



March 10, 2014
REL:14:015

Ms. Annette L. Vietti-Cook
Secretary
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
ATTN: Rulemakings and Adjudications Staff

Dear Ms. Vietti-Cook:

Subject: AREVA Comments on Proposed Rulemaking and Guidance, "Amendments to Material Control and Accounting Regulations," Docket ID NRC-2009-0096 and Docket ID NRC-2013-0195

Project Number: 689

AREVA appreciates the NRC's attempt to improve the organization of current regulations by consolidating NMC&A regulations under 10 CFR Part 74 as published in the Federal Register on November 8, 2013 (78 FR 67224 and 78 FR 67225). In fact, if these were the only changes being proposed by the NRC, AREVA could be in full support of the proposed rule and guidance for 10 CFR Part 74, "Amendments to Material Control and Accounting Regulations". However, the proposed rule goes well beyond simply reorganizing existing regulations and includes new requirements that AREVA believes completely lack the sound technical and regulatory basis needed to justify the proposed rulemaking. AREVA also believes that the regulatory analyses of the costs to industry, both one-time costs associated with implementation and recurring annual costs, are woefully underestimated. AREVA estimates that both the one-time implementation costs and annual costs to maintain compliance with the new requirements would easily exceed several million dollars. AREVA is willing to provide additional detail of our own cost analysis but needs to submit this as proprietary information, which the staff during a public meeting expressed some difficulty in this forms use.

AREVA considers Material Control and Accounting (MC&A) to be an integral part of our overall safety and security strategy for protecting our workers, the public, the environment, and US national security interests. AREVA believes that we have successfully demonstrated the ability to control and account for special nuclear material (SNM) at our operating facilities, past and present, and will continue to demonstrate this ability at facilities yet to be built, such as the planned Eagle Rock Enrichment Facility (EREF).

AREVA fully supports the presentation of NEI on behalf of the industry in their letter, dated March 10, 2014 from Adrian P. Heymer to Ms. Annette L. Vietti-Cook and participated in its development of the industry's cost analysis presented. AREVA also believes that the NRC has failed to demonstrate a firm regulatory basis for the proposed rules. AREVA is unaware of any

AREVA INC.

successful theft or diversion of SNM at any of its operating facilities for at least the past 30 years, which includes periods before AREVA assumed ownership of the facilities. Furthermore, AREVA is unaware of any events resulting in the successful theft or diversion of SNM at any US facilities within the same time period. Given these circumstances, it is difficult to understand why the NRC would pursue new requirements that will cost the industry millions of dollars to implement and maintain while providing no tangible benefit in the form of reduced risk of loss, theft, or diversion of SNM. The question must be asked – what is the problem that the NRC is attempting to fix?

At the first public meeting held January 09, 2014 to consider the proposed changes to the regulations, the NRC staff stated that the reasons for the proposed changes were that the current regulations were outdated, that the threat profile in the post 9-11 era dictates additional requirements, that exemptions in the current regulations were no longer needed, and that the proposed removal of current exemptions was in response to OIG report OIG-03-A-15 dated May 23, 2003.

AREVA does not believe that the stipulated reasons stated for the rulemaking are in any way adequate to support the substantial costly changes. AREVA believes strongly that the age of a particular rule has no bearing on its effectiveness. The staff made repeated references to that fact that the rules had not undergone a major revision in over 20 years. AREVA believes that the rules have not been changed because they have proven to be effective and continue to be effective to this day.

The staff also referenced the changing threat environment but presented no evidence of changing threats to Category III facilities that possess materials of low strategic significance. AREVA is also unaware of any threats made against its facilities either before or after 9-11. While the world in general may be a more dangerous place post 9-11, the low attractiveness level of source material (SM) and SNM containing Low Enriched Uranium (LEU) has left our threat profile relatively unchanged as evidenced by the lack of credible threats at Cat III facilities in the years since 9-11.

AREVA also takes strong exception to the staff's contention that exemptions from item control requirements that have been in place since 1982 are no longer needed. Currently items containing less than 500 grams U^{235} are exempt from item control requirements. It is this exemption that allows fuel cycle facilities to utilize other more efficient NMC&A control mechanisms such as mass control for small containers such as samples and standards in our laboratories. The exemption for items that exist for less than 14 days, while somewhat arbitrary, allows process efficiencies that are valuable to the performance of work while assuring adequate control of material. AREVA could support a reduction in the amount of time that an item can exist without being placed under item control but the complete elimination of the exemption is not acceptable without a clear definition of what constitutes material in process. The two exemptions that the NRC proposes to eliminate were not an afterthought when they were included in the NMC&A requirements in the 1980's. They were included as an integral

part of the regulations because NRC staff, at the time, correctly determined that they were necessary for fuel cycle facilities to operate efficiently without unnecessary regulatory burden while still meeting all NMC&A-related requirements.

Finally, the OIG report referenced by the staff as another justification for removing the item control exemptions is actually completely silent on the subject of item control exemptions. The OIG report states a concern regarding the number of facilities possessing uranium quantities below a threshold of 350 gram U²³⁵. Facilities that possess U²³⁵ below this threshold are exempt from certain Part 74 requirements and the OIG takes exception to the number of facilities that fall in this category. But the report never mentions the exemption from item control requirements for items existing less than 14 days or items containing less than 500 gram U²³⁵. In fact, the NRC, in its response to the OIG report, repeatedly defends its NMC&A regulatory program for large quantity licensees, including using a risk-based approach for its inspection programs.

In summary, AREVA believes that there is no regulatory basis for the current rulemaking effort, that the cost-benefit analysis provided is highly inaccurate for the changes being presented, and that a back-fit analysis should be required since the rulemaking, if adopted, would require extensive physical changes to the AREVA Fuel Fabrication Facility as well as changes to procedures, plans, and operating practices. If the NRC decides it necessary to continue down the path towards final rulemaking, AREVA fully supports the more detailed comments submitted by NEI on behalf of industry, including recommendation for revising the text of the proposed rule.

AREVA appreciates the opportunity to comment on the proposed rule and guidance. If you have any questions concerning these comments, please contact Don Parker at (208) 270-9892 or Bob Link at (509) 375-8409.

Sincerely,



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



Donald W. Parker, Manager
AES Safeguards, Safety & Security

/cel

c: Ms. Catherine Haney, NMSS, NRC
Mr. Brian Holian, FSME, NRC
Mr. Eric Leeds, NRR, NRC
Ms. Marissa Bailey, NMSS/FCSS, NRC
Mr. Anthony Gody, Region II, NRC
Mr. Christopher G. Miller, FSME/DILR, NRC

RulemakingComments Resource

From: LINK Bob (AREVA) <Robert.Link@areva.com>
Sent: Monday, March 10, 2014 5:49 PM
To: RulemakingComments Resource
Subject: AREVA Inc. Richland and AREVA AES Comments on Part 74 Rulemaking
Attachments: REL14015 MCA FRN Comments.pdf

Find attached a letter regarding AREVA Inc., Richland and AREVA AES combined comments regarding the FRN on the Part 74 proposed rulemaking. We are also sending the original via FedEx.

Bob Link
Manager of EHS&L, Richland Site
AREVA Inc.
2101 Horn Rapids Road
Richland, WA 99354-5102
Work: 509-375-8409
Cell: 509-521-2895