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September 16, 2011

Ms. Cindy K. Bladey
Chief, Rules, Announcements, and Directives Branch
Office of Administration
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

(1)

Reference: Federal Register, Vol. 76, No. 135: Draft Regulatory Guide DG-3037,
"Guidance for Fuel Cycle Facility Change Processes," Re-Issuance and
Availability

Subject: Comments for Docket ID NRC-2009-0262

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RULES AND DIRECTIVES
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Nuclear Fuel Services, Inc. (NFS) hereby submits the attached comments on the July 14, 2011, Federal Register notice regarding draft Regulatory Guide DG-3037, "Guidance for Fuel Cycle Facility Change Processes."

If you or your staff have any questions, require additional information, or wish to discuss this further, please contact me, or Ms. Jennifer Wheeler, Licensing & ISA Manager, at (423) 735-5429. Please reference our unique document identification number (21G-11-0185) in any correspondence concerning this letter.

Sincerely,

NUCLEAR FUEL SERVICES, INC.

Mark P. Elliott

Mark P. Elliott, Director
Quality, Safety, & Safeguards

JKW/pdj

Attachment: Comments on Draft Regulatory Guide DG-3037, "Guidance for Fuel Cycle Facility Change Processes"

E-RFDS = ADM-03

SUNSE Review Complete
Template = ADM-013

nuclear fuel services, inc., a subsidiary of The Babcock & Wilcox Company

Call =
K. Murresey (KSM)
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R.A. Jervet (RAJ)

Attachment

**Comments on Draft Regulatory Guide DG-3037,
“Guidance for Fuel Cycle Facility Change Processes”**

(4 pages to follow)

**Comments on Draft Regulatory Guide DG-3037,
“Guidance for Fuel Cycle Facility Change Processes”**

Page 3, Section B. “Discussion” First Paragraph Following Bulleted Items

The second sentence should be moved to Section C, Item 2.4 since it is relevant to sole IROFS.

“The licensee must briefly summarize all changes to the safety program made in the previous year for which it did not receive prior NRC approval and submit them in an annual report to the NRC under 10 CFR 70.72(d)(2).” The regulatory wording actually states “... a brief summary of all changes to the records required by Sec. 70.62(a)(2) of this subpart.” Sec. 70.62(a)(2) then refers to (b), (c), and (d) of the same section, or process safety information, integrated safety analysis, and management measures. To meet these requirements, and in accordance with 10 CFR 70.72, licensees currently submit an updated ISA Summary and a listing of facility modifications made during the year. They do not send in a summary of all changes to the safety program made during the previous year. For example, if a licensee decides to lower the threshold for requiring hearing protection, or for ALARA purposes, increases the PPE required for a job, these actions constitute “changes to the safety program.” NRC has not provided a corresponding technical basis to justify this apparent change in regulatory position.

Page 3, Section C, Item 1.a

The phrase “that could affect the safety program” should be added to the end of sentence one for clarity and consistency with sentence three of this Item.

Page 3, Section C, Item 1.b.(3)

The phrase “that could affect the safety program” should be added to the end of the sentence for clarity and consistency.

Page 4, Section C, Item 2.a

“The written evaluation . . . should clearly document the licensee’s reasoning.” NRC should clarify whether this evaluation refers to records available at the site or the information in the annual update to the ISA Summary. The regulation only requires that a list of such changes be provided along with an updated ISA Summary. It does not necessarily require this list or the annual summary of changes to include a licensee justification for their exclusion from pre-approval by NRC. NRC has not provided a corresponding technical basis to justify this apparent change in regulatory position.

Also, the meaning of the phrase, “. . . simple reliance on the level of detail and description provided in the ISA Summary is not sufficient” is not clear.

Page 4, Section C, Item 2.1.a

The section title includes the words "types of accident," but these words are missing from the first sentence in the paragraph. Without these words, the sentence takes on a new and perhaps unintended meaning. Also, the examples could potentially be problematic depending on how an inspector interprets the applicability of the examples during an inspection. An alternative example such as, "a licensee that adds processing of UF6 to its facility and currently does not store or process UF6," would be clear that the types of accident sequences are new and would require pre-approval by NRC.

Also, "... adding a sprinkler system to an area where the moderator is not currently available," is not necessarily a new type of accident sequence. Moderator intrusion is a possibility anywhere, and licensees already have many similar moderator intrusion situations and accident sequences. For example, fire-fighting scenarios need to be addressed whether or not sprinklers have been used for this function in the past or not. This Item appears to conflict with the Item immediately following, which reads "... unless the chemical is used elsewhere in the facility and is already described in the ISA Summary." This qualifier should clearly apply to all examples used.

Page 5, Section C, Item 2.4

Like the 2009 version of this guide, the wording of this Item does not reflect the 2007 Working Group's consensus position, but rather subsequent NRC comments made during the June 2008 NRC Fuel Cycle Information Exchange. As such, the wording on the "alteration of a sole IROFS" should be modified to reflect the consensus position, particularly in the absence of a safety concern that would necessitate NRC review of licensee-initiated program changes that "positively" affect sole IROFS and therefore increase the safety margin. Also, 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 decrease the effectiveness of any of the attributes related to the safety function of the sole IROFS. Changes that do not decrease the effectiveness of these attributes of the sole IROFS are not considered alterations.

Page 5, Section C, Item 3, "Documentation Requirements"

Suggest deleting the word "Requirements" from the section title. The title is clear without this word, and the Regulatory Guide is guidance, and compliance with the Guide is not required.

Page 5, Section C, Item 3.a.(2)

The wording of this Item implies a one-to-one relationship – one IROFS is removed, one IROFS is added. This may or may not be the case depending on the control set(s) needed for an accident sequence.

Page 5, Section C, Item 3.a.(3)

Consistent with the comment on Section C, Item 2.4, the wording on the alteration of a sole IROFS should be modified to reflect the consensus position, particularly in the absence of a safety concern that would necessitate NRC review of licensee-initiated

program changes that "positively" affect sole IROFS and therefore increase the safety margin.

Page 6, Section C, Item 4.a

"...the NRC requires licensees to submit an annual report briefly summarizing all such changes made to the safety program in the previous year, in accordance with 10 CFR 70.72(d)(2). This provision's reference to 10 CFR 70.62(a)(2) is to the facility safety program records, which consist of the process safety information, the ISA, and the management measures."

Licensees are not required to send a summary of "all changes made to the safety program" made during the previous year nor has the annual summary typically included "process safety information." First, many portions of facility safety programs fall outside the requirements of 10 CFR 70. Second, the DG-3037 interpretation of this provision's reference to 10 CFR 70.62(a)(2) appears to be new. Since January of 2005, licensees have submitted an updated ISA Summary to the NRC each year and a listing of facility modifications made during the year. This summary of facility modifications and changes to the ISA Summary capture the essence of the individual changes to the required documents. Industry, and heretofore the NRC, has not expected licensees to submit summaries of each individual change to facility drawings, process flow sheets, standard operating procedures, safety analyses (radiological, chemical, criticality, etc.), management measures (PM, instrument calibrations, training modules, etc.) that constitute the entire list of documents that are required to be maintained by 10 CFR 70.62(a)(2), paragraphs b - d. NRC has not provided a corresponding technical basis to justify this apparent change in regulatory position.

Page 6, Section C, Item 4.b

It is not clear whether this paragraph applies to the annual summary of facility changes or the annual update of the ISA Summary. The wording of the first sentence in the 2009 version of DG-3037 should be retained ("the annual summary of facility changes should include the following information") since it is more clear with regard to what we believe is NRC's intent with this Item. Additionally, Items 2 and 3 were discussed by the Working Group as items that "would facilitate NRC review of the annual summary of changes, but is not required." Although the word "should" is used in the 2009 version to introduce Items 1, 2, and 3, it implies that this level of detail should be provided to NRC in the annual summary, rather than be available for inspection at the site.

Also, there appears to be a clerical error in Item b.(3). Specifically, the first line of Item b.(3). prior to the word "any" appears to be a repeat of the text in the preceding Item b.(2).

Page 6, Section C, Item 4.c

Suggest that the last sentence before the numbered list be modified consistent with the 2009 version to state: "It would be beneficial, though not required, to indicate....."

Page 7, Section C, Item 5.c.-e.

These sections appear as though they should be a sub tier under 5.b. Items c. and e. seem overly prescriptive. Specifically, not all impacts on licensee methodologies should require NRC pre-approval as suggested in Item c.(1). Item c. should be revised to read:

Considerations for the need for prior approval should include the following:

1. Does the change decrease the level of effectiveness of the design basis as described in the License Application;
2. Does the change result in a departure from the methods of evaluation described in the License Application used in establishing the design basis;
3. Does the change result in degradation in safety;
4. Does the change affect compliance with applicable regulatory requirements;
or
5. Does the change conflict with an existing license condition.

With the proposed change to Item c., Item e. is no longer necessary and should be deleted.

Page 10, Glossary

The terms, "ISA," "ISA Summary," "IROFS," and "management measures" are all defined in 10 CFR Part 70 and are proposed for 10 CFR Part 40. We encourage NRC to reference these regulatory definitions to ensure that they remain consistent with any rule changes that might come into effect through the current Part 40 rulemaking including possible conforming changes to Part 70. For example, in the NEI industry comment letter on Part 40 dated September 9, industry suggested edits to certain definitions to include the term, "design features."