

January 22, 2010

SUMMARY OF COMMENTS ON SA-110, "Reviewing the Non-Common Performance Indicator, Uranium Recovery Program"

I. Sent to the Agreement States for Comment: July 23, 2009 (FSME-09-059)

Comments/Dated: Organization of Agreement States (OAS) - 09/17/09 (letter)
State of Louisiana – 08/28/09 (email)
State of Washington– 08/04/09 (letter)

Organization of Agreement States (OAS):

Comment 1:

In general, this revision is improved over the previous version, is well-written, and provides clarification in numerous areas.

Response:

No change to the procedure is necessary based on this comment.

Comment 2:

One suggestion for consideration is that there is little reference or emphasis on evaluating the scope of the environmental monitoring program at uranium recovery facilities. It is suggested that section D.1.j. also include reference to Regulatory Guide 4.14. Other RGs could be included related to ensuring that public dose is also being evaluated by the inspectors; RGs 3.52, 3.59, and 4.20 may be worthy of inclusion.

Response:

Section V.D.1.j is in reference to the information that NRC staff should be familiar with in accordance with Regulatory Guides listed in IMC 1246 for NRC uranium recovery inspectors. The authors agree that listing Regulatory Guide 4.14 in the procedure is of value because it addresses the broad issue of effluent and environmental monitoring at uranium recovery facilities and is listed in IMC 1246. Therefore, Regulatory Guide 4.14 will be added to the procedure in the appropriate sections of the procedure. However, both Regulatory Guide 3.52 and 4.20 are not listed in IMC 1246 as suggested reading for NRC uranium recovery inspectors and will not be included in this section.

However, we agree that value will be added to the procedure to include environmental programs at uranium recovery facilities in a broader context. The following new paragraph will be added to Section V. Guidance, D. Review Details, 3. Technical Quality of Uranium Recovery Inspections to address environmental programs at uranium recovery facilities:

- b. Environmental monitoring programs are inspected in accordance with written inspection procedures. Inspections of this area focus on the licensee's radiological effluent processing, control, release, and reporting of information as appropriate. Radiological effluents include both liquid and airborne effluents. In addition, releases of radioactivity to the environment and doses to members of the public are evaluated against regulatory criteria and limits, as appropriate.**

Comment 3:

Section D.3.b., c. and d. should be clarified to include partial cleanups done under the timeliness in decommissioning rule.

Response:

We appreciate the comment, however no change to the procedure is necessary based on this comment. The term used in Section V. Guidance, D. Review Details, 3. Technical Quality of Uranium Recovery Inspections is “decommissioning activities.” The term “decommissioning activities” is sufficiently broad to address various types of activities, including partial site cleanups. However, based on another comment received, language has been added to the referenced section regarding the need for timeliness in decommissioning, restoration, and reclamation, as outlined in 10 CFR 40.42. No other changes will be made to the procedure.

State of Louisiana:

No comments.

State of Washington:Comment 1:

Section 5.D.1.c. The procedure states that the program under review “include refresher training for important skills and training specific to uranium recovery including associated chemical and industrial hazards.” There has not been uranium recovery specific training offered by the NRC to Agreement States for several years. NRC should offer whatever specific uranium recovery training is offered to NRC staff to Agreement State uranium recovery staff, or not require uranium specific training of Agreement State staff. If the specific uranium recovery training is available and supported for Agreement State staff, it should be on the list of available training for Agreement States.

Response:

We appreciate the comment, however no change to the procedure is necessary based on this comment. The offering and availability of training courses by NRC is beyond the scope of this procedure. The comment states that in the absence of NRC-offered training, uranium-specific training should not be required for Agreement State staff. Even though NRC does not support a particular course, it does not mean that the particular training is therefore unnecessary or should not be required. Training can be provided internally by experienced staff, or by other Agreement States, or by outside entities as appropriate.

Comment 2:

Section 5.D.1.c. It could be made clearer that the training for associated chemical and industrial hazards is for operating uranium recovery sites and not necessary for sites that are in decommissioning status and where the mill or in-situ process facilities have been previously buried.

Response:

We appreciate the comment, however no change to the procedure is necessary based on this comment. Radiological, chemical, and industrial hazards can vary greatly for uranium recovery sites at different phases of their life cycle (pre-operational, operational, decommissioning, etc.). This procedure does not specify the exact content of refresher training. The content of refresher training for inspectors and reviewers can be developed by Agreement State and NRC programs as appropriate for the types of facilities they license and inspect.

Comment 3:

Section 5.D.3.a. The procedure states that “The risk significance of chemical and industrial hazards at a uranium recovery facility, in addition to the radiological hazards, are considered during an inspection. The inspector has access to chemical safety experts to consult with if a chemical safety issue is noticed on an inspection...” Section 5.D.3.a. is relevant for operating uranium recovery facilities, but may not be relevant to facilities that are in decommissioning status and where mill or in-situ process facilities have been previously buried. This distinction between operational facilities and facilities that are decommissioned should be clarified in the text.

Response:

We appreciate the comment, however no change to the procedure is necessary based on this comment. As the procedure notes, the reviewer should evaluate and document whether the risk significance of chemical, industrial, and radiological hazards was considered during an inspection. As noted in the previous response to Comment 2 above, the radiological, chemical, and industrial hazards can vary greatly for uranium recovery sites at different phases of their life cycle (pre-operational, operational, decommissioning, etc.). The inspector can consider the hazards for each inspection on a case by case basis and conclude, as appropriate, that certain hazards were considered to not substantially contribute to the overall risk significance.

II. Sent to the NRC Offices for Comment: July 23, 2009

Comments/Dated: DILR – 09/02/09 (email)
DWMEP – 08/25/09 (email)
OGC – 09/01/09 (email – mark-up)
Region I – 08/21/09 (email)
Region III – 09/07/09 (email)
Region IV – 08/13/09 (email), 08/17/09 (email) and 08/18/09 (email)

DILR:Comment 1:

There are two (2) pages labeled ‘Page 3.’

Response:

We agree with this comment. The procedure will be revised accordingly.

DWMEP:Comment 1:

Section V. Guidance, D. Review Details, subsection 4.e.: Change the word “Note” to “Examine.”

Response:

We agree with this comment. The procedure will be revised accordingly.

Comment 2:

Section VIII. Reference 5. NUREG Series. Add the ADAMS Accession Numbers at the end of references to NUREG-1569, NUREG-1575, Rev. 1, and NUREG-1620, Rev.1.

Response:

The References are in Section VII. Otherwise, we agree with this comment. The procedure will be revised accordingly.

Comment 3:

Section VIII. References 7 and 11. Consistent with the rest of the references, combine both RIS into one reference subsection.

Response:

The References are in Section VII. Otherwise, we agree with this comment. The procedure will be revised accordingly.

Comment 4:

Section III. Background, 2nd paragraph, 2nd sentence. Consistent with the rest of SA-110, add chemical and industrial hazards to the bases for inspection frequency.

Response:

We agree with this comment. We have revised this sentence to reflect that the inspection frequency is based on the potential radiological, chemical, and industrial hazards of the facility. Based on another comment, we have also noted that inspection frequency can be modified to account for licensee performance and inspection history.

Comment 5:

Section V. Guidance, D. Review Details, subsection 1.j. Change Rev. 0 to Rev. 1 of NUREG-1620, and revise the title of the document as appropriate.

Response:

We agree with this comment. The procedure will be revised accordingly.

Comment 6:

Section V. Guidance, D. Review Details, subsection 3.c. Add the following new sentence at the end of the subsection: "Decommissioning, restoration, and reclamation occur in a timely manner as outlined in 10 CFR 40.42."

Response:

We agree that the new sentence adds value. However, we will add the new sentence to Section V. D. subsection 3.b. The procedure will be revised accordingly.

OGC:

Comment 1:

Regarding Section III. Background, last paragraph, and Section V. Guidance, C. Review Guidelines, item 5: I'm not sure what is gained by highlighting these organizational issues in these procedures. The phrase "at this time," which is used three times, is vague. Is this intended to be a permanent or temporary state of affairs (with region IV being the only Region conducting radiation safety inspections)? Similarly, are there plans to delegate licensing authority to the regions? It may be better to delete this paragraph then update the procedures when the organizational issues are settled.

Response:

We agree that the phrase "at this time" is vague. We will change this language throughout the procedure to "as of the date of issuance of this procedure." Regarding highlighting the

differences in NRC organizations, we disagree with the comment. This discussion adds clarity and provides a much-needed background explanation as to how the NRC's Uranium Recovery program is to be reviewed during an IMPEP review. No additional changes will be made to the procedure.

Comment 2:

Change: Manual Chapter "MC" to Inspection Manual Chapter "IMC" throughout the document.

Response:

We agree with this comment. The procedure will be revised accordingly.

Comment 3:

Section V. Guidance, D. Review Details, subsection 1.j. A portion of the title of NUREG-1620 is missing.

Response:

We agree with this comment. The procedure will be revised accordingly.

Comment 4:

Section V. Guidance, D. Review Details, subsection 2.c. Delete the words "as appropriate" from the first sentence.

Response:

The words "as appropriate" were meant to convey that not every principal reviewer would find it necessary to consult with FSME regarding revised inspection performance goals or other programmatic adjustments. Although the principal reviewer assigned to review the NRC Regional program is typically an Agreement State representative, the principal reviewer could conceivably be someone from within NRC, such as a staff member from FSME. This individual might already have a familiarity with FSME's goals and current procedures, and therefore not find it necessary to consult with FSME. It was not the intent to convey that this was "optional" and understand that it could be misinterpreted that way. Therefore, the words "as appropriate" will be deleted and the procedure will be revised accordingly.

Comment 5:

Section V. Guidance, D. Review Details, subsection 3.d. Add "(j)(2)" after the requirement 10 CFR 40.42.

Response:

We agree with this comment. The procedure will be revised accordingly.

Region I:

No comments.

Region III:

No comments.

Region IV:Comment 1:

Section III. Background, second paragraph: inspection frequency is determined by licensee performance, not risk. (See IMC 2641)

Response:

We partially agree with this comment. Based on another comment, this section will be revised to reflect that the inspection frequency is based on the potential radiological, chemical, and industrial hazards of the facility. We will also revise the section to note that the inspection frequency can be modified to account for licensee performance and inspection history.

Comment 2:

Section V. Guidance, C. Review Guidelines, item 4. The sentence states that you will compare the Region IV Uranium Recovery program performance to applicable FSME policy. It is not clear to the reader what policies you are referring to.

Response:

The sentence informs the reviewer that when reviewing an NRC Regional Uranium recovery program, to consider various NRC Inspection Procedures and current applicable FSME policy. Because this procedure is infrequently revised, it was written to allow the reviewer some latitude with respect to current FSME policies that might be applicable to the uranium recovery program in the future. No changes will be made to the procedure.

Comment 3:

Section V. Guidance, C. Review Guidelines, item 5. This paragraph specifically excludes the NRC Regions from the Technical Quality of Licensing Actions reviews. However, there are no recommended references listed for Technical Quality of Licensing Actions reviews of State programs. I suggest you revise the paragraph by adding recommended references for State program reviews.

Response:

The guidance for performing Technical Quality of Licensing Actions reviews of State programs can be found in Section V. Guidance, D. Review Details, 4. Technical Quality of Licensing Actions. The applicable reference noted is FSME Procedure SA-104, *Reviewing the Common Performance Indicator, Technical Quality of Licensing Actions*. No changes will be made to the procedure.

Comment 4:

Section V. Guidance, D. Review Details, item 1.a. This section mentions Reg Guide 8.31 Radiation Safety Officer qualification requirements for inspectors, but the training requirements of this Reg Guide are not specifically mentioned in NRC Management Directive 5.6. I suggest deleting Reg Guide 8.31 (since it is not required) or adding a caveat that it is a suggestion and not a requirement (a "should" statement).

Response:

Section V. Guidance, D. Review Details, item 1.a. states, in part, that the reviewer should evaluate and document that the NRC Regional and Agreement State staff have training and experience comparable to that recommended in NRC Regulatory Guide 8.31, Section 2.4.1,

Radiation Safety Officer. This language does not state that the Reg Guide training is a requirement, only that appropriate staff have comparable training. No changes will be made to the procedure.

Comment 5:

Section V. Guidance, D. Review Details, item 1.h. I cannot locate a copy of the MSHA MOU. Could the document be made available to the NRC staff and the public via posting on the STP web page?

Response:

The Memoranda of Understanding between NRC and the Mine Safety and Health Administration has been made publicly available in ADAMS. The procedure has been updated with the accession number.

Comment 6:

Section V. Guidance, D. Review Details, item 1.j. This section mentions that NRC staff is supposed to be familiar with Reg Guide 3.67, but Reg Guide 3.67 is not required for review by inspectors per IMC 1246. I suggest deleting Reg Guide 3.67 from the list or adding a caveat that this Reg Guide is recommended reading for NRC inspectors.

Response:

We agree with the comment. Reference to Regulatory Guide 3.67 will be deleted and the procedure revised accordingly. However, the authors wish to point out that Section V. Guidance, D. Review Details, item 1.j. is not meant to be an all-inclusive list of Regulatory Guides that NRC staff should be familiar with. Many more Regulatory Guides are listed for review in IMC 1246 but are not listed in this procedure for the sake of brevity.

Comment 7:

Section V. Guidance, D. Review Details, there are typographical errors in item 3., 1st paragraph and item 4., 1st paragraph, where it says "noted in to FSME procedure."

Response:

We agree with the comment. The procedure will be revised accordingly.

Comment 8:

The revision numbers for all Reg Guides should be added.

Response:

We agree with the comment. The procedure will be revised accordingly.