

October 20, 2004

SUMMARY OF COMMENTS ON SA-104, "Reviewing the Common Performance Indicator, Technical Quality of Licensing Actions"

I. Sent to the Agreement States for Comment: May 7, 2004 (STP-04-034)

Comments Dated: Iowa - 5/18/04 (mark-up)
Washington - 5/24/04 (e-mail - no comments)

Iowa

Comment 1:

In Section V.A.3, NRC Headquarters personnel are excluded from the scope of the review. Why? NRC Headquarters personnel do everything correct all the time?

Response: NRC Headquarters personnel are outside the scope of the materials licensing program reviews, because the majority of NRC's materials licensing actions are completed in the Regional Offices. Therefore, Management Directive (MD) 5.6 does not include reviews of NRC Headquarters functions. However, since a number of sealed source and device (SS&D) reviews are conducted at Headquarters, an IMPEP-type review of NRC's SS&D program has been piloted using guidance and procedures developed for the Agreement State and NRC Regional Office reviews. There will be no change to the procedure based on this comment.

Comment 2:

Several comments were made regarding grammar and spelling. Most of the comments were accepted.

II. Sent to the NRC Offices for Comment: May 7, 2004

Comments Dated: NMSS - 5/18/04 (e-mail - no comments)
OGC - 5/27/04 (mark-up - no comments)
Region I - 6/2/04 (e-mail)
Region IV - 6/3/04 (email)
Region III - 6/7/04 (email)

Region I

Comment 1:

Section V.B.3.: The procedure indicates a minimum specific number of licensing action types to be reviewed. While its certainly important to review a cross section of different types of licensing actions, the actually number should be left to the principal reviewer and the team leader based on the program under review. For example, the review of a significant amendment to a license usually provides more insight to a program's performance than a

simple renewal. Please revise this section of the procedure to allow the reviewer flexibility in the selection of licensing actions.

Response: We appreciate the comment; however, experience has demonstrated that a minimum number of files to be reviewed should be specified. It would be difficult to obtain a representative cross section of license types, to look at actions by each license reviewer, and to evaluate all the different types of licensing actions by looking at less than ten files. The intent of reviewing a cross section of license types is to ensure that health and safety issues are addressed adequately for all or most license types in the Agreement State's or Region's workload. No change to the procedure will be made based on this comment.

Comment 2:

Section V.B.3.: Add the review of emergency preparedness plans to the list of complex licensing actions.

Response: We agree with this comment and Section V.B.3. will be revised to include the review of licensees with emergency plans and licensees requiring financial assurance.

Comment 3:

Section V.B.4.: Change "any" to "a sampling of". Otherwise all actions will have to be reviewed.

Response: We agree with this comment and the procedure will be revised accordingly.

Comment 4:

Section V.B.8.: Delete this section. Section V.B.3. already requires the reviewer to look at a cross section of the Region's workload.

Response: Section V.B.3. requires the reviewer to review a cross section of the Region's workload by license type, not by State. Section V.B.8. clarifies that the reviewer should not look at a cross section of license types of the Region's workload on a State-by-State basis or attempt to evaluate the Region's performance on a State-by-State basis. To clarify this point, this statement will be moved to Section V.B.3.

Comment 5:

Section V.D.: Add a section that would have the reviewer verify the use of legally binding requirements (license conditions) that the State may use instead of regulations.

Response: We agree with this comment and the procedure will be revised accordingly.

Comment 6:

Section V.D.4.: Delete the word "issues"

Response: We agree with this comment and the procedure will be revised accordingly.

Comment 7:

Add an appendix for frequently asked questions. This would be an appropriate place to discuss issues such as the minimum number of licensing actions or the level of effort needed to review items identified in Section V.D.11.

Response: We agree with this comment; however, staff believes it is appropriate to issue this revision to the procedure at this time without a frequently asked questions appendix. The staff plans to gather additional information and experience with this procedure to develop the frequently asked questions appendix for the next revision and will include the two issues identified by this comment.

Region IV

Comment:

Region IV has one comment about Item 4 of the Evaluation Procedures. Specifically, the item directs the team member to review licensing actions including any Agreement State activities implemented through the Grant Program. I don't understand why this is part of the licensing indicator. It appears that the Agreement State activities would be inspection activities and should be included in the review of the Technical Quality of the Inspection Program.

Response: The original wording of Section V.4. was unclear. The text will be revised to clarify that only licensing actions implemented through the Grant Program should be reviewed using guidance in this procedure. The text will be revised as follows:

In accordance with STP Procedure SA-1000, Implementation of the Grants Program for Funding Assistance for Formerly Licensed Sites in Agreement States, the reviewer should include a sampling of Agreement State licensing actions implemented through the Grant Program, if applicable.

Region III

Comment 1:

Sections II(I) and V(B)(3) reference the Site Decommissioning Management Plan (SDMP). These sites are now called "complex sites" as described in SECY-04-0024, "Recommended Changes to the Nuclear Regulatory Commission's Decommissioning Program and Annual Decommissioning Program Report." The Commission's May 12, 2004 SRM on the subject approved the change.

Response: We are aware of the recent elimination of the SDMP designation. This change in the program occurred during the comment period. We appreciate the comment and will be revising the procedure as follows:

Revised Section II.I.

To determine the status of **complex decommissioning sites formerly managed by the NRC under the Site Decommissioning Management Plan (SDMP) sites** and transferred to States whose Agreements became effective after August 26, 1999.

Revised language in Section V.B.3.

Termination of complex decommissioning sites formerly managed by the NRC under SDMP sites for and transferred to States whose Agreements became effective after August 26, 1999 should be reviewed, if applicable.