April 14, 2004

SUMMARY OF COMMENTS ON SA-109, “Reviewing the Non-Common Performance Indicator, Low-Level Radioactive Waste Program”

I. Sent to the Agreement States for Comment: July 2, 2004 (STP-04-047)

Comments dated: Washington, August 2, 2004 (e-mail)
South Carolina, August, 3, 2004 (e-mail)

Washington

Comment 1:
In Section 3, b, (e.g., referring to Sections V.D.3.b. and Section V.B.3) Technical Quality of LLRW Inspections, the applicability of the statement "NRC and AS jurisdiction of chemical hazards at Uranium Recovery facilities is unclear.

Response:
The statement will be revised to read, “The reviewer should evaluate records for each module, or segment, of the LLRW facility inspected for completeness and follow-up actions.”

Comment 2:
In Section 3, 3,(e.g., referring to Section V.D.3.3) Technical Quality of LLRW Inspections, "downloading of waste shipments" should be "offloading of waste shipments.”

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

Comment 3:
In D.4, (e.g., referring to Section V.D.4) confirmation of the technical quality of licensing actions, would an Environmental Impact Statement (EIS) satisfy the requirement for documenting licensing actions in a safety evaluation report?

Response:
We agree with this comment and the procedure will be revised accordingly. The word “analysis” will be replaced by “statement.”

South Carolina

Comment 1:
The procedure is much more prescriptive than other IMPEP procedures and implies a more prescriptive review than a performance-based review. Examples of this are including specific format (modular) for inspection, specific training for staff, and time frames for license reviews.

Response:

This procedure may appear to be more prescriptive because it addresses all five common performance indicators for the LLRW Regulatory Program in one procedure. Whereas, the

guidance for reviewing performance indicators for a Materials Regulatory Program is addressed in five separate procedures. In addition, the Materials Regulatory Program is diversified by the various types of licenses it addresses. The LLRW Regulatory Program is more specific and focused since it is directed toward one large complex multifaceted license. With regard to the examples you provided, we are not prescribing a modular inspections; it is just one way to conduct the LLRW facility inspections. We recognize that some States may use an onsite site inspector to accomplish their inspection goals; this approach is acceptable. Identifying specific training for LLRW staff is consistent with NRC/OAS Training Working Group Recommendations for Agreement State Training Programs, dated October 1997, which identifies training requirements for materials staff. The statement "h" on timeliness of licensing actions has been removed.

Comment 2:
Section V.D.1.a (e.g., of the draft SA-109) requires Agreement State health physics staff to have training and experience comparable to that recommended in NRC Regulatory Guide 3.31, Section 2.4.1, "Radiation Safety Officer." It appears that the intended reference is Reg. Guide 8.31. Health physics staff for a low-level waste program should not need a different level of training related to radiation protection from other Agreement State staff performing license reviews or inspections at facilities handling similar forms and quantities of radioactive material, such as source manufacturing facilities or low-level waste processing facilities.

Response:
This revision(e.g., referring to the intended reference Regulatory Guide 8.31) has been made. Regulatory Guide 8.31 provides guidance for radiation protection applicable to uranium recovery programs. This guidance could also be applicable to LLW programs.

Comment 3:
Section V.D.1.d (e.g., of the draft SA-109) requires staff be trained in interviewing and other communication skills. We acknowledge that this training is a benefit, however, this is more stringent than the training requirement in SA-103 without any clear rationale.

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

Comment 4:
Section V.D.1.e (e.g., of the draft SA-109) requires mentoring of new staff and debriefing of departing staff. We feel that this is a good practice for all of the Agreement State program, but do not understand why it is included in this procedure and not in SA-103. Also, in some cases debriefing may not be possible, due to circumstances causing the staff to depart.

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

Comment 5:
Section V.D.1.h (e.g., of the draft SA-109) requires that staff be aware of OSHA and MSHA interfaces and refers to a MOU between NRC and OSHA. Does this MOU place requirements on the Agreement States to report findings to OSHA? Our state currently works with the State OSHA office on non-radiological worker safety issues. Also, it is not clear why staff in a low-

level waste program would have more of a need to be aware of OSHA and MSHA responsibilities than other staff in an Agreement State.

Response:
Reference to the MOU of NRC and OSHA has been removed. However, LLW staff would need to acquire knowledge of OSHA/MSHA requirements for several LLW activities such as dust controls for excavation of trenches and offloading of waste shipments, waste processing, and mixed waste activities.

II. Sent to the NRC Offices for Comment: July 2, 2004

Comments Dated: OGC, July 2004 (mark-up)
Region III, July 19, 2004 (e-mail)
Region IV, July 23, 2004 (e-mail)
Region I, July 29, 2004 (e-mail)

OGC

All comments were editorial in nature. The suggested changes were made.

Region III

Comment 1:
The titles of SA procedures throughout the document are incorrect and should be updated to the correct titles.

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

Comment 2:
Under this comment there are several general editorial suggestions.

Response:
We agree with all the editorial suggestions and the procedure will be revised accordingly.

Comment 3:
The SA procedures customarily include a References section and Frequently Asked Questions. These sections were omitted.

Response:
A reference section has been added. A section of Frequently Asked Questions may be added in the future after receiving feedback from users of this procedure.

Region IV

All comments were of editorial nature. The procedure will be revised accordingly based on

these suggestions.

Region I

Comment 1:
The Region sees a need for the procedures to address closed sites in greater detail for each *indicator. Within the purview of the Region I materials program, there is only one active LLRW site (Barnwell) but three closed ones (Maxey Flats, Cornell, and the State portion of West Valley). Since the State program expends minimal resource on the closed sites, it would be beneficial if the IMPEP review procedure and performance criteria in MD 5.6 address this more common circumstance. The State normally handles these closed sites as part of their routine licensing and inspection programs. Alternatively, these procedures could only be used for active sites and the closed ones be examined under the common indicators. If that approach is taken, then the procedures and MD 5.6 should be amended accordingly.*

Response:
A clarifying revision has been made to address areas to be reviewed for closed sites. Appendix A was provided as supplementary information addressing LLRW disposal sites during the closure and post-closure phases.

Comment 2:
The review details for each procedure go into a level of detail that is beyond the level of detail in the companion common indicator procedure but at the same time, they are often not specific to the UR or LLRW indicator. The procedures need to only focus on the unique aspects of UR or LLRW programs pertinent to the indicator.

Response:
The level of detail in the LLRW non-common indicator procedure is anticipated to be more than a common performance indicator procedure because it covers all the five subelements of the LLRW program. However, each subelement structure, under the SA-109 procedure, is similar to the corresponding common performance indicator procedure. Therefore, it is anticipated to have similarities in the approaches and methodologies between the common and non-common performance indicator procedures. A clarifying revision has addressed the specific areas pertinent to the LLRW program.