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**NUCLEAR REGULATORY COMMISSION**

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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ENHANCED WEAPONS, FIREARMS BACKGROUND CHECKS, AND  
SECURITY EVENT NOTIFICATIONS RULEMAKING

+ + + + +

PUBLIC MEETING

+ + + + +

THURSDAY

MAY 30, 2019

+ + + + +

ROCKVILLE, MARYLAND

+ + + + +

The Public Meeting convened at the  
Nuclear Regulatory Commission, Three White Flint  
North, Room 08-A28, 11601 Landsdown Street, at 1:00  
p.m., Robert Beall, Moderator, presiding.

NRC STAFF PRESENT:

ROBERT BEALL, NMSS, Moderator

PHIL BROCHMAN, NSIR

NORM ST. AMOUR, OGC

ANTHONY MCMURTRAY, NMSS

KEVIN RAMSEY, NMSS

GLENNA LAPPERT, NMSS

MARK LOMBARD, NSIR

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## ALSO PRESENT:

DAN CRONIN, University of Florida \*

HILARY LANE, Nuclear Energy Institute

EDWIN LYMAN, Union of Concerned Scientists \*

JANET SCHLUETER, Nuclear Energy Institute

TIM TATE, Framatome \*

BOB WILLIAMS, Private Citizen \*

\*Present via telephone

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

1:00 p.m.

MR. BEALL: Good afternoon. I'd like to thank all of you for your interest in today's public meeting. My name is Bob Beall. I'm the rulemaking project manager in the Office of Nuclear Material Safety and Safeguards, and I am also the project manager for the enhanced weapons rule, or as the formal name is the Firearms Background Checks, Security Notifications, and Enhanced Weapons Rule.

I'll also be acting as the facilitator for today's meeting. At this public meeting, the NRC staff will present planned changes to the draft final rule text that clarifies the applicability of the enhanced weapons rule to Agreement State and NRC licensees that possess or transport Category II or III quantities of special nuclear material.

Before we begin, I would like to cover a few of the meeting logistics. For those participating via the webinar and the bridge line, there will be designated points during the meeting that you will be invited to ask questions.

We have a number of people participating by phone and the webinar today. So I am going to do my best to allow everyone to participate in the

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1 meeting.

2 Everyone should be able to follow the  
3 discussions as we will always have time to ask  
4 questions. I ask those participating here in the  
5 room to please turn off or silence your cell phones  
6 and other -- any other electronic devices you may  
7 have.

8 I would also like to ask those on the  
9 phone to please mute your phones to minimize any  
10 background noises during the meeting.

11 If you don't have a mute button on your  
12 phone you can press \*6 and that should silence your  
13 line. We will first take comments from the room and  
14 then from those on the phone, and then from the  
15 webinar participants.

16 The webinar participants can also type  
17 questions into the chat function of the webinar  
18 while the other groups are asking questions.

19 All speakers here in the room as well as  
20 those on the phone, please identify yourself and  
21 provide the name of the company or the group that  
22 you are with so when you speak everyone knows who  
23 you are talking to -- who will be talking, and  
24 please be respectful of the other speakers.

25 I also would like to remind visitors in

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1 this room that you must be escorted at all times  
2 above the first floor of this building. If you need  
3 to leave the room for any reason, please leave by  
4 the rear door to my left.

5 Okay. Hey, Ted?

6 OPERATOR: Yes?

7 MR. BEALL: Can you hear static coming  
8 from your end?

9 OPERATOR: Not right now. There was a  
10 little bit earlier. It sounds okay right now.

11 MR. BEALL: Okay. We had a couple  
12 people on the line said there was static coming  
13 over. Like that. Did you just hear that?

14 OPERATOR: Not on this end, sir.

15 MR. BEALL: Okay. All right. Slide 3.

16 Okay. The purpose of today's meeting is  
17 to enable stakeholders to understand the staff's  
18 plan changes to the May 2018 draft final enhanced  
19 weapons rule.

20 This is a Category III public meeting,  
21 which means that public participation is actively  
22 sought.

23 The meeting is not designed nor intended  
24 to solicit or receive comments on the draft final  
25 enhanced weapons rule.

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1           Also, no regulatory decisions will be  
2           made at today's meeting.

3           Next slide, please.

4           This meeting is scheduled to run from  
5           1:00 to 3:00 p.m. Once the introductions are  
6           complete, the NRC staff will discuss the planned  
7           changes to the draft final enhanced weapons rule.

8           The public may ask questions on the  
9           planned changes during the discussion session of  
10          this meeting. Please hold any discussions to this  
11          period during the meeting.

12          Next slide.

13          For those who are attending in person,  
14          please sign in before you leave today. The sign-in  
15          sheet is on the table. There's a couple -- there's  
16          a clipboard going around.

17          So if you haven't signed that, please  
18          sign in. The public meeting summary will be  
19          prepared for today's meeting and will be made  
20          publicly available.

21          Copies of the presentation slides can be  
22          found in the back of the room if you don't have one  
23          in front of you.

24          Also, a transcript is being recorded of  
25          today's meeting and will be made public. We would

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1 appreciate any feedback you may have that would help  
2 us improve our public meetings.

3 If you'd like to provide any feedback on  
4 this meeting, you may email them to me at  
5 robert.beall@nrc.gov.

6 I'd finally like to ask speakers to  
7 please remember to speak loud enough to ensure that  
8 those on the phone can hear you.

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

12 Are there any questions about the  
13 logistics and purpose of today's meeting? Anybody?

14 MS. LANE: Yes. When we are talking do  
15 we need to move that in or just -- microphones or  
16 anything?

17 MR. BEALL: Hopefully, everybody should  
18 be able to hear you. There's a pretty wide area of  
19 microphones. So but Phil, can you see if that one's  
20 on or not? The light should be lit.

21 MR. BROCHMAN: It's not.

22 MR. BEALL: It's not lit? Okay.

23 MR. BROCHMAN: Can you -- can anyone --  
24 can anyone hear me on the phone circuit?

25 MR. BEALL: Ted, can you open the phones

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1 for one second, please?

2 OPERATOR: Yes. Uh-huh.

3 MR. BEALL: Go ahead, Phil.

4 MR. BROCHMAN: I am going to see if this  
5 remote mic, whether it's working or not, can we hear  
6 -- anybody out there in the listening world hear  
7 what I am saying?

8 MR. CRONIN: Yes. Dan Cronin,  
9 University of Florida, we can -- I can hear you.  
10 But it sounds -- it's an echo and there's a lot of  
11 static and screeching.

12 MR. BEALL: Okay, Dan. Thank you very  
13 much.

14 It's on our end, too. There's not much  
15 -- I don't think there's much we can do about it  
16 here. We tried to move all our cell phones away.

17 So all right, Ted. You can close the  
18 lines again, please.

19 OPERATOR: Lines are now muted.

20 MR. BEALL: Okay.

21 MS. SCHLUETER: Bob?

22 MR. BEALL: Yes.

23 MS. SCHLUETER: Will you be taking  
24 questions by the slide or are you trying to get  
25 through the --

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1 MR. BEALL: I want to get through the  
2 slides, show all the changes, then we can -- we can  
3 go back to any slide you wish. Okay?

4 Okay. So the purpose of the enhanced  
5 weapons rule was to -- was published -- excuse me.  
6 The proposed enhanced weapons rule was published for  
7 public comment on February 3rd, 2011.

8 The public comment period was 180 days  
9 and the staff had one public meeting during the  
10 public comment period. The NRC also published two  
11 supplemental proposed rules for public comment on  
12 January 10th, 2013, and September 22nd, 2015,  
13 respectively.

14 Public comments on the proposed rule and  
15 the two supplemental proposed rules have been  
16 address in a public response document.

17 Next slide.

18 As mentioned earlier, the staff  
19 submitted the draft final enhanced weapons rule to  
20 the Commission for review on May 22nd, 2018.

21 The staff is planning to make a limited  
22 number of changes to the draft final package.  
23 First, the staff, in exempting certain Agreement  
24 State and NRC licensees possessing strategic special  
25 nuclear material of low strategic significance, also

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1 referred to as Category III quantities of strategic  
2 special nuclear material, from the suspicious  
3 activity reporting requirements.

4 Second, the staff is revising and  
5 clarifying the applicability of the physical  
6 security event notification and record keeping  
7 requirements.

8 Finally, the staff is making minor  
9 administrative and editorial changes. The following  
10 slides discuss in more detail these planned changes.

11 Change one. In the current regulations,  
12 an Agreement State or NRC licensee possessing a  
13 Category III quantity of strategic special nuclear  
14 material are subject to the physical security  
15 requirements of 10 CFR 73.67.

16 Accordingly, these licensees would also  
17 be subject to the suspicious activity reporting  
18 requirements in the new 10 CFR 73.1215 of the draft  
19 final enhanced weapons rule.

20 The staff is planning to exempt the  
21 reporting of suspicious activities for these  
22 licensees, given the low risk posed by the form,  
23 type, and quantity of the material possessed by  
24 these licensees.

25 This exemption will not apply to NRC

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1 licensees possessing more than a critical mass of  
2 such material.

3 Next slide.

4 Change two. The staff has determined  
5 that in the draft final enhanced weapons rule  
6 certain licensees currently subject to reporting  
7 physical security events and record keeping  
8 requirements will be subject to additional physical  
9 security event notifications.

10 These additional reporting requirements  
11 were not recognized as new requirements in the May  
12 2018 draft final rule.

13 The staff has reassessed the application  
14 of specific physical security event notifications to  
15 these licensees.

16 The following slides discuss the planned  
17 changes to the physical security event notification  
18 and record keeping requirements.

19 Next slide.

20 In Section 73.1200 of the draft final  
21 enhanced weapon rule includes physical security  
22 event notification requirements applicable to  
23 licensees possessing or shipping Category III  
24 quantities of special nuclear material.

25 The staff has determined that licensees

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1 that possess or ship this type of material should be  
2 exempt from physical security event notification  
3 requirements for the following -- for events  
4 involving the actual or attempted introduction of  
5 contraband into a Category III licensee's controlled  
6 access area and accidental criticality resulting  
7 from tampering and damage or unauthorized access to  
8 the transport vehicle, the transport package, or the  
9 transport material occurring during the shipment of  
10 a Category III quantity of special nuclear material  
11 under 10 CFR 73.67.

12 Next slide.

13 Section 73.1210 of the draft final  
14 enhanced weapons rule would impose safeguards event  
15 record keeping requirements on licensees that  
16 possess or ship Category III quantities of special  
17 nuclear material.

18 The staff has determined that the  
19 imposition of certain record keeping requirements on  
20 licensees that possess or ship this type of material  
21 is not warranted, given the low security risk  
22 associated with this material.

23 Accordingly, the staff is planning to  
24 revise the draft final rule to exempt licensees  
25 possessing or shipping Category III quantities of

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1 special nuclear material from some, but not all,  
2 safeguard event record keeping requirements.

3 Next slide.

4 The draft final enhanced weapon rule  
5 would impose new physical security event  
6 notifications to safeguard event log-keeping  
7 requirements upon licensees possessing Category II  
8 quantities of strategic special nuclear material or  
9 Category II quantities of special nuclear material.

10 However, the discussion in the draft  
11 final rule did not identify these notifications and  
12 record keeping requirements as new requirements for  
13 these licensees.

14 Accordingly, the staff is planning to  
15 revise the discussion and the statement of  
16 considerations in the draft final rule to clarify  
17 that licensees possessing or shipping Category II  
18 quantities of special nuclear material -- strategic  
19 special nuclear material or special nuclear material  
20 are subject to these new physical security event  
21 notification and safeguard requirements and record  
22 keeping requirements.

23 No changes -- no change to the  
24 regulatory text in the draft final rule was  
25 required.

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1 Next slide.

2 The last planned change is the terms  
3 non-power production or utilization facility, or  
4 NPUF, are being removed from the draft final  
5 enhanced weapons rule documents.

6 This is being done to avoid confusion  
7 with the draft final NPUF license renewal  
8 rulemaking. Additionally, the staff is planning to  
9 make minor administrative and editorial corrections  
10 to the draft final enhanced weapon rule documents to  
11 correct title, spacing, and typographical errors.

12 So at this time, I'd like to offer  
13 members of the public and stakeholders the  
14 opportunity to discuss the plan changes. I'd also  
15 like to remind everyone that the public comment  
16 period on the proposed enhanced weapon rule has  
17 closed.

18 Therefore, the NRC is not accepting  
19 comments at this meeting right now.

20 First, I'd like to open the floor to  
21 participants in the room and then those on the  
22 phone.

23 So Janet, you had some questions?

24 MS. SCHLUETER: Just -- Janet Schlueter,  
25 NEI -- one sort of high-level process question. So

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1 what are -- what is in the contents of the  
2 supplemental SECY?

3 Obviously, you have an explanation to  
4 the Commission as to the contents that you're  
5 proposing for a revised draft final rule, right?

6 MR. BEALL: Right.

7 MS. SCHLUETER: And then are there  
8 supplemental documents like a revised final reg  
9 analysis or anything else that we should look for  
10 when that SECY becomes public?

11 MR. BEALL: Yes. There will be -- the  
12 revised FRN was what was made public.

13 MS. SCHLUETER: Right.

14 MR. BEALL: Okay, and then the  
15 appropriate conforming changes will be made in the  
16 other documents that's in that package.

17 MS. SCHLUETER: Okay.

18 MR. BEALL: That's currently at -- on  
19 regulations.gov.

20 MS. SCHLUETER: Okay. And then do you  
21 have any idea -- I realize it's a little unknown --  
22 when it might actually go from staff at EDO to the  
23 Commission, but some ballpark that we could --

24 MR. BEALL: A few of my -- a couple  
25 slides later I say it's going to be this summer.

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1 [Laughter.]

2 MS. SCHLUETER: That's a broad  
3 definition.

4 MR. BEALL: I know it is but that --

5 MS. LANE: So let me ask a clarifying  
6 question from what Janet asked.

7 MS. SCHLUETER: Okay.

8 MS. LANE: So I saw a couple days ago on  
9 regulations.gov there were a couple new documents  
10 that were added for the reg analysis, the  
11 environmental assessment. Those were dated 2018 so  
12 those are still the older versions --

13 MR. BEALL: That's correct.

14 MS. LANE: -- that you just re-uploaded  
15 just for awareness and --

16 MR. BEALL: Just to make sure everybody  
17 was there, right. Yes.

18 MS. LANE: Okay. And then --

19 MR. BEALL: It's the same thing that was  
20 made public in September.

21 MS. LANE: Okay. So you uploaded it.

22 MR. BEALL: I just went ahead and re-  
23 uploaded the exact same documents.

24 MS. LANE: Got it.

25 MR. BEALL: I wanted to make sure we had

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1 everything covered. Okay.

2 MS. LANE: Mm-hmm. So we will expect  
3 new revised documents on the reg analysis and the  
4 environmental --

5 MS. SCHLUETER: To reflect this.

6 MS. LANE: -- to reflect this new  
7 language?

8 MR. BEALL: Yes. Any -- any changes  
9 that we found that we need to make conforming  
10 changes to any of these documents will be uploaded.

11 MS. SCHLUETER: Okay.

12 MS. LANE: Later in the summer.

13 MR. BEALL: Later in the summer, yes.

14 MS. SCHLUETER: Thank you.

15 MS. LANE: I'll ask another process-  
16 related question. I noticed in the markup of the  
17 draft final rule language there was some red line  
18 text and some blue line text, I am guessing just for  
19 the purposes of us reading there's no major  
20 distinction between red line and blue line?

21 MR. BEALL: That's correct.

22 MS. LANE: Okay.

23 MR. BEALL: Yes.

24 MS. LANE: Okay.

25 MR. BEALL: Right.

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1 MS. LANE: One more process question.  
2 So last year the NRC put out this very helpful  
3 applicability matrix. Just kind of takes a somewhat  
4 complicated rule, puts it down into one table, one  
5 page. Is there any language in the new rule text  
6 that would then change or revise this table?

7 MR. BEALL: I don't think so. No, I  
8 don't --

9 MS. LANE: Okay. I would just maybe  
10 recommend it if you guys want to take another look  
11 at this.

12 MR. BEALL: Yeah.

13 MS. LANE: It's possible that it may  
14 have and which, you know, maybe we just put out a  
15 new table. There's also no date on the tables. If  
16 we did out a new table, possibly dating the table.  
17 And then another comment I got from the industry was  
18 the X marks are somewhat confusing because you don't  
19 know if the X is representing yes, I fall under this  
20 category, or no, I am X-ed out.

21 MR. BEALL: Okay. Okay.

22 [Laughter.]

23 MS. LANE: So maybe perhaps a check mark  
24 or some other way --

25 MS. SCHLUETER: Or 'A' applicable

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1 versus "N/A," not applicable, or something.

2 MR. BEALL: Okay. All right. Gotcha.

3 MS. LANE: A demarcation other than an  
4 "X" because has been very confusing. I've gotten  
5 several questions on that.

6 MR. ST. AMOUR: So just to clarify, you  
7 would like us to determine, one, if any of the  
8 proposed changes would result in a change of the  
9 applicability to the table.

10 But even if it doesn't, you would see  
11 value in revising the table to make sure that it's  
12 dated properly, clarified what it means.

13 MS. LANE: Yes.

14 MR. ST. AMOUR: So one of the --

15 MS. SCHLUETER: A key code, you know,  
16 some sort --

17 MR. ST. AMOUR: One of the takeaways for  
18 us is to look at the applicability table and revise  
19 it to clarify the "X"es and that kind of thing  
20 even if there is no changes as a result of -- no  
21 changes to applicability as a result of these  
22 changes?

23 MS. LANE: Right, because this table is  
24 already highly utilized and it's very helpful.

25 MR. ST. AMOUR: Okay.

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1 MS. LANE: So if we can make any other  
2 clarifying changes that would make it even better  
3 that'd be great. Yeah.

4 MR. ST. AMOUR: Okay. Thank you.

5 MR. BROCHMAN: Bob, just for a point of  
6 clarification, the reg analysis I know has tables in  
7 it that indicate for each particular provision of  
8 the regulation who are the licensees that it applies  
9 to.

10 So I wasn't sure where you were, if this  
11 table was a separate --

12 MS. LANE: This was just provided by  
13 staff separately.

14 MR. BROCHMAN: So it was a separate  
15 stand-alone document but it wasn't --

16 MR. BEALL: That was the table we handed  
17 out in 2018.

18 MR. BROCHMAN: That's -- just wanted to  
19 make sure I understood where it came from.

20 MR. BEALL: Okay. Okay.

21 MS. LAPPERT: Okay. We have a question  
22 from --

23 MS. SCHLUETER: Yeah.

24 MR. BEALL: Okay.

25 MS. LAPPERT: So this question comes

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1 from Robert Link. What is the regulatory basis for  
2 imposing the additional event logging for the  
3 Category III licensees?

4 There appears, based on the performance  
5 and risk of these materials and licenses --  
6 licensees this is unwarranted. So there you go.  
7 And that's from Robert.

8 MR. BEALL: Can you read that again?

9 MS. SCHLUETER: Yeah. I think he's just  
10 -- I mean, maybe we could ask him directly but it  
11 sounds like he's just asking for the regulatory  
12 bases for imposing those requirements on Cat III.

13 MS. LANE: So I could probably clarify  
14 that even further. So that refers back to slide 11  
15 of the PowerPoint.

16 So the wording here that the NRC uses, I  
17 am sure, is very intentional. But it's interesting  
18 because they say they are exempting licensees from  
19 some but not all record keeping requirements.

20 So it kind of begs the question why not  
21 all. How did -- how did staff come to that  
22 determination. Was there a threshold used and what  
23 was, you know, the technical basis behind the  
24 exemption of some requirements but not all as the  
25 staff says here in the slide.

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1 MR. BROCHMAN: Right now -- yeah, I will  
2 try to answer this. Right now, the Category III  
3 licensees are subject to some requirements, both  
4 from a physical security event notification and  
5 safeguards log.

6 The staff, as part of this effort,  
7 looked at what the proposed language was and  
8 compared it to the current regulations in 73.71 and  
9 Appendix G, particularly with respect to Category  
10 III licensees, and we said is this something that  
11 can be accomplished and is it something that is  
12 necessary.

13 So what an example -- let me give you an  
14 example what is a requirement remains, theft or loss  
15 of material. The base requirement for physical  
16 security event notifications for SNM is retained.

17 There are other examples that we removed  
18 as not being applicable or not in the current  
19 regulations. So that's what we were -- what we were  
20 trying to convey here was not everything went away  
21 but, in essence, we are backing off -- we are  
22 backing down from what was in the draft final rule  
23 of last year as opposed to creating new  
24 requirements.

25 The requirements that were -- that are

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1 in there are articulated as to what the basis is in  
2 that document that went up last year.

3 MS. SCHLUETER: Can you clarify when you  
4 said in the document that went up last year?

5 MR. BROCHMAN: Yeah. So for each  
6 particular provision --

7 MS. SCHLUETER: Right.

8 MR. BROCHMAN: -- and I am trying to  
9 keep this focused on Category III requirements  
10 rather than something like Category -- the 15-minute  
11 actual -- in other words, where -- things where we  
12 said here there's a need for this --

13 MS. SCHLUETER: You mean the earlier  
14 SECY? Is that what you're referring to?

15 MR. BROCHMAN: Yeah, the earlier SECY.  
16 That's what I am saying is the earlier SECY there's  
17 a basis articulated for each of the provisions.

18 MS. SCHLUETER: Right.

19 MR. BROCHMAN: And especially where it's  
20 a new provision. What we talked about in one of the  
21 other slides is, for example, where we recognize  
22 that there was a new requirement being created and  
23 we had not articulated that it was a new requirement  
24 and there was a need for it, the example being  
25 Category III SNM.

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1           We had -- we have gone back and  
2 clarified that. But my recollection is for most of  
3 the CAT III items what we have done is actually  
4 removed things from what we had proposed in the May  
5 2018 draft final rule.

6           MR. ST. AMOUR: Essentially what we did  
7 is we looked at the security significance of the  
8 event being reported and we determined whether or  
9 not that significant -- security significance  
10 justified the reporting requirement, and in some  
11 cases we said, you know, this is of such a low  
12 significance that even if the event happened there  
13 was no need to -- for Category III licensees there  
14 was not need to have them report this event to the  
15 NRC.

16           Or alternatively -- and correct me if I  
17 am wrong on this, Phil -- there might have been  
18 other duplicative reporting requirements in the regs  
19 already so we didn't need to impose it again through  
20 this regulation.

21           I don't know about that for a fact for  
22 Category III. But we ran into certain situations.  
23 So what we are doing when we are saying there are  
24 certain reporting requirements that were in the 2018  
25 rule we reassessed.

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1           We looked at the security significance  
2           and we determined whether or not that justified the  
3           reporting requirements and determined that it did  
4           not.

5           MS. SCHLUETER: Right. So I am going to  
6           presume that Bob's not finding that information in  
7           the current red line version of the Federal Register  
8           Notice that he's reading. He needs to go back to  
9           the 2018 SECY that went up with the draft final rule  
10          to read that regulatory bases for any requirements  
11          that remain.

12          MS. LANE: I guess to ask it in another  
13          way, there were the exemptions, but for those that  
14          were not exempted those record keeping requirements  
15          -- those reporting requirements -- can the staff  
16          kind of explain a little bit more what they felt is  
17          broken that's not happening today?

18          Because this -- there will be new, you  
19          know, requirements here for the CAT III's that will  
20          add, you know, significant cost in terms of  
21          reporting and record keeping aside from the  
22          exemptions.

23          So what's -- so what's broken today that  
24          we are not doing today?

25          MR. BROCHMAN: I am not -- I am not sure

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1 that we would say that there's going to be  
2 significant new requirements in terms of -- in terms  
3 of the events that are actually being required to be  
4 reported.

5 There's the new processes -- the  
6 clarifications on the processes about the timing and  
7 et cetera, but in terms of the number of events or  
8 the particular events, my recollection is that we  
9 have actually scaled back.

10 MS. LANE: Well, say, in terms of the  
11 record keeping.

12 MR. BROCHMAN: So --

13 MS. LANE: So that's new --

14 MR. BROCHMAN: No.

15 MS. LANE: -- in terms of what they are  
16 doing now today from -- you know, aside from the  
17 2011 rule before that?

18 MR. BROCHMAN: I thought -- we can go  
19 back and check that. But my understanding is 73.71  
20 currently requires safeguards event log requirements  
21 for Category III SNM for a particular event --  
22 particular events.

23 MS. LANE: Okay. We will have to -- we  
24 will have to check on that.

25 MR. BROCHMAN: And so the what -- as

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1 Norm said what the staff did is it went back and it  
2 compared the current regulation, 73.17 and Appendix  
3 G and it would be Section 3 of Appendix G -- against  
4 what the proposed rule was saying and going, okay,  
5 is there something new that was brought into play,  
6 and as Norm said, if it was, we looked at it to say  
7 was it necessary or was there a rationale that could  
8 be applied and said due to the -- due to the lower  
9 risk imposed by this type of material we didn't need  
10 to -- we didn't need to impose either a security  
11 requirement or a record keeping requirement.

12 Now, from a record keeping standpoint,  
13 just so everybody understands the context, for the  
14 most part the record keeping deals with events where  
15 there was no actual or potential consequence.

16 For example, a compensatory -- a system  
17 was degraded and compensatory measures were  
18 implemented within the required time period.

19 An event notification would be an  
20 instance where systems were degraded and the  
21 compensatory measures were not implemented within  
22 the required time period. That would be an example.

23 So, essentially, you had the same core  
24 event. The difference is whether or not the  
25 licensee was able to identify it and implement

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1 measures within the required time period or not.

2 And so a lot of these events get -- go  
3 into a pathway of being documented in the safeguards  
4 event log.

5 MR. BEALL: I think what we are going to  
6 see a lot of times with a reporting requirement is  
7 that we try to relax the requirement from what --  
8 everything right now is one hour and, you know,  
9 you've noticed in the final rule, even in the May  
10 18th one -- 2018 one -- is that a lot of those  
11 reporting requirements now are either four hours or  
12 eight hours.

13 So there's been a number of relaxations  
14 from that aspect of it. Okay.

15 MS. SCHLUETER: Can you check and see if  
16 there's any -- if Bob wants to ask --

17 MR. BEALL: Sure.

18 MS. SCHLUETER: -- a clarifying question  
19 or anybody else might want to weigh in on that?

20 MR. BEALL: Hey, Ted, can you please  
21 open the phone lines?

22 OPERATOR: Yes. There are a few  
23 comments in the queue. The first one is from Edwin.  
24 Your line is open.

25 MR. BEALL: Okay.

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1 MR. LYMAN: Yes. Thank you.

2 This is Ed Lyman from Union of Concerned  
3 Scientists. I just have a question. I think I  
4 don't understand something. But when you say you  
5 are exempting tampering that would result in  
6 accidental criticality as a reporting -- an event  
7 that's reportable for Category III, do I understand  
8 that correctly, that if someone commits sabotage at  
9 a Category III facility and causes a criticality  
10 event that wouldn't be reportable?

11 MR. BROCHMAN: Ed, this is Phil  
12 Brochman. I'll clarify it this way. Right now,  
13 accidental criticalities at fuel cycle facilities  
14 licensed under 10 CFR Part 70 require a safety-based  
15 event notification under 70.52.

16 The proposed revision would only apply a  
17 security-based requirement based on tampering to  
18 Category I facilities and that's based upon the need  
19 to conduct further follow-up because of some other  
20 statutes than the Atomic Energy Act.

21 So there would be a notification --  
22 bottom line is there would be a notification for any  
23 accidental criticality first for the part 70 safety-  
24 based requirement and there could be a supplemental  
25 notification if there is a tampering indication.

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1 That applies only to Cat I's.

2 MR. LYMAN: Right. But if there -- I  
3 can't -- I mean, the consequence of a criticality  
4 is, you know, would be the same whether it's a  
5 Category I or Category III. So why would there be -  
6 - I mean, I would think the NRC would want to know  
7 if someone was able to successfully commit a  
8 sabotage act you know, whatever class of facility.  
9 I mean, it doesn't make sense to me, or am I missing  
10 something?

11 MR. BEALL: Ed, any criticality is  
12 reportable --

13 MR. LYMAN: Right.

14 MR. BEALL: -- whether it's a Category  
15 III to a I.

16 MR. LYMAN: So but I don't -- so but  
17 what is the distinction here whether it's a security  
18 reportable event or not, right?

19 I mean, if there's an accident resulting  
20 in a criticality it's reportable. It's just a  
21 question of whether it's deliberate, right?

22 [Telephonic interference.]

23 MR. BROCHMAN: As I -- as I said  
24 espalier, the rationale --

25 MR. LYMAN: The static on the line is

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1 unbearable so I think -- I'll think I'll submit this  
2 in writing. I am going to hang up now.

3 MR. BROCHMAN: Okay. As I said a moment  
4 ago, the basis for requiring -- proposing to require  
5 a tampering event for Category I facilities is based  
6 upon a separate -- the need to potentially  
7 investigate this under a separate criminal statute  
8 or statutes in the Atomic Energy Act.

9 The parallel example is a tampering  
10 event -- this is in the current regs -- a tampering  
11 event that causes the loss of production capability  
12 for an operating nuclear power plant.

13 OPERATOR: I believe we have another  
14 comment on the phone lines from Dan. Your line is  
15 open.

16 MR. CRONIN: Yeah, hi. This is Dan  
17 Cronin, University of Florida.

18 I think -- I am also somewhat confused  
19 reading these slides. When you talk about  
20 exemptions you're talking -- are you talking about  
21 making exemptions to the draft rule or making  
22 exemptions -- current rules?

23 MR. BEALL: It would be -- hey, Ed, this  
24 is Bob Beall. We will be submitting a -- these  
25 changes to the Commission to modify the draft final

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1 rule that's currently with the Commission that was  
2 submitted in May of 2018.

3 So these changes will come out when the  
4 -- if the Commission approves the draft final rule  
5 and will be published in the Federal Register as a  
6 final rule.

7 MR. CRONIN: So is the draft final rule  
8 for CAT III for -- when we talk about exemptions  
9 here -- does it eliminate some of the reporting  
10 requirements in the current rule or does it add any  
11 reporting requirements to the current rule or does  
12 it stay the same for CAT III?

13 MR. BEALL: It removes some of the  
14 reporting requirements that's currently with the  
15 Commission -- the one that was sent up in May of  
16 2018.

17 MS. SCHLUETER: So Dan, this is Janet at  
18 NEI. So there were -- there was the current rule  
19 but the draft final rule that's with the Commission  
20 right now had proposed to add some requirements for  
21 CAT III.

22 The exemptions that the staff is  
23 referring to are exemptions to that draft final rule  
24 that's before the Commission.

25 So it increased. It's being cut back.

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1 It's still above what is required in some cases  
2 today for CAT III's.

3 MR. CRONIN: So they still do require -

4 MS. SCHLUETER: Yes, some are.

5 MR. CRONIN: And so a follow-up question  
6 then. Were those new requirements evaluated against  
7 the 104c in the Atomic Energy Act to make sure that  
8 they went through some kind of a process that  
9 justifies the additional burden?

10 MR. BEALL: Yes. The draft final rule  
11 spells out and is the justification for all the  
12 changes we make.

13 MS. LANE: I think in his case for  
14 research in test reactors for the minimum  
15 regulation.

16 MR. BEALL: Right. Right. They have  
17 the Atomic Energy Act's minimum regulation. Exactly  
18 right.

19 MS. LANE: That was taken into  
20 consideration with that?

21 MR. BEALL: Yes. Yes, we can -- we  
22 consulted -- we have people in our working group  
23 that are from -- the folks at oversee the non-power  
24 reactors so to make sure that they are taken into  
25 account.

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1 MR. CRONIN: Well, is that documented  
2 within the regulatory basis -- that evaluation?

3 MS. SCHLUETER: Yeah. Dan, I think in  
4 some cases -- you're getting back to the point that  
5 we all had to kind of sort out earlier and that is  
6 that the regulatory bases for some of these  
7 requirements is sitting back in that 2018 SECY  
8 that's before the Commission right now.

9 But you're not seeing it in this Federal  
10 Register notice -- the red line strikeout that we  
11 are looking at in preparation for this meeting. So  
12 in some cases we have got to peel that one open  
13 again.

14 MR. BEALL: Right. You have to go back  
15 and look at some of the initial documents.

16 MS. SCHLUETER: Yeah. Right.

17 MR. CRONIN: Well, how about give an  
18 example of what's staying versus what's going for  
19 CAT III specifically?

20 You said that some items were exempted  
21 but some are not. What was not? Is there one  
22 example you can give?

23 MR. BROCHMAN: Well, the -- this is Phil  
24 Brochman. The -- an example of something that's  
25 staying that's in the current rules is theft or loss

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1 of material. I am talking about a facility.

2 That's an example of something that's  
3 unchanged from the current regulation as opposed to  
4 the -- as opposed to the draft final rule.

5 An example of something that's been  
6 removed is actual or attempted introduction of  
7 contraband into a controlled access area.

8 So the question you were posing was on  
9 Category III and that was moved because the  
10 recognition that Category III licensees don't  
11 require searches prior to entry -- entry of material  
12 into a controlled access area.

13 An example of something that was  
14 retained is unauthorized identification of  
15 unauthorized personnel into a controlled access  
16 area. That is a requirement that's in the current  
17 regulations and that was retained.

18 MR. CRONIN: Again, I am really more  
19 interested -- I can read the current regulations.  
20 But we have a procedure for all current regulations  
21 so I know what those reporting requirements are.

22 What I am trying to figure out is what  
23 are the new ones going to be.

24 MR. BEALL: Well, the -- this is Bob  
25 Beall again -- hopefully, the redline strikeout of

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1 the Federal Register notice -- the rule text is in  
2 there and how we have modified it.

3 So that should tell you what changes we  
4 made that would impact the Category III facilities.

5 MS. SCHLUETER: Yeah, but that's a  
6 redline strike out compared to the draft final rule  
7 that's before the Commission --

8 MR. BEALL: Right.

9 MS. SCHLUETER: -- not what is in place  
10 today. He's looking for the delta --

11 MR. BEALL: Right.

12 MS. SCHLUETER: -- between what's in  
13 place today and the current rule and what you guys  
14 are not proposing in May of 2019.

15 MR. BEALL: Right. Okay.

16 MS. SCHLUETER: Can that be succinctly  
17 described?

18 G: So take a clean version of the 2018  
19 and mark it up to the 2019 --

20 MS. SCHLUETER: Well, I am just asking -  
21 -

22 MR. BEALL: No. No. That --

23 MS. SCHLUETER: -- that these guys are,  
24 you know, just --

25 MR. BEALL: That's what -- that's what

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1 this is here. This would be --

2 MS. SCHLUETER: -- this is -- this is  
3 their thing. So --

4 MR. BEALL: -- this is what we strike  
5 out between what was '18 and '19. But you're  
6 looking at for what's current. Right. Currently  
7 enforced.

8 MS. SCHLUETER: Current. Current.  
9 That's really the delta that's in play right now.

10 MR. BEALL: Right.

11 MS. SCHLUETER: What are they subject to  
12 today versus if the Commission approves this what  
13 will go forward and be implemented.

14 MR. BEALL: Right.

15 MR. ST. AMOUR: The new requirements  
16 would be -- the way to determine the delta would be  
17 to look at the 2018 rule and determine what is added  
18 new, and this was all discussed in the package that  
19 was sent out to the Commission in 2018. And then  
20 take a look at the 2019 redline strikeout taken out.

21 MS. SCHLUETER: I know. It's just  
22 tangled. You know, it's just -- it's just kind of -  
23 - you know, it's a little tangled and a little  
24 complicated and I think people are just looking for  
25 something --

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1 MR. ST. AMOUR: This is a complex rule,  
2 I think --

3 MS. SCHLUETER: -- very black and white  
4 that gives the delta. You know, even a chart. You  
5 know, what is it today versus what is it that the  
6 staff's proposing in a supplemental SECY if it goes  
7 into place with the Commission.

8 That's the -- we shouldn't have to spend  
9 hours sort of untangling the verbiage because it's  
10 been as you all said, you know, a proposed rule, two  
11 supplementals, 2018 version.

12 Now that's being tweaked. It's just a  
13 little hard for people to follow when they are busy  
14 and they are coming in and out of the rulemaking  
15 process.

16 MS. LANE: I have another clarifying  
17 question. So there's several areas in this  
18 strikeout version that take the term controlled  
19 access area, CAA, and strike it out in several  
20 areas.

21 So that terminology is specific to some  
22 fuel cycle facilities.

23 MR. BROCHMAN: Yes.

24 MS. LANE: But they don't use a PA or an  
25 MA or what have you. They just use a CAA. So we

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1 determined that in those areas where CAA is striked  
2 out that the fuel cycle facilities that use just  
3 that terminology that requirement would not apply to  
4 them if CAA is striked out.

5 MR. BROCHMAN: You are correct.

6 MS. LANE: Okay. That's a big  
7 clarification.

8 MR. BROCHMAN: That was the -- that was  
9 the intent.

10 MS. LANE: Okay.

11 MR. BROCHMAN: And the example I was  
12 going to give you was did you look at the event on  
13 unauthorized access of personnel versus the --  
14 versus the introduction of contraband.

15 If you look at those two line examples  
16 you'll see the distinction between one has the CAA  
17 included, the other doesn't and that was -- that was  
18 the intent of striking CAA out.

19 MS. LANE: Right. And even in the  
20 notifications it's there as well. So -- right.

21 MR. BROCHMAN: That's why they are in  
22 the notifications as well as the --

23 MS. LANE: Yeah. Okay. Good. Thank  
24 you.

25 MR. BEALL: Are there any additional

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1 questions on the phone?

2 OPERATOR: Yes. There is a comment from  
3 Bob Williams.

4 [Telephonic interference.]

5 MR. WILLIAMS: This is Bob Williams. I  
6 am not sure that I was in the queue because the  
7 static was so bad. But can you hear me?

8 MR. BEALL: Yes, we hear you, Bob.

9 MS. SCHLUETER: Yes.

10 MR. WILLIAMS: Okay. Thank you, and  
11 just to -- I am representing -- I am a member of the  
12 public and a consultant to the industry. I am not  
13 necessarily affiliated with any licensee or  
14 organization at this time per my comments. I  
15 thought the person from Florida asked the pertinent  
16 questions and although I did not get, in my mind, a  
17 very eloquent or clear answer because my reading of  
18 the redline version, which I'll call the now new  
19 final draft, compared to the existing regulation,  
20 that kind of confused it with anything intermediate.

21 There still is imposed additional  
22 reporting requirements on CAT III licensees which  
23 will require procedures, methods for communication  
24 be established in a timely basis to support the rule  
25 requirements.

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1           Also, the event logging requirement  
2 addition to CAT III facilities while seemingly minor  
3 can result in significant expenditures of procedure  
4 writing, establishment, trying to ensure the  
5 personnel are trained adequately, and record  
6 maintenance.

7           And if you add electronic versions of  
8 this, electronic versions are very expensive to put  
9 into place and there also comes with additional  
10 cybersecurity aspects.

11           So I don't read -- and this is based on  
12 my previous somewhat dated reading of the reg  
13 analysis for the first back rule -- I guess I did  
14 not see the regulatory basis nor accurate analysis -  
15 - reg analysis regarding those additional burdens on  
16 the CAT III facilities.

17           MR. BEALL: Okay. Thank you, Bob.

18           Are there any additional questions?

19           OPERATOR: I am showing no further  
20 comments at this time.

21           MR. BEALL: Okay. Anything else on the

22 --

23           MS. LAPPERT: Nuh-uh. No. You're free.

24           MR. BEALL: Janet, do you guys have any  
25 other questions?

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1 MS. SCHLUETER: Nuh-uh. No.

2 MR. BEALL: Okay. So as this slides  
3 shows, the staff has revised the draft final  
4 enhanced weapons rule. We are expected to submit it  
5 to the Commission during the summer -- the summer of  
6 2019, and as of this time the staff is not  
7 scheduling any additional public meetings on this  
8 draft final rule.

9 Please remember to monitor for  
10 information posted on regulations.gov. All  
11 activities related to this -- to the enhanced  
12 weapons rule making is posted under Docket ID number  
13 NRC-2011-0018, and if you have any questions about  
14 this rulemaking please feel free to contact me or  
15 Phil, and --

16 MS. SCHLUETER: Can I ask something -- I  
17 am sorry -- before you completely close?

18 MR. BEALL: Yes, ma'am.

19 MS. SCHLUETER: Because as you were  
20 reading that it just made me have a process  
21 question.

22 So, obviously, you know, there wasn't a  
23 lot of ground, you know, to really cover in the  
24 meeting here and we asked clarifying questions and  
25 yada, yada, yada. Gave you some food for thought

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1 perhaps on a couple issues.

2 It's being recorded. So then what next  
3 step does the staff take? Do you actually review  
4 that recording later to ensure that if you've  
5 identified any action items or tasks you decide on  
6 their disposition and possibly make changes to the  
7 paper that's in the works? Or what happens?

8 MR. BEALL: We will -- we will put out a  
9 meeting summary and, of course, we will take a look  
10 at the transcripts and review all of the public  
11 discussions we just had here at this meeting, and  
12 then we will determine the appropriate actions at  
13 that time.

14 MS. SCHLUETER: Can you give an estimate  
15 for the time line for revising the matrix or putting  
16 out a new matrix? I know you guys are aiming for  
17 summer to get this out to the Commission, finalize  
18 everything. Would that be, you know,  
19 reasonable to think that we could see a new matrix  
20 this summer, possibly sooner?

21 MR. BEALL: Oh. Yeah. It would.

22 MS. SCHLUETER: Okay.

23 MR. BEALL: Yeah, we will put something  
24 -- you'll have something similar to it. Okay.

25 Any additional questions?

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1 MS. SCHLUETER: Maybe you could check  
2 the phone again.

3 MR. BEALL: Yeah. Ted, anything on the  
4 phone?

5 OPERATOR: Yes. There is a comment on  
6 the phone from --

7 [Telephonic interference.]

8 MS. SCHLUETER: From who?

9 MR. TATE: This is Tim Tate, Framatome.  
10 I have a question. The static is very bad, by the  
11 way. It's very hard to understand what's going on.

12 I heard -- I think I heard you earlier  
13 state that Category III licensees are subject to  
14 73.71 reporting of safeguard events and,  
15 specifically, to Section C, which requires them to  
16 logbook within 24 hours which pushes you to Appendix  
17 D -- 2A and D. Is that correct? You stated that we  
18 are currently subject to that?

19 MR. BROCHMAN: I'll pull my regulations  
20 out but I thought that's what I said.

21 MR. TATE: Okay. So I would be  
22 interested to find out how we are subject to that  
23 because specifically C only states 73.67(d) and (d)  
24 refers to material of moderately strategic  
25 significance.

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1           So there's, obviously, a disconnect for  
2 what we are currently actually doing and what you  
3 believe the regulation currently states.

4           MR. BROCHMAN:       I understand his  
5 question. It's the base issue on the -- there's  
6 three sentences in that paragraph. One sentence  
7 applies to one type of event. Paragraph, the second  
8 sentence applies to -- the first sentence includes  
9 all licensees subject to 73.67.

10           Second sentence only applies to  
11 licensees subject to 73.67(d), possessing strategic  
12 special nuclear material. And the third sentence is  
13 other -- some other facilities. I don't even think  
14 73.67 is even included in the third sentence.

15           So the answer is the first sentence does  
16 apply, the second sentence doesn't, and the third  
17 sentence doesn't, and depending on where you look in  
18 those three sentences where they point to in  
19 Appendix G, it takes you to different types of  
20 events.

21           MR. BEALL:   So we will take that back  
22 and look at it.

23           MR. TATE:    Yeah.    Currently, you're  
24 talking about B(1), which pushes us to IA(1) which  
25 is reporting of theft or attempted theft of special

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1 nuclear material, and that does apply to us and that  
2 applies to all of us.

3 Sentence two and three do not. But  
4 specifically for logbook in Section C is where it  
5 points to that 24-hour log booking and it only  
6 applies to 73.67(d) as I read it and what we are  
7 currently inspected to. So that was my -- I just  
8 wanted to clarify that's what you said, that these  
9 are these that applied to us.

10 MR. BEALL: Okay.

11 MR. TATE: I also have a question on  
12 vehicle barrier systems. On your red line strikeout  
13 you refer to facilities or licensees with vehicle  
14 barrier systems protecting their facilities.

15 We currently have a vehicle barrier  
16 system, and then it goes into words that we don't  
17 have like protected areas and adversary  
18 characteristics and things like this.

19 So are you referring to Category I  
20 facilities when you're referring to vehicle barrier  
21 systems?

22 MR. BROCHMAN: No, we weren't there but  
23 that's -- you raise a good -- you raise a good  
24 question. Let me ask you a question.

25 Is your vehicle barrier system required

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1 by order or have you committed to it in your  
2 physical security plan?

3 MR. TATE: I don't believe so.

4 MR. BROCHMAN: Okay.

5 MR. TATE: There was no -- there was no  
6 designation here on what category of licensee it  
7 applied to. That's why I asked the question.

8 MR. BROCHMAN: No, so --

9 MS. LANE: Or no CAA reference possibly.

10 MR. BROCHMAN: Yeah. It's --

11 MR. BEALL: We have had this discussion.

12 MR. BROCHMAN: We have had -- we have  
13 had this discussion but it sounds like you have a  
14 vehicle barrier system that's there at your own  
15 choosing but it's not a regulatory requirement.

16 So my initial statement is what we  
17 discussed, is if it's not required by a regulation  
18 then challenges to the vehicle barrier system are  
19 not necessarily reportable but we take your point  
20 that the revised regulations may need to be  
21 clarified to make sure that point is clear, you  
22 know, is my -- yeah.

23 MR. ST. AMOUR: You can say it. You  
24 don't have to --

25 MR. BROCHMAN: Yeah. No, it was pointed

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1 -- as someone just reminded me, we also have a  
2 guidance document, a reg guide that will accompany  
3 this -- that'll accompany the final rule, and issues  
4 such as that where there's a clarification between  
5 whether something applies or doesn't apply can also  
6 be -- can also be maybe clarified in the guidance as  
7 opposed to the regulatory text.

8 MR. ST. AMOUR: These issues have been  
9 discussed by the working group and it's the problem  
10 you have when you've got a generic rule making and  
11 you're trying to apply it to specific situations.

12 And so a lot of the clarifying details,  
13 the applicability will hopefully be adequately  
14 addressed with the guidance document that's being  
15 developed along with this rule making to address  
16 exactly the type of question that you just asked --  
17 who is this applicable to.

18 We have got a vehicle barrier system.  
19 It's nothing required by regulations. We are not a  
20 CAT I facility. We don't have a protected area. Is  
21 this applying to us?

22 That's -- in many -- in certain  
23 situations those are the kinds of details that  
24 cannot be adequately addressed and it's difficult to  
25 adequately address them in rule language.

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1 MS. SCHLUETER: Yeah. That's where FAQs  
2 come in handy sometimes.

3 MR. ST. AMOUR: Oftentimes, yes.

4 MR. BROCHMAN: Janet, I am glad you  
5 mentioned FAQs because remember the other item is  
6 that we are going to have a Q&A workshop after the  
7 close of the compliance period.

8 The NUREG 1304, which is the Q&A  
9 workshop on physical security event notifications,  
10 this was discussed in the CER meeting, which was  
11 held in 2015.

12 We are going to have a Q&A workshop.  
13 It's going to revise NUREG 1304 and then another one  
14 on dealing with suspicious activity reporting.

15 But that's the type of thing where we  
16 will -- where if there are questions that come out  
17 of implementation FAQ equivalents will have that --  
18 the ability for people to ask questions.

19 MR. BEALL: Do we have any other  
20 questions on the phone?

21 OPERATOR: No, sir. No further  
22 comments.

23 MR. BEALL: Okay. Well, I'd like to  
24 thank everybody for the discussion today. Your  
25 questions have been very helpful for us.

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1                   And so, like I said, please keep your  
2 eye on NRC -- Docket ID NRC-2011-0018 and we plan,  
3 like I said, to submit the supplemental Commission  
4 paper this summer.

5                   Okay.

6                   So if that's -- nobody has anything  
7 else, I adjourn this meeting and thank you very much  
8 for your participation.

9                   MS. SCHLUETER:       Okay.       Thank you.  
10 Thanks for holding it.

11                  MR. BEALL:   No problem, Janet.

12                  [Whereupon, the above-entitled matter  
13 concluded at 1:53 p.m.]

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