

Rulemaking Comments

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**Subject:** Docket ID NRC-2009-0096, RIN 3150-AI61: Comments on Amendments to Material Control and Accounting Regulations

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**Docket ID NRC-2009-0096, RIN 3150-AI61: Comments on Amendments to Material Control and Accounting Regulations**

FENOC Comments on Amendments to Material Control and Accounting Requirements, preliminary proposed rule language

1. In response to 76 FR 28193, FirstEnergy Nuclear Operating Company (FENOC) has reviewed the preliminary proposed rule language, and appreciates the opportunity to provide the following comments.

FENOC is concerned about the preliminary draft rule language for 10 CFR 74.19(c)(2) regarding the frequency to perform physical inventory of all special nuclear material, which states, "Conduct a physical inventory of all special nuclear material in its possession under the license at intervals not to exceed 370 calendar days; and...".

10 CFR 74.19(c) currently states:

"...shall conduct a physical inventory of all special nuclear material in its possession under license at intervals not to exceed 12 months."

In the Nuclear Regulatory Commission's (NRC) response to a Nuclear Energy Institute (NEI) correspondence dated March 13, 2007, titled "Frequency of the Physical Inventory of Special Nuclear Material Required by 10 CFR 74.19(c)", the 12 month interval was clarified by the following statement: "If a licensee completes the physical inventory in a given month, the next physical inventory must be completed by the last day of the same month in the following year."

The proposed rule wording appears to differ from the position expressed in the NRC's response to the NEI correspondence. The proposed rule change potentially reduces the time allotted to perform the inventory by several weeks. In order to compensate for scheduling interferences, and given that the completion of the physical inventory may take longer than 5 days, licensees may have to initiate the annual physical inventory at intervals less than 365 days. This short-cycling would move up the calendar date of the physical inventory each year, and ultimately change the month of the physical inventory.

FENOC believes the interpretation and intent of 10 CFR 74.19(c) should remain as documented in the NRC's response to the NEI correspondence. FENOC recommends that the wording be revised to read, "... at an interval not to exceed the last day of the same calendar month of the year following the date of previous performance." Alternatively, the existing wording should remain unchanged, i.e., "... at intervals not to exceed 12 months".

2. Should you have any questions or comments, please contact:

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