

**PR 40 and 150
(76FR28336)**



September 9, 2011
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Ms. Annette L. Viette-Cook
United States Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, Maryland 20555-0001

September 12, 2011 (9:40am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Attn: Rulemaking and Adjudications Staff – Rulemaking.Comments@nrc.gov

COMMENTS ON PROPOSED RULE LANGUAGE, 10 CFR PARTS 40 AND 150
"DOMESTIC LICENSING OF SOURCE MATERIAL –AMENDMENTS/INTEGRATED
SAFETY ANALYSIS",

Dear Ms. Viette-Cook:

AREVA NP Inc. (AREVA) appreciates the opportunity to provide comments on the Proposed Rule Language, "Domestic Licensing of Source Material Amendments/Integrated Safety Analysis," which was published in the *Federal Register* on May 17, 2011 (76 FR 28336).

AREVA is a current 10CFR70 licensee operating a fuel fabrication facility located in Richland, Washington, that will be directly affected by the Proposed Rule. AREVA has invested significant resources in obtaining a 40-year Nuclear Regulatory Commission (NRC) special nuclear materials (SNM) license. In addition to the NRC license, AREVA is licensed by the State of Washington relative to possession of source material and sealed sources.

The proposed rule is unclear as to who will be the regulatory authority over certain operations that utilize both SNM and source materials. There needs to be a mechanism in place that acknowledges and accepts a Part 70 license and associated Integrated Safety Analysis developed and approved in accordance with Part 70 Subpart H as directed by SECY-07-0146 for processing natural and depleted UF6 in the same equipment that is used to process enriched UF6.

AREVA has conducted a thorough review of the Proposed Part 40 rule and based on AREVA's experience in obtaining a 10CFR Part 70 License and developing the associated ISA summary, along with our engagement with the NRC, the Nuclear Energy Institute and other Fuel Cycle Licensees addressing issues regarding Part 70, Subpart H rule requirements, we have prepared general and specific comments to the proposed rule.

AREVA NP INC.

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Attachment 1 is the General Comments to Proposed Part 40 Rule and Attachment 2 is the Specified Comments to Proposed Part 40.

If you have any question or comments, please contact me on (509) 375-8409 or email me at Robert.Link@AREVA.com.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert E. Link". The signature is stylized with a large, looped "R" and "L".

Robert E. Link, Manager
Environmental, Health, Safety & Licensing

Attachments 2

Attachment 1

General Comments to Proposed Part 40 Rule

GC1. In regards to Question K (Federal Register Vol. 76 No. 95 Page 28340); *Should the NRC use probabilistic risk analyses methodology at 10 CFR Part 40 licensed facilities?* AREVA strongly urges No. The ISA methodology has been found to be more than adequate for Part 70 licensed facilities and would be expected to be equally effective for Part 40 facilities.

GC2. There is no mechanism in place that acknowledges 10CFR 70 Licensees who have approved ISAs and routinely process natural or depleted UF6 using the same equipment and controls used for processing enriched UF6. Part 70 licensees should be exempt from additional requirements if UF6 is handled in the same way they process enriched UF6.

GC3. The initial cost of \$290,000 from Table A1 of the September 2010 Regulatory Analysis is grossly underestimated. AREVA incurred over \$840,000 just for the NRC review of the ISA Summary submitted in 2004. The costs associated with the creation of the ISA and ISA Summary were in excess of \$1M.

GC4. Lessons learned and issues that have developed during the implementation of Part 70 Subpart H should be considered in the proposed Part 40 rule making. Two such examples are the acknowledgement and use of design features inherent to a facility or design that either reduce the likelihood or mitigate the consequence of an internal or external event as well as the reliance on industry to develop quantitative standards for dermal exposures to hazardous materials produced from licensed operations to be utilized to define high or intermediate consequence events.

GC5. The NRC's regulatory authority in regards to licensees located in Agreement States needs to be clarified. The language of the proposed rule does not suggest the NRC has sole regulatory authority over these facilities.

Attachment 2

Specific Comments to Proposed Part 40 Rule

SC1. Clarify §40.3a Denial of licensing by Agreement States.

Basis: The language in §40.3a does not appear to match the intent of the NRC's proposed rule as stated in Section IV. Discussion of Proposed Amendments by Section. Specifically the discussion states:

NRC would be the sole licensing authority for all classes of licensees who possess or plan to possess 2000 kg or more of UF6 (including generally and specifically licensed activities), and the NRC would thus hold licensing authority for all radiological activities of such licensees.

SC2. §40.4 - Suggest revising the definition of *Hazardous chemicals produced from licensed materials*;

Hazardous chemicals produced from licensed materials means substances having licensed material as precursor compound(s) or substances that physically or chemically interact with licensed materials; and that are toxic, explosive, flammable, corrosive, or reactive to the extent that they can endanger life or health if not adequately controlled. These include substances commingled with licensed material, and include substances such as hydrogen fluoride that is produced by the reaction of uranium hexafluoride and water, but do not include substances prior to process addition to licensed material or after process separation from licensed material such that the quantity of residual source material remaining in the hazardous chemical is by weight less than 500 ppm.

SC3. §40.4- Suggest revising the definition of *Design Features*;

"Design Feature means a passive engineered feature or component of a facility or process system that has an insignificant possibility of failure, its safety aspect is not easily altered, it is not subject to degradation or routine replacement, and does not require and may not support periodic testing or verification to ensure it remains available and reliable to perform its intended function."

Basis: This definition complements the industry-suggested modifications to NUREG-1520 submitted to NRC via an NEI letter dated June 7, 2011 which was also the subject of an August 17, 2011 NRC public meeting.

SC4. Suggest revising §40.81(b)(3) as follows:

§40.81(b)(3) An intake of 100 mg or greater of uranium in soluble form to a worker, or an intake of 30 mg or greater of uranium in soluble form by any individual located outside the controlled area as specified in paragraph (e) of this section; or

Basis: This creates consistency in the treatment with the guidance of NUREG 1520 as described in NUREG 1520 Table A-5 an intermediate consequence value for onsite acute intake is designated as a high consequence for offsite individuals. This provides consistency in the regulation and simplifies the burden placed on the licensee and the

NRC in developing and approving facility specific worker intake values for soluble uranium that coincide with a high consequence event.

SC5. Suggest revising §40.81(b)(4) and §40.81(C)(4) as follows:

(4) An acute chemical inhalation exposure to an individual from licensed material or hazardous chemicals produced from licensed material that...

Basis: While it is recognized that there are exposure hazards other than inhalation associated with hazardous chemicals produced from licensed materials the performance requirements should be limited to airborne exposures to hazardous chemicals for the following reasons;

(1) Inhalation is the bounding acute chemical exposure pathway for individuals located outside of the controlled area.

(2) Unlike §40.81(b)(1-3) and §40.81(c)(1-3) the consequences in §40.81(b)(4) and §40.81(c)(4) are subjective and cannot be measured directly. Instead they must be inferred based on some other measurement.

(3) Acute chemical exposures other than airborne exposures are problematic because dermal exposure standards for the hazardous chemicals typical of part 40 licensees do not exist.

SC6. Suggest revising §40.84(c)(7) as follows:

(7) A description of the proposed quantitative standards used to assess the consequences to an individual from acute chemical inhalation exposure to licensed material or chemicals produced from licensed materials which are on-site, or expected to be on-site as described in §§ 40.81(b)(4) and (c)(4);

Basis: Consistent with comment SC5

SC7. Suggest revising §40.86(c)(3) as follows:

(3) An acute chemical inhalation exposure to an individual from licensed material or hazardous chemicals produced from licensed materials that exceeds the quantitative standards that satisfy the requirements of §40.81(c)(4).

Basis: Consistent with comment SC5.

SC8. Suggest revising §40.88(b)(4) as follows:

(4) Any natural phenomenon or other external event, including fires internal and external to the facility that has affected ~~or may have affected~~ the intended safety function or availability or reliability of one or more items relied on for safety.

Basis: the phrase "or may have affected" is subjective and does not warrant a report..

Rulemaking Comments

From: LINK Bob (AREVA) [Robert.Link@areva.com]
Sent: Friday, September 09, 2011 6:15 PM
To: Rulemaking Comments
Subject: Part 40 rulemaking comments
Attachments: Part 40 Comment letter 9-9-2011.pdf

Please find enclosed the AREVA NP Inc. comment letter regarding the 10CFR40 proposed rulemaking. The original hard copy will be sent in the mail.

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