

relevant part, that each licensee subject to this part shall establish and implement written policies and procedures designed to meet the general performance objectives and specific requirements of this part. Section 26.23(a) states, in part, that contractor personnel performing activities within the scope of this part for a licensee must be subject to the licensee's program relating to fitness-for-duty.

10 CFR 26.10(c), states in part, that a licensee's FFD program must have a goal of achieving a drug-free workplace and a workplace free of the effects of such substances. 10 CFR 26.20 states, in relevant part, that each licensee subject to this part shall establish and implement written policies and procedures designed to meet the general performance objectives and specific requirements of this part. Section 26.23(a) states, in part, that contractor personnel performing activities within the scope of this part for a licensee must be subject to the licensee's program relating to fitness-for-duty.

The Duke Energy Nuclear Policy Manual, NSD 217.8, Revision 14, states, in relevant part, that illegal drugs are prohibited by company or departmental policy from actual or attempted introduction into the site Protected Area.

The Duke Energy Nuclear Policy Manual, NSD 218.10.1, Revision 9, states in relevant part, that where unusual behavior, lack of trustworthiness and reliability, or evidence that an individual is not fit for duty is observed, it shall be reported to the manager of Access Services.

Contrary to the above, on approximately October 20, 2008, a contract employee introduced and used marijuana inside of the Protected Area at the McGuire Nuclear Station. In addition, a second contract employee became aware of the potential use of marijuana inside of the Protected Area but failed to immediately report the event as required by McGuire Nuclear Station's continuing behavior observation program.

This is a Severity Level IV violation (Supplement III).

The NRC has concluded that information regarding the reason for the violation, the corrective actions taken and planned to correct the violation and prevent recurrence and the date when full compliance will be achieved is already adequately addressed on the docket in the enclosed Confirmatory Order. Therefore, you are not required to respond to this letter unless the description therein does not accurately reflect your corrective actions or your position. However, you are required to

submit a written statement or explanation pursuant to 10 CFR 2.201 if the description therein does not accurately reflect your corrective actions or your position. In that case, or if you choose to respond, clearly mark your response as a "Reply to a Notice of Violation, EA-09-252," and send it to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555-0001 with a copy to the Regional Administrator, Region II, and a copy to the NRC Resident Inspector at the facility that is the subject of this Notice, within 30 days of the date of the letter transmitting this Notice of Violation (Notice).

If you choose to respond, your response will be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. Therefore, to the extent possible, the response should not include any personal privacy, proprietary, or safeguards information so that it can be made available to the Public without redaction. If personal privacy or proprietary information is necessary to provide an acceptable response, then please provide a bracketed copy of your response that identifies the information that should be protected and a redacted copy of your response that deletes such information. If you request withholding of such material, you must specifically identify the portions of your response that you seek to have withheld and provide in detail the bases for your claim of withholding (e.g., explain why the disclosure of information will create an unwarranted invasion of personal privacy or provide the information required by 10 CFR 2.390(b) to support a request for withholding confidential commercial or financial information). If safeguards information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21.

In accordance with 10 CFR 19.11, you may be required to post this Notice within 2 working days of receipt.

Dated this 2nd day of June 2010.

[FR Doc. 2010-14059 Filed 6-10-10; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[NRC-2009-0308]

### Notice of Issuance of Regulatory Guide

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Issuance and Availability of Regulatory Guide 1.28, Revision 4, "Quality Assurance Program Criteria (Design and Construction)."

**FOR FURTHER INFORMATION CONTACT:** R. A. Jervey, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 251-7404 or e-mail [Richard.Jervej@nrc.gov](mailto:Richard.Jervej@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is issuing a revision to an existing guide in the agency's "Regulatory Guide" series. This series was developed to describe and make available to the public information such as methods that are acceptable to the NRC staff for implementing specific parts of the agency's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

Revision 4 of Regulatory Guide 1.28, "Quality Assurance Program Criteria (Design and Construction)," was issued with a temporary identification as Draft Regulatory Guide, DG-1215. DG-1215 was titled "Quality Assurance Program Requirements (Design and Construction)." Proposed RG 1.28, Revision 4, extends the scope of the NRC's endorsement to include NQA-1, Part II, which contains amplifying quality assurance (QA) requirements for certain specific work activities that occur at various stages of a facility's life. The work activities include, but are not limited to, management, planning, site investigation, design, computer software use, commercial-grade dedication, procurement, fabrication, installation, inspection, and testing. Appendix A, "Evolution of Quality Assurance Standards and the Endorsing Regulatory Guides," to RG 1.28 gives an overview and continuation of the history and consolidation of NRC-endorsed standards.

##### II. Further Information

In July 2009, DG-1215 was published with a public comment period of 60

days from the issuance of the guide. Staff Response to Public Comments on DG-1215 are located in the NRC's Agencywide Documents Access and Management System (ADAMS) under Accession No. ML100160005. The regulatory analysis may be found in ADAMS under Accession No. ML101390560. Electronic copies of Regulatory Guide 1.28, Revision 4 are available through the NRC's public Web site under "Regulatory Guides" at <http://www.nrc.gov/reading-rm/doc-collections/>.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR) located at Room O-1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852-2738. The PDR's mailing address is USNRC PDR, Washington, DC 20555-0001. The PDR can also be reached by telephone at (301) 415-4737 or (800) 397-4209, by fax at (301) 415-3548, and by e-mail to [pdr.resources@nrc.gov](mailto:pdr.resources@nrc.gov).

Regulatory guides are not copyrighted, and NRC approval is not required to reproduce them.

Dated at Rockville, Maryland, this 3rd day of June, 2010.

For the Nuclear Regulatory Commission.

**Andrea D. Valentin,**

*Chief, Regulatory Guide Development Branch, Division of Engineering, Office of Nuclear Regulatory Research.*

[FR Doc. 2010-14062 Filed 6-10-10; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

[Docket Nos.: 70-27, 70-143, and 70-3085; NRC-2010-0199]

### **Notice of Opportunity To Request a Hearing and Provide Written Comments on Order Approving Indirect License Transfers**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of receipt of license transfer application and opportunity to request a hearing.

**DATES:** A request for a hearing must be filed by July 1, 2010. Comments must be received by July 10, 2010. Comments received after 30 days will be considered if practicable to do so, but only the comments received on or before the due date can be assured consideration.

**ADDRESSES:** You may submit comments by any one of the following methods. Please include Docket ID NRC-2010-0199 in the subject line of your

comments. Comments submitted in writing or in electronic form will be posted on the NRC Web site and on the Federal rulemaking Web site [Regulations.gov](http://Regulations.gov). Because your comments will not be edited to remove any identifying or contact information, the NRC cautions you against including any information in your submission that you do not want to be publicly disclosed.

The NRC requests that any party soliciting or aggregating comments received from other persons for submission to the NRC inform those persons that the NRC will not edit their comments to remove any identifying or contact information, and therefore, they should not include any information in their comments that they do not want publicly disclosed.

*Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for documents filed under Docket ID NRC-2010-0199. Address questions about NRC dockets to Carol Gallagher 301-492-3668; e-mail [Carol.Gallagher@nrc.gov](mailto:Carol.Gallagher@nrc.gov).

*Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Division of Administrative Services, Office of Administration, Mail Stop: TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or by fax to RADB at (301) 492-3446.

You can access publicly available documents related to this notice using the following methods:

*NRC's Public Document Room (PDR):* The public may examine and have copied for a fee publicly available documents at the NRC's PDR, Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland.

*NRC's Agencywide Documents Access and Management System (ADAMS):* Publicly available documents created or received at the NRC are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this page, the public can gain entry into ADAMS, which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

*Federal Rulemaking Web site:* Public comments related to this notice can be found at <http://www.regulations.gov> by searching on Docket ID: NRC-NRC-2010-0199.

### **FOR FURTHER INFORMATION CONTACT:**

Merritt N. Baker, Senior Project Manager, Fuel Manufacturing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, 6003 Executive Boulevard, Mail Stop EBB-2C40, Rockville, MD 20850, Telephone: (301) 492-3128, Fax: (301) 492-5539, E-mail: [Merritt.Baker@nrc.gov](mailto:Merritt.Baker@nrc.gov).

### **SUPPLEMENTARY INFORMATION:**

#### **I. Introduction**

As set forth below in an Order issued on June 4, 2010, the U.S. Nuclear Regulatory Commission (NRC) has approved a request submitted by its licensee, Babcock & Wilcox Nuclear Operations Group, Inc. (B&W NOG), pertaining to a proposed corporate restructuring involving several companies related to B&W NOG. The NRC treated the request as one seeking approval of an indirect license transfer.

B&W NOG is a major fuel cycle facility located in Lynchburg, Virginia, which is licensed to possess and use special nuclear material (SNM) under 10 CFR Part 70; and the NRC is thus providing this notice in accordance with 10 CFR 2.1301(b).

Pursuant to 10 CFR 70.36, no license, or any right thereunder, shall be transferred, assigned, or in any manner disposed of—either voluntarily or involuntarily, directly or indirectly—through the transfer of control of the license, to any person, unless the Commission, after securing full information, finds that the transfer is in accordance with the provisions of the Atomic Energy Act of 1954, as amended, and gives its consent in writing.

#### **II. Opportunity To Request a Hearing**

The NRC hereby provides notice that this is a proceeding regarding the issuance of the Order set forth below. In addition to authorizing the indirect transfer of control over License No. SNM-42 held by B&W NOG, the Order authorizes the indirect transfer of control over NRC License SNM-124 held by Nuclear Fuel Services for its operations at Erwin, Tennessee; and authorizes the indirect transfer of control over NRC License SNM-2001 held by BWX Technologies, which pertains to the remediation of the former Shallow Land Disposal Area near Parks Township, Pennsylvania. In accordance with the general requirements in Subpart C of 10 CFR Part 2, as amended on January 14, 2004 (69 FR 2182), any person whose interest may be affected by this proceeding and who desires to participate as a party must file a written request for a hearing and a specification