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ADD: Tom Pham, Mary Neely  
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ATTN: Program Management,  
Announcements and Editing Staff

**Reference:** 1) **Federal Register, September 23, 2021 (86 FR 52926)**  
2) SNM, 1257, Docket 70-1257

**Subject:** **Framatome's Comments on Draft NUREG-2159, Docket ID NRC-2021-0170.**

Dear Madam or Sir:

Framatome Inc. appreciates the opportunity to comment on NRC's draft NUREG-2159 "Acceptable Standard Format and Content for the Material Control and Accounting Plan Required for Special Nuclear Material of Moderate Strategic Significance: (Reference 1).

Draft NUREG-2159 is intended to provide guidance to facilitate compliance with applicable provisions in Subpart D of 10 CFR Part 74. Framatome is providing comments to clarify, and risk inform sections in the draft NUREG.

Attached are Framatome's specific comments regarding draft NUREG-2159.

If you have any information concerning this information, please contact me at 509 375 8237.

Sincerely,



C D. Manning, Manager  
Licensing and Compliance

CDM/rd

Cc: R. Jervey, USNRC NMSS

bc: TJ Tate  
E Calvo-Tone

## Attachment

Number	NUREG Section	Comment	Proposed Resolution
1	Section 2, Item 4; 6 Pg 6, lines 8- 18	<p>The proposed guidance far exceeds the requirements found in Subpart D 74.41 (c) as well as the similar requirements found in Subpart E for SSNM and is not a credible concern.</p> <p>74.43(b) (1) A management structure shall be established, documented, and maintained that assures:</p> <ul style="list-style-type: none"> <li>(i) Clear overall responsibility for material control and accounting (MC&amp;A) functions.</li> <li>(ii) Independence from production and manufacturing responsibilities; and</li> <li>(iii) Separation of key responsibilities.</li> </ul> <p>This provides sufficient independence of activities.</p> <p>For most licensees, such a position would require access to SGI and as such the individual would be granted access to SGI in accordance with 73.22(b) which includes a background check to determine the individual is trustworthy and reliable, and for some licensees such a position would require either an L or Q clearance.</p>	<p>Remove the noted text entirely.</p> <p>Replace with a paragraph stating: "Where the organizational structure is such that a position having responsibility within the 10 CFR Part 74 MC&amp;A program also has responsibility within the 10 CFR Part 73, "Physical Protection of Plants and Materials," system, the plan will address roles and responsibilities to ensure the MC&amp;A program is not subject to compromise by the actions of a single insider filling the position. A safeguards manager could be an example of such a position."</p>
2	Section 3.3	<p>Section 3.3 "MC&amp;A Organization" states:</p> <p>"An organizational chart and position-by-position description of the entire MC&amp;A organization should be provided. A licensee should designate an individual as the overall manager of the MC&amp;A program, and the MC&amp;A plan must demonstrate the assurance of independence of action and objectivity of decision for the MC&amp;A manager. Two options for meeting the organizational independence are: (1) report directly to the plant or site</p>	<p>Replace this wording with similar guidance used in NUREG-1520, Section 2.4.2(8)(3) to read:</p> <p>"In the organizational hierarchy, the MC&amp;A organization(s) is independent of the operations organization(s), allowing it to provide objective MC&amp;A audit, review, or</p>

		<p>manager, or (2) report to an individual who reports to the plant or site manager through a management chain with no production responsibilities.” This guidance is not performance based. Other options can easily meet the objectives of the regulation. It is unnecessary to restrict organization structures and independent reporting options. This could be particularly problematic as advanced reactors look to limit the number of onsite personnel.</p>	<p>control activities. "Independent" means that neither organization reports to the other in an administrative sense. (However, both may report to a common manager.) Lines of responsibility and authority are clearly drawn.”</p>
3	Section 3.5	<p>Section 3.5 states one of the roles to be an “overall MC&amp;A program management (note that this individual should have no major responsibilities not related to MC&amp;A).”</p> <p>This guidance is not performance based. Other options can easily meet the objectives of the regulation. Given the industry need to reduce overhead cost, there should be an allowance for MC&amp;A management to have other duties not specifically related to MC&amp;A.</p>	<p>Revise the first bullet to read:</p> <p>“overall MC&amp;A program management (note that overall MC&amp;A program management should be vested to a single individual at an organizational level sufficient to assure independence of action and objectiveness of decisions).”</p>
4	Section 5.1.3; Pg 20, lines 36-39	<p>This Section states that:</p> <p>“All contractor or offsite laboratory assessment findings and recommendations should be documented and submitted to both the measurement control program manager and the overall MC&amp;A manager within 30 days of completion of the review.”</p> <p>This time frame is not specified in the regulations and does not appear to be risk informed.</p>	<p>Reword to remove the 30 days and state “Findings and recommendations are to be addressed consistent with the licensees QA and Corrective Action Program.”</p>
5	Section 5.2; Pg 21, lines 6-7	<p>This Section states that:</p> <p>“The FNMC plan <b>should</b> describe the replicate sampling program, which <b>must</b> include 6 the following, as appropriate”</p> <p>The language of this sentence mixes requirements, recommendations and provides a conditional out. .</p>	<p>Reword sentence to state “FNMC should address the following applicable attributes:...”</p>



6	Section 6.2; Pg 37, lines 28-31	<p>This Section states that:</p> <p>"Licensees should also commit to having at least two individuals independently verify the accuracy of the ID and SEID calculations for each total plant material balance."</p> <p>This recommendation is not performance based. To invoke two additional verifications for such a highly specialized function is an extreme burden on the licensee with no clear regulatory basis or safety benefit.</p>	Reword to state "licensees should commit to independently verify the accuracy of the ID and SEID calculations for each total plant material balance."
7	Section 6.3; Pg 38, lines 29-30	<p>This Section states that:</p> <p>"...the NRC acceptance criteria do not normally call for applying bias corrections to either the accounting records or as an adjustment to ID unless the effect of a single significant bias or the net sum of all significant biases is unusually large."</p> <p>"unusually large" is an ambiguous term. NRC acceptance criteria does not normally call for applying bias corrections to either the accounting records or as an adjustment.</p>	Reword or remove "unusually large" or state the following: "The bias correction is only applied if it is significant with 95% confidence and exceeds the rounding error."
8	Section 6.3; Pg 38, line 44	<p>This Section states that:</p> <p>"the bias is greater than 0.01 percent relative"</p> <p>This appears to be a new criterion being introduced without a clear tie to regulation.</p>	Reword: "if such bias is statistically significant at the 95 percent confidence level, and exceeds the rounding error of the affected items. The bias correction is intended to correct the ID. Its impact on the SEID should also be propagated, resulting in an adjustment to the SEID."
9	Section 7.5; Pg 44, lines 13-14	<p>This Section states that:</p> <p>"...physical inventories are performed so as to confirm that a loss or diversion of a significant quantity of SNM has not occurred: dynamic (i.e., in-process) materials, which is performed on a frequency not to exceed 3 calendar months..."</p> <p>This requirement is not performance based and there is no direct regulatory basis for the 3 months stated.</p>	Suggest removing the 3 months and state "...at a frequency that takes into account the potential for loss or diversion from the operation"

10	Section 8.2; Pg 51, lines 29-39	This section provides examples of items that may be exempt from item control program coverage. This list should expand to include samples.	Also include the guidance from the previous draft regarding the exemption for laboratory samples and reference standards maintained in the laboratory material management system and containing uranium enriched to less than 20 percent in the uranium-235 isotope.
11	Section 9.5	<p>Section 9.5, "Resolution of Significant Shipper-Receiver Differences - Commitments and Acceptance Criteria" states:</p> <p>"Each shipping container is inspected within 3 working days after receipt for loss or damage to the container or T/Ds to determine whether SNM could have been removed. If the integrity of a container is questionable, the presence of all items that were that were packaged in the shipping container will be confirmed within 24 hours of discovering the questionable integrity."</p> <p>10 CFR 74.43(b)(7) contains neither a 3 working day nor a 24 hour requirement. The 24 hour requirement appears to be overly restrictive and depending on the type of package and the number of items in the package in some cases may not be achievable.</p>	Recommend that this section be reworded to be more consistent with 74.15(a) which requires updated information to be generated within 10 days.