. Okay. Next slide.

11 Also, please remember to monitor the  
12 information on regulations.gov. All activities  
13 related to this rulemaking are posted under our Docket  
14 ID of NRC-2011-0087.

15 And of course, if you have any questions  
16 about this rulemaking, please feel free to contact me  
17 or anybody else on this slide, and we'll be happy to  
18 do what we can.

19 Are there any further comments?

20 MR. ADAMS: This is Al Adams, one last  
21 comment from me. We will -- we're thinking about having  
22 this same discussion again at the TRTR meeting, so that  
23 will allow us to have a face-to-face discussion with  
24 the folks that are at TRTR.

25 MR. BEALL: Great. And right now, like I

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1 said, sometime this summer, the draft final rule should  
2 be with the Commission. And at that time, the draft  
3 final rule should be made public, so you should be able  
4 to see all the documents at that time.

5 Okay. If there's no further questions?  
6 Okay. Thank you very much for your participation and  
7 this meeting is adjourned.

8 (Whereupon, the above-entitled matter went  
9 off the record at 1:50 p.m.)

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