

NRCREP Resource

From: Pennenga, Ronald M [pennengarm@usec.com]
Sent: Monday, August 17, 2009 4:39 PM
To: NRCREP Resource
Subject: Comments regarding DG-3037 as requested by 74FR31073
Attachments: AET 09-0064 DG-3037 comments.pdf

Attached are the comments regarding Draft Regulatory Guide DG-3037, "Guidance for Fuel Cycle Facility Change Processes" as requested in the Federal Register on June 29, 2009 from USEC Inc. American Centrifuge Plant and Lead Cascade Facility.

Thank you for the opportunity to contribute.
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R. Jervey (RAS)



August 17, 2009
AET 09-0064

ATTN: Rulemaking and Directives Branch
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Draft Regulatory Guide DG-3037, "Guidance for Fuel Cycle Facility Change Processes," comments

Per the request for public review and comment in the June 29, 2009 *Federal Register* (74FR31073), USEC Inc. reviewed the draft Regulatory Guide DG-3037 pertaining to guidance on implementing 10 *Code of Federal Regulations* 70.72 requirements. Accordingly, Enclosure 1 provides comments/recommendations to be considered for development of the final version of the Regulatory Guide.

If you have any questions, please feel free to contact me at (301) 564-3470 or Darren Mays at (740) 897-3178.

Sincerely,

Peter J. Miner
Director Regulatory and Quality Assurance

cc: B. Smith, NRC HQ
J. Downs, NMSS, NRC HQ
O. Siurano, NMSS, NRC HQ
J. Hensen NRC Region II

Enclosure: As Stated

Enclosure 1
Comments on Draft Regulatory Guide DG-3037,
Guidance for Fuel Cycle Facility Change Processes (June 2009)

1. Draft Regulatory Guide DG-3037, Section C, item 2.4.b states; “The NRC staff considers a sole IROFS to be risk significant because it is the only safety control credited with preventing or mitigating an accident that has consequences of concern. The term ‘alter,’ as it is used in 10 CFR 70.72(c)(3), should be read as meaning any change to the IROFS that will modify, positively or negatively, any of the attributes associated with the safety function of the IROFS. Licensees should describe these attributes in the ISA, but they do not need to fully describe them in the ISA summary.”

USEC Comment:

The last sentence appears to be in conflict with 10 CFR 70.72(c) which only discusses the ISA summary and not the ISA, therefore the last sentence in DG-3037 Section C, item 2.4.b should be deleted.

2. Draft Regulatory Guide DG-3037, Section C, item 5.b states; “Additionally, a license condition can be applied to allow changes to the safety analysis report without prior NRC approval. License conditions of this type should contain the following:
 - (1) criteria for pre-approval,
 - (2) commitment to document the licensee’s evaluation supporting the findings that pre-approval is not required, and
 - (3) reporting frequency for providing changes to the NRC after implementation.”

USEC Comment:

NUREG-1520, *Standard Review Plan for the Review of a License Application for a Fuel Cycle Facility* does not refer to any part of the documents submitted to the NRC to obtain a license as a “safety analysis report,” nor is the term “safety analysis report” utilized anywhere in 10 CFR Part 70. While some licensees may have a document called a safety analysis report, introduction of this term in a Regulatory Guide, which provides generic guidance, is not appropriate. Moreover, it appears that this section provides a new interpretation of the regulations in 10 CFR 70.72. Accordingly, Item 5.b in Section C of DG-3037 should be deleted.

3. The NRC published the final 10 CFR Part 70 rule in the *Federal Register*, (65FR56211), on September 18, 2000. Section II of the Supplementary Information, included Public Comments on the Proposed Rule and NRC's Response. Comment D.4 on page 56216 stated that the change evaluation requirements, as written, apply to all site structures, processes, systems, equipment, components, computer programs, and activities of personnel, regardless of safety significance. The commenter gave several examples which included the wastewater treatment facility, a laser facility, the administration building, maintenance of shrubbery, *etc.*

In the response (page 56217), it appears the NRC agreed with the commenter by stating "No change to the rule language has been made. The emphasis of this requirement is clearly on the licensed operation and the associated safety controls." The response, parenthetically, included the following, "(*i.e.*, generally not shrubbery, paint color)" as a list of examples. Using *i.e.* conveys the meaning that the included list is comprehensive.

USEC Comment:

It would be helpful if the final 10 CFR 70.72 Regulatory Guide could include additional examples of items that generally are not associated with safety controls (and thus can be eliminated from consideration as a change that needs to be evaluated), and use *e.g.* in lieu of *i.e.* in the list.