

**ADMINISTRATIVE PROCEDURE FOR LOW-LEVEL WASTE MANAGEMENT
PARTICIPATION IN AGREEMENT STATE REVIEWS AND VISITS**

A. Purpose:

This procedure establishes internal guidelines for staff preparation and activities for assistance in Agreement State reviews and visits, as requested by State Programs. This procedure supplements the August 7, 1990, memorandum (Attachment 1) indicating Low-Level Waste Management (LLWM) and State Programs (SP) responsibilities during such reviews or visits.

B. Background:

Section 274 of the Atomic Energy Act of 1954 as amended, spells out a State role and provides a statutory basis under which the Nuclear Regulatory Commission (NRC) can relinquish to the States portions of its regulatory program. The NRC, by statute before relinquishing this authority, must determine that a State's radiation control program is compatible with the NRC's, meets the applicable parts of Section 274, and is adequate to protect the public health and safety. As mandated by the Atomic Energy Act, NRC conducts onsite, in-depth program reviews periodically of each Agreement State to ensure that the State is still conducting a compatible and adequate radiation control program. This authority also covers low-level waste disposal. To make determinations of such adequacy and compatibility, the NRC conducts reviews and visits with the Agreement States and reviews the subject programs against a set of indicators and guidelines (Attachment 2). This review is conducted primarily by the Office of State Programs and their regional representative, the Regional Agreement State Officer (RSAO). A review is conducted biannually by SP for each Agreement State program. A biennial visit is conducted in the alternating year and is a less formal activity covering a subset of issues as identified by the review team.

Enclosure

Due to the wide variety of technical expertise required to review a low-level radioactive waste (LLW) disposal facility regulatory program, State Programs may request technical assistance in the review of the Agreement State programs that are involved in the licensing and inspection of LLW facilities. States that have assumed authority to license such disposal facilities are required to adopt regulations consistent with Part 61. This ensures that the technical requirements and performance objectives are essentially consistent from State to State. Some States have additional technical and administrative requirements, however, in some cases, due to program limits, the only guidance available to their licensees and applicants, is Federal guidance. Thus, LLW disposal facility licensing by an Agreement State is being conducted in a fashion similar to, yet not necessarily exactly the same as, that conducted by the NRC staff.

C. Responsibilities

1. Office of State Programs:

- a. Has the responsibility to publish the yearly schedule of Agreement State reviews and request interested offices for input.
- b. Has responsibility for requesting LLWM assistance in reviews or visits. The SP staff responsible for scheduling and coordinating reviews and visits should inform LLWM of schedules as soon as they are available. The SP/LLWM interface meeting provides an opportunity to discuss such schedules.
- c. Has responsibility for coordinating response to the State containing LLWM comments as discussed in the August 7, 1990, memorandum.

2. The Regional Agreement State Officer (RSAO):

- a. Has responsibility for contacting LLWM prior to the review or visits and identifying team needs relative to the State's LLW program. The RSAO should be aware of the stage and the needs, of the State, in the licensing process. Suggestions may be made to LLWM management requesting specific technical expertise during the review.
- b. Has responsibility for providing materials, relative to State regulatory activities, as requested by LLWM team members.
- c. Has responsibility for coordinating activities performed by the LLWM team while conducting the review. This includes assisting LLWM staff in obtaining files and documentation and interviews with State officials. Also, the RSAO is responsible for arranging entrance and exit interviews with State officials as necessary for LLW staff, if independent of the RSAO's entrance and exit interviews. The RSAO will coordinate initially with the Section Leader, Licensing and Coordination Section, Low-Level Waste Management Branch.
- d. Has responsibility for including LLWM comments in the package reporting on the review or visit. This may include: responses to specific indicators, with comments or recommendations; separate discussion of specific licensing activities, with comment or recommendations; and/or general comments or observations. Incorporating comments, in reports or letters, will be determined on a case-by-case basis dependent upon the nature of the comments and/or other significant considerations. (e.g.: review or visit, relevance of comments, etc.).
- e. Has the responsibility for communicating, to the LLWM team members, any changes instituted by the RSAO in the comments generated by the LLWM team.

3. The Division of Low-Level Waste Management

- a. Division and Branch Management will be responsible for selection of LLWM team members to be involved in the review. Selection will be based on specific technical and regulatory expertise, as requested above, or as determined appropriate by management. Team members will normally be notified of their involvement in a review 4 weeks in advance of the review dates. This early notification will allow team members the opportunity to review State documents related to LLW disposal facility licensing (see below), develop a review strategy, and generate an initial list of questions/issues to discuss with the State regulatory agency staff.
- b. LLWM staff team members are responsible for conducting a technical review of the Agreement State regulatory program as requested by SP. This includes reviewing State licensing, prelicensing, contracting, inspection, enforcement, and other activities as appropriate. The detailed procedure below applies to the staff preparation and review.
- c. Is responsible for the transmittal of the LLWM staff comments to SP as detailed in the August 7, 1990, memorandum. This item is particularly important when comments or issues are raised after the review team has exited with the State. For example, if the Agreement State LLW program appears to be sufficiently staffed, and no comment is made during the LLW review, but upon return additional information indicates that the States LLW staff has additional responsibilities (not expressed during the review), a comment may be generated independently. This comment should be clearly and quickly transmitted as detailed in the procedure below.

4. The Agreement State

- a. Is responsible for responding quickly and accurately to NRC questions and requests for information.
- b. Is responsible for being available, prior and during the review, to NRC staff to respond to questions and requests for interviews with State staff and officials.
- c. Is responsible for providing all documentation, as requested, relative to the regulatory review of a low-level waste disposal facility, including pre-licensing, licensing, enforcement, and other documentation.

D. Procedure

This procedure applies to the Low-Level Waste Management staff responsibilities described in 3.a., b. and c. above.

1. Preparation:

Staff will develop a scope for the review to be performed; the scope should encompass as much activity, by the State since the previous review, as is feasible including but not limited to the items listed below.

- a. LLWM team members will obtain copies of the report detailing the previous review or visit performed by SP.
 - i.) If the previous review or visit has highlighted potential problem areas these areas should be revisited as issues or included in the scope of the current review.

- b. LLWM team members will contact the RSAO and request copies of NRC State program review questionnaires and the States responses to those questions. LLWM team members will review these questions and responses and begin to develop specific questions for State representatives, as appropriate.
 - i.) The State's response should include a description of the State regulatory organization and personnel, including details of those dedicated to LLW activities.
 - ii.) Discussions with RSAO and LLWM staff familiar with the State program may provide additional insight into the States LLW program.
- c. The review team should identify, and coordinate with the RSAO, specific indicators to be addressed by the LLWM team during the review. This may include a subjective determination of which guidelines the review covers. (If no guidelines are identified, the LLWM staff and RSAO should consider alternatives, such as appendices to the final report.)
- d. LLWM team members may need to contact State officials or staff to request specific information or details. If this is the case, the contact should be made as early as possible ensuring that the RSAO is aware that the request is being made.
 - i.) This information may include Site Characterization Plans, Safety Evaluation Reports, License Application materials, Notices of Violations, or other related documents.
 - ii.) LLWM staff should contact the RSAO and/or SP to determine if they have the requested documents. If the RSAO has the pertinent information then the LLWM staff should request the information from him/her.

- e. Review of State-provided regulatory materials should begin at least one week prior to the review date.
- f. Significant questions or concerns that surface should be brought to management attention prior to the review commencing. The LLWM team will brief the LLWM Division Director and LLWB Branch Chief prior to the review to facilitate this communication.
- g. The LLWM review team is responsible for travel arrangements for the review period. This too should be coordinated with the RSAO, to facilitate interaction during the review.

2. Review Procedures:

a. Documentation - Prior to the Review:

i.) Documentation, such as that described in 1.e. above, should be examined to determine technical quality of the State's review in accordance with the guidelines and review criteria (Attachment 2). Formal procedures and review criteria used should be available, and supported, if different from NRC guidance. Comments generated by the State should be clearly communicated to the developing agency/contractor and/or applicant. Responses to comments from the applicant should be subject to similar review criteria. The State's Q/A should be evident.

b. Documentation - During the Review:

i.) Any documents not available prior to the review should be requested during the review and examined. Additional documentation requested, to address specific concerns raised during the preparation and review period, should also be examined.

c. Interviews - Prior to the Review:

i.) LLWM team members should identify key personnel involved in the LLW project. Staff should request that these people at a minimum are available during the review.

ii.) If contractors are involved or if key State staff are not available, staff should request that they be available to teleconference, if necessary, during or prior to the review period.

iii.) Issues to be discussed/resolved should be organized according to importance.

d. Interviews - During the Review:

i.) An Entrance Interview should be organized by the RSAO. The NRC staff should request that the State provide a chronology of activities since the previous review.

ii.) Issues raised during the preparation phase should be addressed during staff interviews - resolution of issues should be the primary focus of these interviews. The State should be made aware of any concerns during the review so that they may respond to them.

iii.) Exit Interview - comments and recommendations should be provided to the State staff.

e. Comments - Prior to the Review:

i.) A list of documents reviewed or to be reviewed should be generated. This list should indicate which documents have been reviewed and which are still to be reviewed.

ii.) A list of comments or issues generated from the preparatory review should be generated. This list should serve as the basis for the report to be provided to the RSAO upon exit.

f. Comments - During the Review:

i.) Items should be freely added or removed from the lists, prepared prior to the review, as comments appear or are adequately addressed. During the review the list of comments or issues should be discussed with team members and the RSAO. If necessary, a teleconference with LLWM management will be held with the LLWM team and the RSAO. Recommendations should be provided, if appropriate, for unresolved and outstanding issues. These comments should be informally provided, in writing, to the RSAO for inclusion in the report being generated by the RSAO.

ii.) The report should indicate the scope and content of the review to allow subsequent reviewers to pick up where the current review ends.

g. Comments - After the Review:

i.) The report, informally provided to the RSAO, should be provided to LLWM management for review and transmitted under signature of the LLWM Division Director to the Director of the Office of State Programs, as outlined in the August 7, 1990, memorandum.

ii.) Any new comments, other than those informally transmitted to the RSAO and those discussed in the LLWM exit interview, should be coordinated with the RSAO immediately and highlighted in the formal transmittal to the Office of State Programs.

E. Document Concurrence:

The formal documentation of this activity consists of:

1. A letter to the Secretary of the Department in which the State regulatory program resides. The comments prepared by the RSAO will be an enclosure to this letter; concurrence for this letter will include Director of the Office of Nuclear Material Safety and Safeguards.
2. A memorandum transmitting the comments from LLWM to SP will require concurrence by:
 - i.) LLWM team members.
 - ii.) Section leaders of team members
 - iii.) Branch chiefs of team members
 - iv.) Deputy Division Director
 - v.) Division Director (signature)

F. Fees:

No fees are assessed to the Agreement States program for LLWM staff time committed during the review of an Agreement State program. A system to account for staff review time and technical assistance services has been initiated. For the Agreement State program reviews time should be tracked using the correct PPSAS numbers.