

January 30, 2007

SUMMARY OF COMMENTS ON SA-700, "Processing an Agreement"

**I. Sent to Agreement States for Comment: August 16, 2006 (STP-06-073)**

**Comments / Dated:** Organization of Agreement States (OAS) - 9/11/2006  
(letter)

**OAS**

Comment 1:

There are at least 59 places in the document where Office of Nuclear Material Safety and Safeguards, Office of State and Tribal Programs, Division of Nuclear Material Safety, or the acronyms for these appear. These are all in the process of being renamed in a reorganization. The document should not be made final until the old names and acronyms can be replaced. A list of the places could be provided to you if desired.

Response:

The final document will have the updated office information that reflects the re-organization in October 2006 of NMSS and STP.

Comment 2:

On page 1 of 13, Section II.B; change "the" to "to"

Response:

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

Comment 3:

On page 9 of 13, Section II.G.1.d; the ending should change from "; and" to "."

Response:

We replaced Section II.G.1.e in the procedure, so "; and" remains.

Comment 4:

On page 2, Section 2.2.1; "other wastes" are by NRC's definition "11e.(2) byproduct material"

Response:

We agree with this comment and the procedure will be revised accordingly. The revised section 2.2.1 states that 11e.(2) byproduct material is referred to as "11e.(2) byproduct material from, and operation of, uranium and thorium mills."

Comment 5:

Many places throughout this document the term "State program Director" should be changed to "State program Director or designee" as was done in Section 4.6.2.2.

Response:

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

Comment 6:

On page 36, Section 4.6.1, second paragraph; the NRC changed “recovery” to “mining.” Other places use mills—Section 4.6.1.2, page A-2 Table for the entry for 4.3.4, page B-3, page B-4 and pages B-5. The NRC needs to be clear with its terminology for this item. It seems that the new wording is not intended to mean that an ore processing facility away from the mining facility does not require consideration in the staffing analysis, but that is not clear in this paragraph if “mining” is used. Unless the NRC is intending a distinction it should use a term consistently.

Response:

We agree with this comment and the procedure will be revised accordingly. The word “recovery” has been replaced in the final procedure.

Comment 7:

On page A-2, Table 4.3.4; See Comment 6 above. The terminology in Section 4.6.1 should probably match this by using “U mill” or “mill” or “uranium recovery.”

Response:

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

Comment 8:

On page B-1, Item A.6.; the term “SDMP” appears here but it was changed in other places earlier in the document.

Response:

We agree with this comment and “SDMP” will be replaced with “Complex decommissioning sites” in the final procedure.

Comment 9:

On pages B-3, B-4, and B-5; the term “U mill” is used. There should be accurate, consistent use of terms. See Comments 6 and 7 above.

Response:

We agree with this comment and have added the word “recovery” in the final procedure.

Comment 10:

On page C-41, first paragraph; the date should be replaced with an underscored blank.

Response:

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

## II. Sent to the NRC Offices for Comment: August 16, 2006

**Comments / Dated:** IMNS - 9/12/2006 (phone, e-mail)  
NMSS - 9/12/2006 (e-mail)  
STP - 8/25/2006 (e-mail)  
OGC - 9/14/2006 (mark-up)  
Region III - 9/7/2006 (email)

### IMNS

#### Comment:

As we discussed via telephone, IMNS believes it is premature to include 11e(3) and 11e(4) byproduct material in the guidance because the definition of these byproduct material is still the subject of rulemaking. The final rule is schedule to be published in 2/07. The guidance also does not always include new references to 11e(3) and 11e(4). While the wording of SA-700 and Handbook are general in nature, it would be difficult to review an application without a clear definition of byproduct material. It may be prudent to delay revising the document until the rulemaking is closer to being finalized.

#### Response:

We appreciate the comment regarding the issues presented by the Energy Policy Act of 2005. However, we feel it is necessary to include references to 11e.(3) and 11e.(4) byproduct material in this document, as the States will be able to enter into Agreements covering these items, regardless of the definition of "byproduct material".

### NMSS

#### Comment:

NMSS agrees with Tim Harris' (IMNS's) analysis as provided below.

#### Response:

See Response to IMNS comment above.

### STP

#### Comment:

I wanted to make sure you were aware of this direction from the Commission regarding the review of Agreement State applications, that provides,

"Prospective Agreement States should be requested to submit documentation of State conflict of interest and ethics regulations or procedures applicable to those portions of the State radiation control program covered by the Agreement."

#### Response:

We agree with the comment and will add additional language to section 4.1.1.1 in the Handbook for Processing an Agreement. The revised section will read as follows:

g. establishes conflict of interest and ethics regulations or procedures applicable to those portions of the State radiation control program covered by the Agreement."

### OGC

Comment 1:

Page 7, 5.a. - Confusion over the Commission and publication of the FR notice.

Response:

We agree with this comment and will add additional language to section 5.a. in the procedure. The revised section will read as follows:

The paper should state that staff intends, unless the Commission directs otherwise, to forward the FR Notice for publication after the Commission approves the publication.

Comment 2:

On page 9 of 13, Section II.G.1.d; the ending should change from “; and” to “.”

Response:

We replaced Section II.G.1.e in the procedure, so “; and” remains.

Comment 3:

Change the FR notice on page 2 of the Handbook for Processing an Agreement to 46 FR 7540, 1/23/8.

Response:

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

Comment 4:

On page 19 of the Handbook for Processing an Agreement, language should be added about limited agreements and Commission input.

Response:

We agree with this comment and will add additional language to section 4.1.3 in the procedure. The revised section will read as follows:

.....Staff is to consult with the Commission prior to proposing a final limited Agreement in instances where there is no clear precedent.

### **Region III**

Comment 1:

Background Section: Provide a typical timeframe for the Agreement process, based on experience with recent Agreements.

Response:

We agree with this comment and additional language will be added to the Background section of the final procedure. The revised section will read as follows:

....A general timeline for entering into an Agreement can be found on page C-1 of the Handbook for Processing an Agreement.

Comment 2:

Section V.H: Reference to the Small Business Regulatory Enforcement and Fairness Act should be deleted as the requirement for such was removed from Section V.G.

Response:

We agree with this comment and the final procedure will reflect this information. The revised section will read as:

- e. a completed copy of the General Accounting Office form providing the notifications required under the Congressional Review Act (Formerly SBREFA). This form is available at the GAO website.

Comment 3:

Handbook: The handbook should include, in its various sections, references to the State's ability to address security issues, (e.g., increased controls) in staff training, licensing and inspection.

Response:

We agree with this comment and the final procedure will reflect this information. Section 4.3, Licensing Program Elements, 4.4, Inspection Program Elements, 4.6.1 Technical Staff Organization, will include language concerning security issues.

Comment 4:

Handbook, 4.2.2.3: References should include additional 10 CAR Parts such as 31, 32, 35, 36, and 71 which have Compatibility Category B regulations.

Response:

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

Comment 5:

Handbook, 4.7: States should develop procedures for reporting events to the NRC Headquarters Operation Center.

Response:

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

Comment 6:

Handbook, Appendix B: References to SDMP sites should be updated with current terms.

Response:

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

Comment 7:

Handbook, Appendix B: The "Staff Needs Analysis" and "Staff Resource Analysis" should include the burden of performing security inspections.

Response:

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