



babcock & wilcox nuclear operations group

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March 6, 2014
14-030

Secretary
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001
ATTN: Rulemakings and Adjudications Staff

11/8/2013
78 FR 67224

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RULES AND DIRECTIVES
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- References: (1) Federal Register Notice, NRC-2009-0096, published in Federal Register, Volume 78, No. 217, dated November 8, 2013.
- (2) Federal Register Notice, NRC-2009-0096 and NRC-2013-0195, published in Federal Register, Volume 78, No. 250, dated December 30, 2013.

Subject: B&W NOG, Inc.'s Comments on "Amendments to Material Control and Accounting Regulations", Docket ID NRC-2009-0096

Dear Sir or Madam:

Babcock & Wilcox Nuclear Operations Group, Inc., Lynchburg facility ("B&W NOG-L") appreciates the opportunity to provide comments in regards to the proposed changes to 10 CFR Part 74, "Amendments to Material Control and Accounting Regulations", published in the Federal Register on November 8, 2013 (78 FR 67225) by the U.S. Nuclear Regulatory Commission ("NRC"). B&W NOG-L also appreciates the NRC's extension to the comment period as granted in the Federal Register on December 30, 2013 (78 FR 79328), and for hosting the public meetings on January 9, 2014, and February 5, 2014.

B&W NOG-L's comments to the proposed changes to 10 CFR Part 74 are as follows:

- (1) General Performance Objective 74.3(b) - the proposed change requires that licensees "Detect, respond to, and resolve any anomaly indicating a possible loss, theft, diversion, or misuse of SNM". The absolute term "any anomaly" does not allow for a lower threshold of significance. This objective could be conservatively interpreted to imply that a significant level of detection, response and resolution could be required for in-process materials that the present regulation does not require (for example, less than 25 grams of strategic special nuclear material (SSNM) as referenced in 74.53(b) for unit process detection capability).

B&W NOG-L requests clarification of the intent of this performance objective and for consideration of the following alternative language for 74.3(b): "Detect, investigate, and resolve an apparent loss, theft, diversion, or misuse of an item or of material contained in an item that exceeds uncertainties associated with the item quantities of isotope."

- (2) General Performance Objective 74.3(c) - the proposed change requires that licensees "Permit rapid determination of whether an actual loss, theft, diversion, or misuse of SNM has occurred". This performance objective does not allow for a lower threshold of significance which is contradictory to the five formula kilograms of SSNM limit provided in the present 74.51(a)(3) regulation (the same limit is shown in the proposed 74.51(a)(1)(iii)).

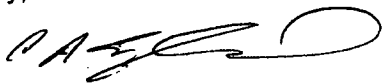
Since 74.51(a)(1)(iii) will address this requirement for Category I fuel cycle facilities, B&W NOG-L requests that the proposed 74.3(c) performance objective be removed from 74.3 or at least moved to the General Performance Objectives under Subparts C and D.

- (3) General Performance Objective 74.3(e) - the proposed change requires that licensees "Control access to MC&A information that might assist adversaries to carry out acts of theft, diversion, misuse, or radiological sabotage involving SNM." Furthermore, the NRC has stated in the Federal Register on November 8, 2013, on page 67227 that "Proposed 10 CFR 74.3(e) would require that information related to MC&A be stored in a locked file cabinet or office." This proposed change and the given interpretation will significantly change how B&W NOG-L handles vast amounts of information that is currently handled under U.S. Department of Energy (DOE) protocol and NRC requirements for Safeguard Information. Present DOE protocol does not require all related MC&A information to be stored in locked file cabinets or offices. Such information is handled according to classification guidance.

Since 10 CFR Part 73 already addresses handling of Safeguards Information and Category 1 fuel cycle facilities also handle MC&A information under DOE protocol, B&W NOG-L requests that proposed 74.3(e) performance objective be removed from 74.3. If the NRC does not agree to remove 74.3(e), B&W NOG-L requests that the NRC clarify that it will allow for handling of MC&A information under DOE protocol to meet this performance objective.

As always, B&W NOG-L appreciates the opportunity the NRC provides for licensees to comment on preliminary rule language, and we hope that you will consider the recommendations presented above. Should additional information be needed for this matter, please contact me at (434) 522-6405.

Sincerely,



Charles A. England
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Babcock & Wilcox Nuclear Operations Group, Inc. - Lynchburg

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