

DRAFT PROBLEM STATEMENT – 10 CFR 70.72

Submitted by NEI in August 2013

**Subject: NRC Regulatory Guide 3.74 on demonstrating compliance with the 10CFR 70.72
Facility Change Process and documentation requirements****Background:**

Since 2000, the fuel cycle facilities licensed by the U.S. Nuclear Regulatory Commission (NRC) pursuant to Part 70 have been in full compliance with the requirements in section 70.72, as demonstrated by numerous NRC inspections. Licensees implemented programs consistent with 10 CFR 70.72, relevant guidance in NUREG-1520 and Regulatory Guide (RG) 3.74 issued in 2011. These programs are routinely inspected by the NRC. This year, the NRC identified two non-cited Severity Level IV violations with enforcement discretion at a Part 70 fuel facility, and one Unresolved Item each at two other Part 70 fuel facilities relative to 70.72 documentation requirements. As a result of these recent inspection findings, it is clear that there is not a common interpretation by the NRC and industry of the RG 3.74 guidance on section 70.72.

Action Needed:

Due to the large number of 70.72 determinations made by fuel facilities in any given year (e.g., thousands), industry considers this issue to be of utmost import from a regulatory compliance matter in the absence of any safety issue being identified to date by the NRC or industry. Therefore, the industry believes that the following five issues need to be further clarified in RG 3.74:

- 1. The definition of “Types of Accident Sequences” as used in 10 CFR 70.72**
- 2. What constitutes a “new process” in accordance with 10 CFR 70.72**
- 3. What constitutes “prior experience with a control or control system” in accordance with 10 CFR 70.72**
- 4. Whether process controls can be designated as IROFS or whether an IROFS can be given a new application without prior approval by the NRC within the licensee’s configuration control program**
- 5. What constitutes “adequate documentation of a 70.72 review.”**

Finally, by NEI letter dated July 29, 2013 to the NRC, the industry proposed to submit this Draft Problem Statement to the NRC for discussion and mutual agreement, followed by industry-generated proposed modifications to RG 3.74 for public discussion with the NRC later this year and eventual NRC endorsement and industry use.