FOR FURTHER INFORMATION: Contact Jim Freeman, Deputy Advisory Committee Management Officer for the Department of Defense, 703–601–6128.

SUPPLEMENTARY INFORMATION: The Committee shall meet at the call of the Committee's Designated Federal Officer, in consultation with the Board's President. The estimated number of Board meetings is four per year.

The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. In addition, the Designated Federal Officer is required to be in attendance for the full duration at all Board and subcommittee meetings; however, in the absence of the Designated Federal Officer, an Alternate Designated Federal Officer shall attend the entire Board or subcommittee meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Defense Health Board's membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of Defense Health Board.

All written statements shall be submitted to the Designated Federal Officer for the Defense Health Board, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Defense Health Board Designated Federal Officer can be obtained from the GSA's FACA Database—*http://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Defense Health Board. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: November 9, 2010.

Morgan F. Park,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2010–28753 Filed 11–12–10; 8:45 am]

BILLING CODE 5001–06–P

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 2010–1]

Safety Analysis Requirements for Defining Adequate Protection for the Public and the Workers

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice, recommendation.

SUMMARY: Pursuant to 42 U.S.C. 2286a(a)(5), the Defense Nuclear Facilities Safety Board has made a recommendation to the Secretary of Energy requesting an amendment to the Department of Energy's nuclear safety rule, 10 CFR part 830.

DATES: Comments, data, views, or arguments concerning the recommendation are due on or before December 15, 2010.

ADDRESSES: Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004–2001.

FOR FURTHER INFORMATION CONTACT: Brian Grosner or Andrew L. Thibadeau at the address above or telephone number (202–694–7000).

Dated: November 9, 2010.

Peter S. Winokur,

Chairman.

RECOMMENDATION 2010–1 TO THE SECRETARY OF ENERGY

Safety Analysis Requirements for Defining Adequate Protection for the Public and the Workers

Pursuant to 42 U.S.C. § 2286a(a)(5) Atomic Energy Act of 1954, As Amended

Dated: October 29, 2010

Background

The Department of Energy's (DOE) nuclear safety regulations were developed as a result of a mandate by Congress in the Price Anderson Act Amendments of 1988. These regulations now appear in Parts 820, 830, and 835 of Title 10 in the Code of Federal Regulations (CFR). In this Recommendation, the Defense Nuclear Facilities Safety Board (Board) addresses recent changes in DOE's "interpretation" of certain critical provisions of Title 10 CFR Part 830, Nuclear Safety Management (10 CFR Part 830), provisions which are intended to provide adequate protection of the public health and safety. As explained below, in the Board's view this revised interpretative posture weakens the safety structure the rule is designed to hold firmly in place.

10 CFR Part 830 imposes a requirement that a documented safety analysis, or DSA, is to be prepared for every DOE nuclear facility. This DSA, once approved by DOE, forms the regulatory basis for safety of the facility or operation. 10 CFR Part 830 does more, however: its Appendix A provides "safe harbors" for the preparation and approval of DSAs. These safe harbors are, in the main, references to detailed guidance issued by DOE. A DSA that is prepared following applicable guidance found in "safe harbors" should be found acceptable, meaning that the facility's safety systems are adequate to protect public health and safety from nuclear hazards.

One of the key safe harbor guides for the preparation of DSAs is DOE Standard 3009–94, Preparation Guide for U.S. Department of Energy Nonreactor Nuclear Facility Safety Analysis Reports.[1] First issued in July of 1994, this Standard was intended to provide guidance on meeting the requirements imposed by DOE Order 5480.23, Nuclear Safety Analysis Reports, a set of nuclear safety requirements that preceded and were supplanted by 10 CFR Part 830. The Standard stated that "Technical Standards, such as this document, support the guides by providing additional guidance into how the requirements [of Orders and Rules] should be met." As such, it did not contain any nuclear safety requirements. Five years after its initial issuance, DOE amended Standard 3009–94 by the addition of Appendix A, entitled "Evaluation Guidelines." These guidelines apply dose criteria to the results of accident calculations found in DSAs. Stated broadly, the Evaluation Guidelines mandate that safety class systems be installed if, as a result of a potential accident, the unmitigated dose consequences at the site boundary approach or exceed 25 rem Total Effective Dose Equivalent (TEDE).

When 10 CFR Part 830 was promulgated in final form in early 2001, the version of DOE Standard 3009–94 incorporated into Appendix A of the rule as a safe harbor included the Evaluation Guidelines. This combination of the rule's requirement for an approved DSA and the application of the Evaluation Guidelines of DOE Standard 3009–94 formed the basis upon which adequate protection of the public health and safety would be gauged. Whenever dose consequence calculations showed that an accident scenario would result in offsite doses approaching or exceeding 25 rem TEDE, safety class systems would have to be chosen and installed to reduce this dose to a small fraction of the Evaluation Guidelines.

Developments Since 2001

As a safe harbor for 10 CFR Part 830, the Evaluation Guidelines described in DOE Standard 3009–94 have been enforced and met for the majority of DOE's defense nuclear facilities, assuring adequate protection to the public, workers, and the environment. However, in December 2008, the National Nuclear Security Administration (NNSA) approved a DSA for the Plutonium Facility at Los Alamos National Laboratory that represented a significant departure from the accepted methodology, as discussed in the Board's Recommendation 2009–2, Los Alamos National Laboratory Plutonium

[1] When DOE issued Change Notice 2, the title of this Standard was revised to Preparation Guide for U.S. Department of Energy Nonreactor Nuclear Facility Documented Safety Analyses.

Facility Seismic Safety. The Board followed up its Recommendation with a letter to the Deputy Secretary of Energy on March 15, 2010, that sought to determine whether DOE's current interpretation of 10 CFR Part 830 and DOE Standard 3009–94 still supports the principles of providing adequate protection of the public, workers, and the environment from the hazards of operating DOE's defense nuclear facilities. The Board's letter particularly expressed concern regarding the appearance that DOE's present interpretation is that nuclear safety Evaluation Guidelines established in DOE Standard 3009–94 do not have to be met.

DOE's June 10, 2010, response to the Board's letter states that DOE's utilization and implementation of DOE Standard 3009–94 has not changed since issuance of 10 CFR Part 830. DOE's response observes that DOE Standard 3009–94 "was not written as a prescriptive item-by-item requirements document; rather it provides an overall approach and guidance for preparing a DSA." DOE's response states that the Standard describes steps that the contractor may take if the postulated accident consequences cannot be mitigated below the Evaluation Guideline. DOE's response also cites guidance for DOE approval authorities contained in DOE Standard 1104–2009, Review and Approval of Nuclear Facility Safety Basis and Safety Design Basis Documents, and notes that the Safety Basis Approval Authority may prescribe interim controls and planned improvements if the Evaluation Guideline is exceeded. DOE's response closes by stating that its managers "are expected to carefully evaluate situations that fall short of expectations and only provide their approval of documented safety analyses when they are satisfied that operations can be conducted safely…, that options to meet DOE expectations have been evaluated, and that adequate commitments to achieve an appropriate safety posture in a timely manner have been made."

The lack of definitive statements in DOE's June 10, 2010, response illustrates the difficulties inherent in applying a guidance document as a safe harbor for implementing the requirements of a regulation. Furthermore, NNSA's approval of the DSA for the Los Alamos National Laboratory's Plutonium Facility in December 2008 demonstrates that, despite DOE's stated expectations, it is not always true that DOE's managers will ensure safety by imposing conditions of approval that address inadequacies in the safety basis. This is illustrated to a lesser extent at the other NNSA facilities—described in follow-up correspondence NNSA issued to the Board on June 30, 2010—which have not implemented controls or compensatory measures sufficient to reduce accident consequences below the Evaluation Guideline. DOE Standard 1104–2009 serves as a source of guidance for DOE Safety Basis Approval Authorities, but it, too, is a guidance document, unequivocally stating, "This Standard does not add any new requirements for DOE or its contractors."

DOE's standards-based regulatory system needs a clear and unambiguous set of nuclear safety requirements to ensure that adequate protection of the public, workers, and the environment is provided. Further, it is imperative that DOE provide clear direction to its Safety Basis Approval Authorities to ensure that, if nuclear safety requirements cannot be met prior to approval of a DSA, DOE imposes clear conditions of approval for compensatory measures for the short term and facility modifications for the longer term to achieve the required safety posture. This acceptance of risk and commitment to future upgrades must be approved at a level of authority within DOE that is high enough to control both the resources needed to accomplish the upgrades as well as the programmatic decision-making involved in determining that the risk of continuing operations is offset by sufficiently compelling programmatic needs.

Item 4 of the Recommendation below deserves a further word of explanation. The Board does not recommend lightly a change to DOE's nuclear safety regulations. But as explained above, DOE has chosen over the past several years to drift away from the principles that underlay the rule as originally intended. The Board has chosen to recommend a rule change because this action would tend, in the long run, to prevent future shifts in DOE safety policy that would once again have to be challenged and argued against. For these reasons, the Board recommends that the nuclear safety rule, 10 CFR Part 830, be amended as stated below.

Recommendation

Therefore, the Board recommends that DOE:

1. Immediately affirm the previously understood requirement that unmitigated, bounding-type accident scenarios will be used at DOE's defense nuclear facilities to estimate dose consequences at the site boundary, and that a sufficient combination of structures, systems, or components must be designated safety class to prevent exposures at the site boundary from approaching or exceeding 25 rem TEDE.

2. For those defense nuclear facilities that have not implemented compensatory measures sufficient to reduce exposures at the site boundary below 25 rem TEDE, direct the responsible program secretarial officer to develop a plan to meet this requirement within a reasonable timeframe.

3. Revise DOE Standard 3009–94 to identify clearly and unambiguously the requirements that must be met to demonstrate that an adequate level of protection for the public and workers is provided through a DSA. This should be accomplished, at a minimum, by:

a. Clearly defining methodologies and providing acceptability criteria for controls, parameters, processes, analytical tools, and other data that should be used in preparation of a DSA.

b. Delineating the criteria to be met for identification and analyses of an adequate set of Design Basis Accidents (for new facilities), or Evaluation Basis Accidents (for existing facilities).

c. Providing criteria that must be met by the safety-class structures, systems, and components to (i) mitigate the consequences to a fraction of the Evaluation Guideline, or (ii) prevent the events by demonstrating an acceptable reliability for the preventive features.

d. Establishing a process and path forward to meeting (a) through (c) above through compensatory measures and planned improvements if the DSA cannot demonstrate compliance.

4. Amend 10 CFR Part 830 by incorporating the revised version of DOE Standard 3009–94 into the text as a requirement, instead of as a safe harbor cited in Table 2.

5. Formally establish the minimum criteria and requirements that govern federal approval of a DSA, by revision to DOE Standard 1104–2009 and other appropriate documents. The criteria and requirements should include:

a. The authorities that can be delegated, the required training and qualification of the approval authority, and the boundaries and limitations of the approval authority's responsibilities,

b. Actions to be taken if conditions are beyond the specified boundaries and limitations of the approval authority,

c. The organization or the individual who can approve a DSA that is beyond the delegated approval authority's boundaries and limitations,

d. The regulatory process that must be followed if condition are beyond the specified boundaries and limitations of the approval authority, and any compensatory actions to be taken, and

e. The criteria the approval authority must use to quantify the acceptance of risk for continued operations when offsite dose consequences have not been reduced to a small fraction of the Evaluation Guideline.

6. Formally designate the responsible organization and identify the processes for performing oversight to ensure that the responsibilities identified in Item 5 above are fully implemented.

Peter S. Winokur,

Chairman.

[FR Doc. 2010–28683 Filed 11–12–10; 8:45 am]

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DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability for the Draft Programmatic Environmental Assessment for the Development and Operation of Small-Scale Wind Energy Projects at United States Marine Corps Facilities Throughout the United States

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to Section (102)(2)(c) of the National Environmental Policy Act of 1969 (NEPA) (42 United States Code 4321), as implemented by the Council on Environmental Quality regulations for implementing the procedural provisions of NEPA (40 Code of Federal