



April 17, 2019  
19-022

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

References: 1) License No. SNM-42, Docket No. 70-27  
2) Industry Comments on Draft Revised Regulatory Basis for 10 CFR Part 73, "Physical Protection of Plants and Materials" for a Rulemaking to Enhance the Security of Special Nuclear Material; Docket ID NRC-2014-0118

Subject: BWXT NOG-L General Comments on Draft Revised Regulatory Basis for 10 CFR Part 73 (Docket ID 2014-0118)

Dear Ms. Vietti-Cook:

The BWXT Nuclear Operations Group-Lynchburg (BWXT- NOG-L) submits the following comments on the subject Draft Revised Regulatory Basis for Part 73 published in the Federal Register on March 01, 2019 for public comment.

BWXT NOG-L acknowledges that the NRC's rulemaking objective is to update Special Nuclear Material (SNM) physical protection requirements for fuel cycle facilities to establish generically applicable security requirements similar to those imposed by security orders issued by the NRC following the terrorist attacks of September 11, 2001 (post-9/11 security orders). BWXT NOG-L's ability to provide specific unclassified comments on the draft Revised Regulatory Basis document is hindered by the fact that the Interim Compensatory Measures Order and Design Basis Threat Order (i.e., the referenced post-9/11 security orders) imposed on this facility are classified National Security Information and are not portion marked. Therefore, BWXT NOG-L is providing the below general comments, and will submit additional specific comments via classified communication.

General Comment – BWXT NOG-L disagrees with the assertion made in Section 4 (Basis for Proposed Changes) of the document, which states, "The NRC is proposing to make certain provisions of security orders generically applicable in this SNM rulemaking. This will increase agency transparency and regulatory clarity." BWXT NOG-L believes that the codification of only a portion of the existing orders and ICMs does not improve transparency and clarity. In fact, this creates an unnecessarily confusing situation when security order and final rule requirements conflict (i.e., when one set of requirements is more restrictive or prescriptive than the other).

It is unclear to BWXT NOG-L what benefit is gained from the effort and cost to promulgate this rule in light of the potentially confusing situations created by this rulemaking and the fact that, as stated in Section 4, "The NRC determined that the security order requirements, which

supplement existing physical protection regulatory requirements, continue to provide adequate protection in the current threat environment.” BWXT NOG-L supports the suggested alternate approach submitted by NEI for the NRC to issue a direct final rule simply referencing the previously-issued security orders and ICMs.

It is BWXT NOG-L's belief that the proposed language included in the draft Revised Regulatory Basis document expands the requirements beyond those included in the post-9/11 security orders. The expanded requirements have the potential to require substantial initial and recurring resources to implement.

If you have any questions or require further information in this regard, please contact Chris Terry, Manager of Licensing and Safety Analysis, at [cterry@bwxt.com](mailto:cterry@bwxt.com) or (434) 522-5202.

Sincerely,



David C. Ward  
Manager, Environment, Safety, Health and Safeguards  
BWXT Nuclear Operations Group, Inc. – Lynchburg

cc: NRC, Merritt N. Baker, Senior Project Manager  
cc: NRC, Timothy Harris, NSIR