

United States Nuclear Regulatory Commission (NRC)
Summary—Public Meeting Proposed Rule to Amend Material Control and Accounting (MC&A)
Regulations and the Proposed Guidance for Fuel Cycle Facility MC&A Plans and Completing
NRC Form 327, January 9, 2014, 10:00 AM – 5:00 PM, Building 3WFN, Room 01D07

The project manager, Thomas Young (FSME), conducted the meeting. The purpose of the meeting was to provide an opportunity for the public to improve their understanding of the proposed rule effort and submit written comments during the public comment period ending on March 10, 2014. At the conclusion of the meeting it was agreed to conduct a second public meeting to continue the discussions in early February 2014.

The attending NRC managers and staff included FSME (Chris Miller, Jim Danna, Solomon Sahle, Neelam Bhalla), NMSS (Marissa Bailey, Peter Habighorst, Tom Pham, Glenn Tuttle, Suzanne Ani), NRR (Mike Morlang), NSIR (Larry Harris), OGC (John Hull, Geary Mizuno), Region II (Jose Diaz-Velez). The Nuclear Energy Institute was represented by three individuals who attended the meeting; Janet Schlueter, Andrew Mauer, and Jonathan Rund. Eight individuals attended from industry; Rosemarie Martyn (Global Nuclear Fuel), Barry Cole (B&W), Wayne Sepitko and Rod Likes (Westinghouse), Gary Clark and Dealis Gwyn (MOX Services), Don Parker (AREVA), James Ross (GE-Hitachi). Several individuals participated via the teleconference phone line and webinar link for the meeting; Ruth Thomas, Tracy Tipping (University of Texas-Austin), Jennifer Opila (State of Colorado, Radiation Control), William Hennessey (SHINE Medical Technologies), Les Foyto (University of Missouri-Columbia), Mike Leisure (Duke Energy), Bob Link (AREVA), and Dan Hughes (NIST).

The meeting materials included the NRC slide presentation that was posted on www.regulations.gov (Docket Nos. NRC-2009-0096 and NRC-2013-0195) and the *Federal Register* notice (FRN) that contained the proposed rule (78 FR 67225, November 8, 2013). The five, revised draft guidance documents (NUREGs) were also available during the meeting.

The NRC presented the schedule of activities to provide the final rule to the Commission in November 2014. The public comment period for the proposed rule was extended from February 18, 2014 to March 10, 2014, because the meeting had been rescheduled due to inclement weather on December 10, 2013.

The presentation included an overview of the regulatory basis, the FRN containing the proposed rule, the draft regulatory analysis, and the five revised draft guidance documents. The regulatory basis is contained in the rulemaking plan (SECY-08-0059) and in the FRN (Section II, Introduction and Summary of Proposed New Requirements, and Section IV, Discussion).

The presentation focused on four of the proposed requirements 1) General performance objectives, 2) Item control system, 3) Tamper-safing, and 4) Material balance areas, item control areas, and custodians assigned to these areas. For each of these proposed requirements the presentation noted their essential elements, their associated costs and qualitative benefits as explained in the draft regulatory analysis, the location of corresponding revisions in the draft NUREGs, and the corresponding set of questions in the November 8, 2013 FRN soliciting specific input from the public (Section III, "Specific Request for Comments on the Proposed New

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Requirements”). The FRN also specifically requests input from the public on 1) alternatives that would result in equivalent outcome and less burden and 2) the cumulative effects of regulation.

The staff summarized the NRC’s basis for its position that backfitting and issue finality provisions do not apply to information collection and reporting requirements. In response to a question, the NRC explained why the staff did not interpret the Commission’s SRM as direction that all of the proposed MC&A rule’s provisions should be regarded as substantive requirements rather than information collection and reporting requirements, and instead interpreted the SRM’s position as limited to the two-person provisions. Finally, the staff explained that backfitting and issue finality considerations (and therefore the NRC’s discussion of backfitting and issue finality) are more complex where a rule applies to both entities which are protected by backfitting and/or issue finality provisions, and to entities (the large majority of materials licensees) which are not protected by backfitting and/or issue finality provisions. The staff described how it currently evaluates these situations and the underlying rationale for its current position, and indicated that public comment on the staff’s current approach is welcome.

Following the presentation the NRC staff stated that the meeting was not being transcribed or recorded to obtain comments from the public. The NRC requested that written comments should be submitted according to the instructions in the meeting notices that were published in the *Federal Register*. The comments should be submitted during the public comment period ending on March 10, 2014. The NRC staff then opened the meeting for questions and comments from the participants.