

APPENDIX F: ISSUE CLOSURE FORM

Title: Reporting of “Unplanned” Contamination Event

I. Problem Statement

(Provide a summary of the problem statement drawn from the Regulatory Evaluation Summary and the Issue Resolution Project Plan. This section is provided for completeness to ensure the issue is understood.)

As stated by the Nuclear Energy Institute (NEI) in its Regulatory Evaluation Summary (RES), dated July 27, 2015 (Agencywide Documents Access and Management System [ADAMS] Accession Number ML15217A487):

Industry is seeking clarification on the definition of “unplanned” under 10 CFR 40.60(b)(1) and 70.50(b)(1). Releases of radioactive material in specifically designed radiological or contamination controlled areas should not necessitate 24 hour reporting as these areas are “planned” to contain and control contamination. Recent NRC staff interpretation has differed from this long time understanding. Reporting is an unnecessary burden with no benefit to the safety of the worker, public, or environment.

II. Closure Statement

(For rejected issues, summarize the reason(s) for issue rejection and forward to the identifying organization. For resolved issues, summarize the resolution and any action items required by the U.S. Nuclear Regulatory Commission [NRC] and/or industry to be tracked in order to bring final resolution to the issue. List any remaining tracking items and the responsible party in Section V and VI below.)

Consistent with the NEI 14-14 protocol, this issue is being dispositioned via an alternate course of action due to the different positions presented by the U.S. Nuclear Regulatory Commission (NRC) staff and industry. As discussed during the public meetings on this topic, the industry position on reporting of unplanned contamination events is different than the NRC staff position.

Industry Position

The industry position, as articulated in NEI’s 2015 RES, is that Title 10 of the *Code of Federal Regulations (10 CFR)* Paragraphs 40.60(b)(1) and 70.50(b)(1) requirements to provide 24-hour notification to the NRC of unplanned contamination events are an unnecessary burden with no benefit to the health and safety of the workers, public and environment. In the industry’s view, these reporting requirements should be construed as excluding all contamination events in radiologically controlled areas, as such areas are planned (i.e., designed) to contain and control contamination. Therefore, the reporting of contamination events that occur in these areas should not be required.

On October 27, 2016, NEI, as a follow-up to its 2015 RES, submitted a letter (ADAMS Accession Number ML16330A146) which proposed a minimum set of acceptance criteria that could be used for the NRC staff’s evaluation of exemption requests from the reporting requirements in 10 CFR 40.60(b)(1) and 70.50(b)(1). NEI’s proposed acceptance criteria stated:

Enclosure

1. The contaminated area requiring additional controls resides within a Radiological Controlled Area (RCA), is in a restricted area, and not accessible to unescorted members of the public;
2. The licensee imposes controls as necessary to keep exposures and releases as low as reasonably achievable until the area no longer requires additional controls;
3. Radiation safety personnel, who have been trained and qualified in contamination control, are readily available;
4. Equipment and facilities that may be needed for contamination control are readily available;
5. The licensee commits to document surveys of these areas and provide this information for NRC inspection upon request; and
6. Workers with unescorted access to the RCA are trained on methods to reduce radiation exposures including contamination controls and response actions for abnormal or upset conditions.

NRC Staff Position

While an RCA may be designed to contain and control contamination, the NRC staff position is that notification of unplanned contamination events, regardless of where they occur, is necessary to ensure that the contaminated areas are being decontaminated in a safe and timely manner.

Although NEI's proposed acceptance criteria describe the controls in place to minimize contamination and keep exposures at as-low-as-reasonably-achievable (ALARA) levels, they do not: (1) address the purpose of the 10 CFR 40.60(b)(1) and 70.50(b)(1) requirements (i.e., timely notification to the NRC of unplanned contamination events); or (2) propose an alternative method of compliance. As stated in the statements of consideration (SOC) for the 1991 rulemaking establishing the 10 CFR 40.60(b)(1) and 70.50(b)(1) provisions (56 *Federal Register* 40757 *et seq.* (August 16, 1991)), the NRC must be kept aware of such events "to ensure that appropriate and timely actions are taken," which could include notifying other licensees if the event is found to have "generic safety implications not previously recognized" (56 Fed. Reg. 40757, at 40760). Further, the NRC staff maintains that excluding from the reporting requirements all contamination events that occur in an RCA, as proposed by industry, would not be consistent with current radiation safety programs. These programs are based on the ALARA principle and accepted health physics practices. As stated in the 1991 SOC, the reporting requirements "do not relieve licensees from their responsibility to maintain radiation exposures" at ALARA levels (56 Fed. Reg. 40757 at 40761).

Alternative Path for Resolution

Although the NRC staff does not agree with the industry position on the reporting of unplanned contamination events, the staff plans to develop a Regulatory Issue Summary (RIS); to clarify the staff position on reporting of unplanned contamination events pursuant to 10 CFR Sections 40.60(b)(1) and 70.50(b)(1). During the development of the RIS the NRC staff will continue to

engage NEI, industry, and members of the public through a public comment period and as necessary, additional public meetings.

III. Summary of Teams' Actions

(Provide a brief chronology of actions taken to bring the issue to resolution.)

Consistent with the NEI 14-14 protocol and to ensure that all parties had an opportunity to present their positions, multiple public meetings were held among the NRC, NEI and fuel cycle industry representatives to gain insights on this issue. These meetings were held on October 15, 2015 (ADAMS Accession Number ML15296A421), December 1, 2015 (ADAMS Accession Number ML15351A339), March 23, 2016 (ADAMS Accession Number ML16112A146), May 25, 2016 (ADAMS Accession Number ML16158A330), August 30, 2016 (ADAMS Accession Number ML16260A351), and October 12, 2016 (ADAMS Accession Number ML16306A050). On October 27, 2016, NEI submitted a letter as a follow-up to the October 12th public meeting. The NRC staff reviewed the letter and communicated its position at a public meeting held on January 12, 2017 (ADAMS Accession Number ML17013A224).

IV. Satisfaction of Success Criteria

(Discuss how the success criteria were satisfied.)

N/A

V. Tracking of Durable Guidance

(Identify the specific documents that were created, revised or endorsed.)

N/A

VI. Responsibility

(Each organization is responsible for maintaining records of issues addressed under this protocol including durable guidance.)

N/A

Date: March 2017