

AFFIRMATION ITEM
RESPONSE SHEET

TO: Brooke P. Clark, Secretary

FROM: Chair Hanson

SUBJECT: SECY-19-0062: Final Rule: Non-power Production or Utilization Facility License Renewal

Approved Disapproved Abstain Not Participating

COMMENTS: Below Attached None

Entered in STARS

Yes

No

Signature
Christopher T. Hanson

Date 10/12/2022

Chair Hanson's Comments on SECY-19-0062, "Final Rule: Non-power Production and Utilization Facility License Renewal"

Non-power production and utilization facilities (NPUFs) form an essential part of the nation's nuclear infrastructure and they include research reactors, test facilities, and radioisotope production facilities. Ensuring an efficient and effective regulatory framework for NPUFs is crucial as the roles of these facilities will likely expand to support the nation's growing development of new nuclear technologies. I thank the staff for providing this draft final rule for Commission consideration, which assures the regulatory framework is commensurate with the risks associated with these facilities, consistent with the Atomic Energy Act.

In the past, various factors related to regulatory processes, agency priorities, and licensee resources have challenged efficient processing of NPUF license renewal applications. The staff has implemented a number of near-term actions to streamline the license renewal process and adopt a more risk-informed approach while maintaining adequate protection of public health and safety. The staff also developed a longer-term plan, which includes this rulemaking, to further enhance the NPUF license renewal process. When finalized, this rule will complete the staff's multiyear effort to establish a more efficient and effective regulatory framework for NPUFs. As described below, I support finalizing this rulemaking.

The draft final rule eliminates license terms for NPUFs licensed under 10 CFR 50.21(a) or (c), other than testing facilities, and adds a requirement for all NPUFs to submit Final Safety Analysis Report (FSAR) updates more frequently. The approach will be commensurate with the low overall radiological risk profile and limited aging-related issues of NPUFs, and will allow the NRC staff to focus on its critical oversight role. Indeed, the new requirement to submit FSAR updates at intervals not to exceed 5 years will enhance licensee knowledge and capabilities, improve NRC oversight effectiveness, and provide overall safety benefits. Combined with existing oversight activities, this risk-informed approach to NPUF licensing creates an appropriately balanced framework that will ensure continued safe operation of these NPUFs.

Because the regulations currently do not specify an accident dose criterion for NPUFs except test facilities, the NRC applies 10 CFR Part 20 limits through guidance. Using Part 20 for this purpose is not optimal because the Part 20 standards set occupational and public dose limits—not the criteria for evaluating hypothetical accidents. Also, referencing Part 20 limits has historically resulted in inconsistent licensing approaches, particularly after Part 20 was updated. The draft final rule addresses these issues by defining an accident dose criterion of 1 rem in the regulation based on the Environmental Protection Agency (EPA) Protective Action Guides (PAGs). The EPA PAGs are designed to protect the public in the unlikely event of an accident and provide a more appropriate basis for evaluating accidents. The change improves overall regulatory clarity and continues to ensure public health and safety.

A related change in the draft final rule is the redefining of "research reactor" and "test facility" in 10 CFR 50.2. Most notably, the staff determined that the current 10-megawatt thermal threshold used to distinguish between research reactors and testing facilities is arbitrary. While the current threshold is generally based on safety-significance, the power level criterion does not adequately account for the specifics of a facility's safety features. The staff therefore determined that a dose-based criterion is more appropriate. I agree that the revised criterion provides a better measure of the overall defense-in-depth of the facility. The performance-based and technology-inclusive criterion provides appropriate flexibility in regulating the varied existing and new NPUF designs. Recognizing the potential uncertainties in future NPUF designs, the draft final rule retains NRC authority to classify an NPUF as a testing facility if its design, operation, or use, and the associated risk, warrant such classification.

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Finally, the draft final rule eliminates the requirement for NPUF licensees that continue to have license terms to submit financial qualification information at the time of license renewal. Licensees seeking renewal are currently required to submit an update to the financial information that was submitted for initial licensing. However, the staff determined that this information does not meaningfully contribute to the NRC's safety determination on renewal applications. The staff's determination is based on significant experience with license renewal for both NPUF facilities and power reactors. Based on this experience, the NRC's inspection and enforcement programs continue to serve as the most important tools for evaluating licensee performance and ensuring safe operations. Nevertheless, the agency retains broad regulatory authority to request additional financial information from its licensees, when appropriate.

In sum, this draft final rule for NPUFs improves regulatory clarity and provides appropriate efficiencies for the NRC, licensees, and applicants, while maintaining adequate protection of public health and safety. I therefore approve publication of the draft final rule.