

and interactions with the EPA and the states continue on these issues. The review plan has been revised to clarify this intent.

Issue: The standard review plan directs the staff to inappropriately seek disclosure of an applicant's primary corporate internal costs.

Comment: Commenters argued that corporate internal costs such as capital costs of land acquisition and improvement, capital costs of facility construction, and other operating and maintenance costs addressed in the draft standard review plan were not appropriate for staff review. The commenters suggested that only the forecast costs for plant decommissioning and site reclamation should be examined by the staff.

Resolution: The staff agrees with the commenters. The standard review plan has been revised to remove guidance that the staff examine costs outside of those associated with plant decommissioning and site reclamation.

Issue: The NRC is exceeding its legal authority by requiring that a determination be made that a proposed licensing action is appropriate prior to allowing construction to proceed.

Comment: The Executive Summary to NUREG-1569 states that "beginning construction of process facilities, well fields, or other substantial actions that would adversely affect the environment of the site, before the staff has concluded that the appropriate action is to issue the proposed license, is grounds for denial of the application." The commenter disagrees with the "sweeping nature" of this statement and asserts that the NRC has no jurisdiction over wells in an exempted aquifer until lixiviant injection begins.

Response: The NRC considers this statement to be consistent with the requirements of 10 CFR 40.32(e) and believes it to be appropriate for the agency's responsibilities to protect public health and safety and the environment. The license applicant shall not commence construction activities with a potential for adverse impacts prior to the NRC completing its environmental assessment in accordance with 10 CFR part 51.

3. Ground Water

Issue: Some acceptance criteria for ground-water protection seem overly prescriptive or inconsistent with current practices at specific *in situ* leach uranium extraction facilities.

Comment: Several comments pertained to the use of examples of acceptable methods and approaches cited in the various acceptance criteria for ground-water protection. These

comments expressed concern that the examples cited were not consistent with current practices at some *in situ* leach uranium extraction facilities. For example, several comments stated that the examples of acceptable methods for conducting mechanical integrity tests on injection wells are not consistent with methods currently employed or with state-approved practices.

Response: Examples of acceptable practices cited in the review plan acceptance criteria for ground-water protection were obtained from operations plans of currently operating *in situ* leach uranium extraction facilities. These examples refer to methods used to implement ground-water protection requirements that have been considered acceptable in past NRC licensing reviews. The NRC recognizes that an optimal approach to ground-water protection at one facility is not necessarily applicable or appropriate at all *in situ* leach uranium extraction facilities. As stated in the introduction to NUREG-1569, applicants may take approaches to demonstrating compliance that are different from the acceptance criteria in the standard review plan so long as the staff can make the requisite decisions concerning environmental acceptability and compliance with applicable regulations. Where appropriate, these comments were addressed by modifying text to clarify that the given examples are not prescriptive requirements.

Comment: Several comments recommended deletion of constituents from the list of typical baseline water quality indicators in Table 2.7.3-1 of NUREG-1569. In a specific example, a rationale was provided for eliminating radium-228 from the list of baseline water quality indicators to be sampled in each new well field.

Response: The rationales provided by the commenters for elimination of certain chemical constituents from the list of typical baseline water quality indicators are not necessarily applicable for all *in situ* leach uranium extraction facilities. A licensee may provide the rationale for the exclusion of water quality indicators in a license application or amendment request if operational experience or site-specific data demonstrate that concentrations of constituents such as radium-228 are not significantly affected by *in situ* leach operations. NRC reviewers will determine whether proposed exclusions are justified by the information provided. No changes to Table 2.7.3-1 were made for the final standard review plan.

Comment: Two commenters pointed out an apparently new policy that an

excursion of lixiviant solutions will be deemed to have occurred if any single excursion indicator exceeds its upper control limit by 20 percent, where previous guidance considered an excursion to have occurred only when two or more excursion indicators exceed their upper control limits by any amount.

Response: Acceptance criterion (5) in Section 5.7.8.3 in the draft NUREG-1569 was revised by deleting the statement regarding a single excursion indicator exceeding its upper control limit by 20 percent for determination of when an excursion has occurred. However, the same acceptance criterion retains the requirement that corrective action for an excursion is deemed complete when all excursion indicators are below their respective upper control limits, or when no single indicator exceeds its control limit by more than 20 percent. Ideally, corrective action for an excursion would be to restore all indicators to below their upper control limits. However, in the past, corrective action has been considered acceptable when a monitor well no longer meets the criteria for being on excursion status. Excursion status criteria allow one indicator to be above the respective upper control limit. However, once an excursion has occurred, the reduction in concentrations of indicator constituents by corrective action may not occur at the same rate. Therefore, corrective action may be terminated prematurely if one of two indicators are brought below upper control limits while another remains substantially above its control limit.

Issue: The NRC is unduly concerned with protection of ground water in aquifers where exemptions have been obtained from the requirements of the Safe Drinking Water Act.

Comment: Several commenters took exception to Acceptance Criterion (4) in Section 6.1.3 of the draft standard review plan, which states that the primary goal for restoration of well fields, following uranium extraction, is to return each well field to its pre-operational baseline water quality conditions. The commenters correctly pointed out that EPA requirements for the Underground Injection Control program result in the uranium production zones being classified as "Exempted Aquifers." This means they are not considered a potential source of drinking water and, therefore, are not subject to requirements of the Safe Drinking Water Act.

Response: Acceptance Criterion (4) of Section 6.1.3 in the draft standard review plan was revised to clarify that the goal of ground-water restoration at