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August 10, 2009

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Mr. Michael T. Lesar
Chief, Rulemaking and Directives Branch
Office of Administration
U.S. Nuclear Regulatory Commission
MS TWB-05-B01
Washington, DC 20555-0001

Subject: Notice of Availability of Draft Interim Staff Guidance Document for Fuel Cycle Facilities
(Draft ISG-11, Rev 0)

Project Code: 689

Dear Mr. Lesar:

On behalf of the fuel cycle industry, the Nuclear Energy Institute¹ submits the following comments for the staff's consideration in finalizing the subject document to provide guidance on 10 CFR Part 70, Appendix A, "Reportable Safety Events." As stated in the Draft Interim Staff Guidance (ISG), industry previously raised concerns regarding interpretation of the current Appendix A requirements which were promulgated in 2000 and has submitted a white paper that identified inconsistencies in reporting requirements, areas needing clarification, and other implementation matters. We appreciate the U.S. Nuclear Regulatory Commission's (NRC) effort to develop the Draft ISG and believe that many of industry's concerns have been addressed with a few exceptions.

We offer the following general comment, and the enclosed specific comments and edits, for your consideration as you finalize the guidance document. We trust that you will find the industry comments useful and consistent with those provided previously. Generally, industry does not agree with the NRC's current interpretation of when event "discovery" occurs. Specifically, industry recognizes and appreciates the need for timely reporting of events to the NRC in accordance with Part 70, Appendix A requirements. However, as we have previously stated, industry considers

¹ NEI is the organization responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, nuclear material licensees, and other organizations and individuals involved in the nuclear energy industry.

Mr. Michael T. Lesar

August 10, 2009

Page 2

"discovery" to have occurred after the initial event has been observed, appropriate internal notifications made, and a licensee determination made that the event meets the applicable reporting requirements. We recognize that for many events and most conditions, the time of "discovery" begins when a cognizant individual such as a manager, supervisor or the safety function has been notified. However, for some less obvious conditions (e.g., poor uranium powder, potential process line crack), a thorough investigation and evaluation is necessary which may lead to the discovery of a potentially reportable event. Also, the licensee's evaluation should proceed on a time scale commensurate with the safety significance of the issue to ensure that both the licensee and the NRC receive a complete and accurate report of the event or condition. Therefore, industry believes that the time of "discovery" will vary because it is event driven and should not be considered to have occurred in each case at the time that the actual event occurred or condition is initially observed.

Thank you for the opportunity to comment on the Draft ISG, and we look forward to reviewing the final guidance. Any questions or comments on this matter should be directed to me or Janet Schlueter (jrs@nei.org; 202-739-8098).

Sincerely,



Felix M. Killar, Jr.

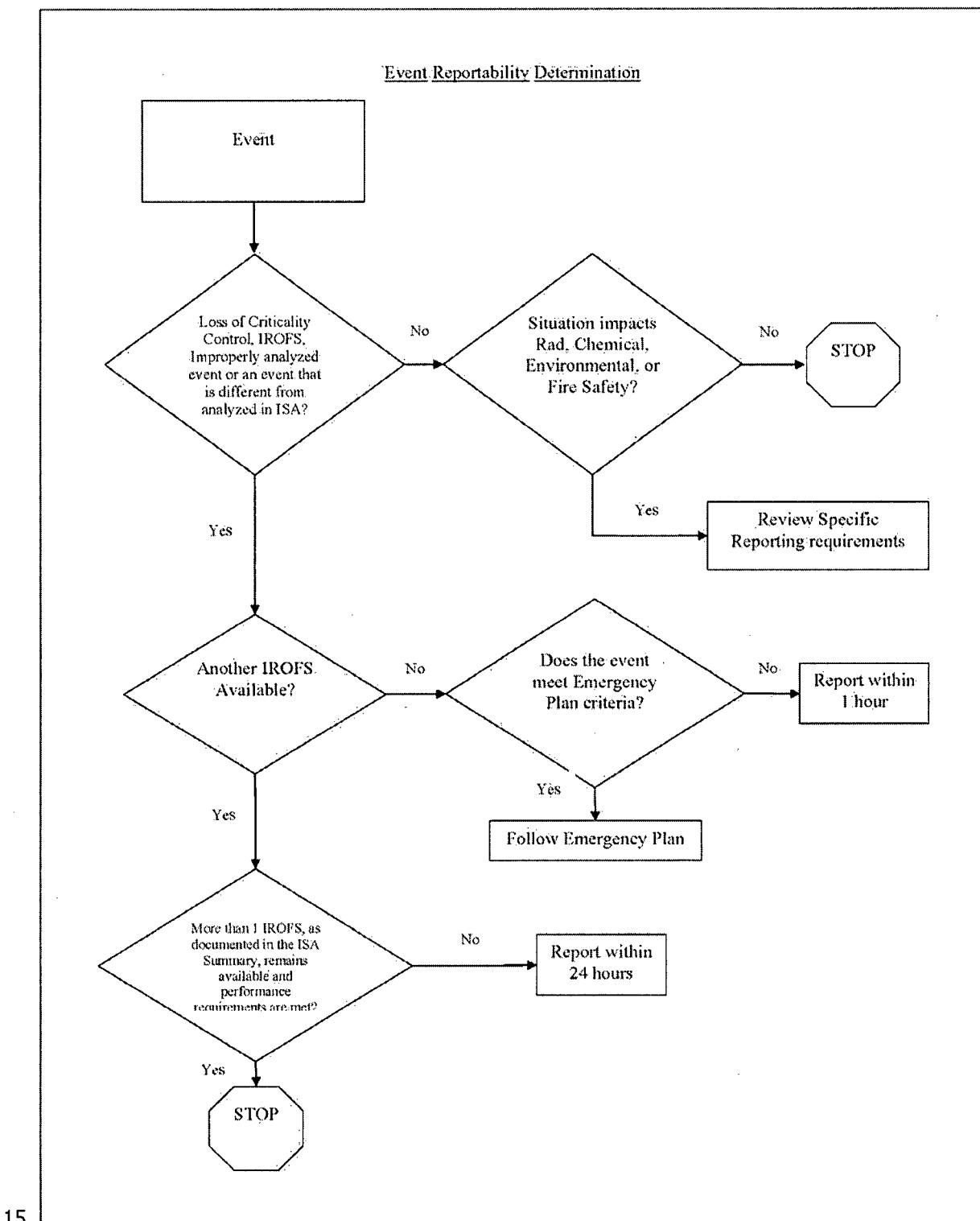
Enclosure

c: Ms. Tamara Powell, NMSS/FCSS

**Specific Comments on Draft ISG-11, Rev 0 on Part 70,
Appendix A "Reportable Safety Events"**

1. **Page 1, fifth paragraph,** -- The fourth sentence which begins "However, if a licensee cannot determine ..." should be deleted. The discussion of discovery on page 2 clarifies the difference between the discovery and determination process, and provides adequate guidance on the need to move quickly through the process.
2. **Page 2, first paragraph, second sentence** -- The fourth sentence which begins "However, the determination cannot ..." should be deleted. The discussion of discovery on page 2 clarifies the difference between the discovery and determination process, and provides adequate guidance on the need to move quickly through the process.
3. **Page 2, second paragraph** – In the sentence which begins "The time of discovery..." industry recommends that the following be inserted at the beginning of the sentence, "For many events and most conditions. "
4. **Table 1, second column, third box** – Industry recommends that the time of discovery be modified to be "The time of discovery is when the operator informs his/her supervisor that he/she may have been exposed." Most licensees do not consider operators to be individuals cognizant of the reporting requirements, but all do require prompt notification of the supervisor when abnormal conditions occur.
5. **Page 3 sentence** – Just prior to the words, "Inadequate ISA", industry recommends that this sentence be removed. IROFS may have failed or become degraded without meeting the reporting requirement (e.g., when additional IROFS are available to meet the performance requirements).
6. **Page 4, second sentence** – After "External Events", industry recommends that the word, "Any" be changed to "A".
7. **Page 4, last sentence** – In the paragraph following "External Events", industry recommends that this sentence be removed as it appears to be misplaced. Additionally, if the condition is a threat to the facility, then the emergency plan would be implemented causing a notification to be made if the condition warrants an alert status.
8. **Page 5** – The sentence that begins "Examples of events generating..." should be modified slightly to read as follows: "Examples of events that are likely to be reportable to the NRC because they may result in a licensee-issued news release include:" This wording does not imply a criterion for licensees to issue a press release.
9. **Page 6, first paragraph** -- The sentence that begins "However if a release receives media attention..." should be deleted. It does not seem to be applicable to fuel cycle facilities and appears relevant only to power reactors. Part 70 licensees issue semi-annual reports on effluent releases. These routine releases are of low safety significance and a simple media inquiry about such a report should not result in a required report to the NRC.

10. **Section entitled, "Recommendation"** – This paragraph does not appear relevant to this ISG which is focused on 10 CFR Part 70, Appendix A event reporting requirements and not guidance documents such as NUREGs.
11. **Attachment B, second column, second box** – The industry recommends that the text "improperly analyzed in the ISA" be changed to "was not bounded by the previous reverse flow sequence and, as a result, it was determined to be improperly analyzed in the ISA." This revised language recognizes the allowance of bounding sequences in ISAs.
12. **Attachment C** – Industry suggests that this flow chart be replaced with the version attached to these comments, which was an industry working group product, since it is more applicable to fuel cycle facilities than the version in the current attachment C.
13. **Page 10, second bullet, second sentence under "Routine Agency Notification"** – Industry recommends replacing this sentence with the following: "The spill has minor environmental impact and was cleaned up by removing the gravel and dirt." This clarification is suggested to emphasize the minor impact of the spill rather than the volume of spilled oil.
14. **Glossary** – Industry recommends that the definition of "Degraded IROFS" be changed to read: "An IROFS that is in a state of reduced capability or reliability and is potentially unable to perform the required safety function." A definition change is needed to be consistent with the use of the term in item 3 on page 3 and elsewhere in Appendix A.



15.

Figure 1