

NOTATION VOTE

RESPONSE SHEET


TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Ostendorff
SUBJECT: SECY-16-0048: PROPOSED RULEMAKING: NON-POWER
PRODUCTION OR UTILIZATION FACILITY LICENSE RENEWAL
(RIN 3150-A196)

Approved XX Disapproved _____ Abstain _____ Not Participating _____

COMMENTS: Below _____ Attached XX None _____

Entered in STARS

Yes _____
No _____



Signature
5/26/16

Date

**Commissioner Ostendorff's Comments on SECY-16-0048:
Proposed Rule: Non-Power Production or Utilization Facility License Renewal
(RIN 3150-AI96)**

I approve publication of the proposed rule notice in the Federal Register subject to the attached edit.

I commend the staff for their efforts to reduce the license renewal backlog for non-power production or utilization facilities, while at the same time seeking innovative regulatory changes to create a more efficient and effective means of providing oversight for these facilities. The staff's proposal to eliminate license terms for facilities, other than testing facilities, licensed under 10 CFR 50.21(a) or (c), is a positive step forward to reduce the burden on research reactor licensees while at the same time improving our ability to provide effective oversight of these licensees through the proposed new requirement for licensees to periodically submit updates to their final safety analysis reports every 5 years. As discussed in SECY-16-0048, this new requirement for periodic FSAR submittals would maintain the continuity of knowledge both for the licensee and the NRC staff and the understanding of changes and effects of changes on the facility and would significantly enhance the NRC's continuous oversight of a facility during operation. This new requirement, coupled with the NRC's inspection program for Non-Power Production or Utilization Facilities, provides the oversight necessary to protect public health and safety.

Consistent with our direction to evaluate cumulative effects of regulation, the staff also looked beyond the license renewal process to identify other areas of unnecessary regulatory burden on these classes of licensees. The accident dose criteria is one such area. The 10 CFR Part 20 limits, which were reduced to 0.1 rem in 1994, are overly restrictive as applied to accident consequences. The proposed accident dose criterion of 1 rem total effective dose equivalent, which is based on the Environmental Protection Agency's Protection Action Guides, is appropriate for facilities other than testing facilities given their low potential radiological risk to the environment and the public, and is significantly less than the 10 CFR Part 100 dose criterion (25 rem whole body and 300 rem to the thyroid) applied to power reactors.

As discussed in SECY-16-0048, Sections 104a and c of the Atomic Energy Act require that the Commission impose only the minimum amount of regulation needed consistent with its obligations under this Act to promote the common defense and security and to protect the health and safety of the public and permit, under Section 104a, the widest possible amount of effective medical therapy and, under Section 104c, widespread and diverse research and development. This draft proposed rule supports these mandates.

of time after reactor shutdown. This period of time is dependent on the recent operational history of the reactor, which determines the decay heat present at reactor shutdown. After this relatively brief time, air cooling is adequate to remove decay heat even without the ECCS. Additionally, performance of the ECCS is ensured through required surveillance and testing on the system at these facilities. Operation of the facility is not permitted if the ECCS has not been verified operational prior to reactor startup or if the system is deemed non-operational during reactor operation. In the unlikely event that the ECCS is not available after an operational history that would require ECCS, core damage will not occur if the core is uncovered as long as a small amount of cooling flow is directed at the core, which is available from multiple sources.

Second, these facilities' simple design and operation yield a limited scope of aging-related concerns. The NRC has found no significant aging issues that need evaluation at the time of license renewal because the NRC currently imposes aging-related surveillance requirements on NPUFs via technical specifications, as needed. Aging related issues are specifically addressed in the standard review plan and acceptance criteria used for evaluating license renewal applications (i.e., NUREG-1537, Part 2). Parts 1 and 2 of NUREG-1537 document lessons learned and known aging issues from prior reviews. Since NUREG-1537 was published in 1996, NRC reviews and assessments have not revealed any additional issues or need to update the NUREG. Specifically, based on operating experience over the past 60 years and in reviewing license renewal applications over the past 40 years, and as documented in NUREG-1537, Parts 1 and 2, the NRC has determined that for NPUFs, there are two main areas related to aging that need surveillance because of potential safety concerns: 1) fuel cladding and 2) instrumentation and control features.

With regard to fuel cladding, the NRC currently requires NPUFs to perform periodic fuel inspections *per Technical Specifications*. Through years of operational experience, the NRC