



Conference of Radiation Control Program Directors, Inc.

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August 9, 2000

MEMORANDUM

TO: Program Directors of Non-Agreement States Not Intending on
Becoming an Agreement State:

Clyde Pearce, Alaska
Ed Wilds, Connecticut
Jeff Beaman, Delaware
Norma Stewart, District of Columbia
Russ Takata, Hawaii
David Eisentrager, Idaho
John Ruyack, Indiana
Jim Camburn, Michigan (*Dept. Of Consumer & Industry Services*)
David Minaar, Michigan (*Dept. of Environmental Quality*)
Gary McNutt, Missouri
Jill Lipoti, New Jersey
John Robertson, South Dakota
Paul Clemons, Vermont
Les Foldesi, Virginia
Beattie DeBord, West Virginia

FROM: Pat Gorman, Deputy Director

RE: CRCPD Procedure for Distribution of NRC Predecisional Documents

In response to the recognized interest of, and need for, early and substantive involvement of state regulatory staff in the development of new and revised NRC rules, guidance documents, or other materials program documents, the NRC and the CRCPD have developed a procedure that will allow the Non-Agreement States who have not submitted a letter of intent to become an Agreement State, and CRCPD working groups, an opportunity to have access to and provide comment to NRC predecisional documents.

It is my privilege to provide you with an attached copy of the recently Board approved "CRCPD Approval Procedure for Providing NRC Predecisional Documents to CRCPD Working Groups, OED Staff and Non-Agreements." *As noted in a footnote to the procedure, this procedure does not apply to Non-Agreement States that have submitted a letter of intent to the NRC from the Governor to become an Agreement State.* It is CRCPD's understanding that these Non-Agreement States will receive the information from the NRC at the same time as the Agreement States.

If you wish to have access to the NRC predecisional information through the use of the CRCPD unique name and password, please provide me with a formal request

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OSP-006 Template
R105 Cntr Dist. SPD2

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Charles M. Hardin
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Deputy Director
Patricia C. Gorman
Kentucky

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OSP

MEMORANDUM

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(email at <pgorman@crcpd.org>, phone: 502/227-4543 ext. 2227, or fax 502/227-7862) and I will be glad to provide you with the information. I will then add you, or your designee, to an email group listing to receive future notifications relative to the availability of NRC predecisional documents.

Call me if you have any questions.

PCG/pcg

Attachment

cc: Board of Directors/Federal Liaisons
Chuck Hardin
Terry Devine
Bruce Hirschler

**CRCPD Approval Procedure for
Providing NRC Predecisional Documents to
CRCPD Working Groups, OED Staff and Non-Agreement States¹**

I. INTRODUCTION

This procedure describes the process for providing Nuclear Regulatory Commission (NRC) predecisional rulemaking and guidance documents to appropriate working groups of the Conference of Radiation Control Program Directors, Inc. (CRCPD), staff in the CRCPD Office of Executive Director (OED), and Non-Agreement States.

II. OBJECTIVES

- Establish procedures to be followed by the CRCPD for providing NRC predecisional rulemaking and guidance documents to CRCPD working groups, OED staff, and Non-Agreement States.
- Establish guidance on the types of predecisional rulemaking and guidance documents that may be routinely provided.
- Establish a procedure to notify the NRC of the release of predecisional documents by any individual(s) authorized to use the CRCPD password.

III. BACKGROUND

Many members of the CRCPD have interest and expertise in areas addressed by NRC rules and guidance. Currently, NRC Agreement States, and selected Non-Agreement States, have access to predecisional documents relating to NRC rulemaking and guidance. The NRC and the CRCPD recognize the interest of, and need for, early and substantive involvement of the state regulatory staff in the development of new or revised rules, guidance documents, or other materials program documents. As predecisional documents, they are exempt from public disclosure under Federal statutes and NRC rules (Exemption 5, Freedom of Information Act (5 U.S.C. § 552(b)(5)) and 10 C.F.R. §§ 2.790(a)(5) and 9.17(a)(5)). When providing predecisional documents to Agreement States, NRC requests that Agreement States also protect the documents from public disclosure.

IV. GUIDANCE

¹This procedure does not apply to Non-Agreement States that have submitted a letter of intent to the NRC from the Governor to become an Agreement State. These Non-Agreement States will receive the information from NRC.

Programmatic predecisional documents, including draft rulemaking plans, drafts of proposed rules, final rules, policies, draft internal procedures, generic letters, and information notices, may be routinely distributed to appropriate CRCPD working groups, OED staff, and interested program directors of Non-Agreement States by use of the CRCPD unique name and password as provided by the NRC. For the privilege of using this unique name and password, the individual to whom the password is given must assure the OED that the user of the unique name and password will not release any predecisional documents or information to the public.

Distribution of all NRC programmatic predecisional documents are labeled as follows:

**PREDECISIONAL DRAFT INFORMATION
FEDERALLY PROTECTED
NOT FOR PUBLIC DISCLOSURE**

Rulemaking, licensing, and inspection guidance documents will, in most cases, be available to those given clearance to use the CRCPD unique name and password through the Technical Conference Forum (<http://techconf.llnl.gov>) via the NRC Home Page (<http://www.nrc.gov>). In some instances, NRC may provide a hard copy rather than an electronic copy.

Should OED become aware that NRC predecisional information has been released to the public by any individual authorized to use the CRCPD unique name and password, OED will immediately notify NRC of such release. In the event that predecisional information is released to the public, the CRCPD will consider withdrawal of the user's authorization. Consideration will be given as to any "freedom of information" requirement that may have been imposed upon the entity that released the information.

V. PROCEDURES

- **CRCPD Working Groups**

1. There are three categories of individuals that generally serve on a CRCPD working group: 1) Members, 2) Federal Resource Persons, and 3) Advisors. Only "State government members" and "Federal resource persons" of these working groups shall have the privilege of using the CRCPD unique name and password to access the predecisional NRC information. Authorization to use the CRCPD unique name and password to access to the NRC predecisional information will not be provided by the OED to the "state government advisors" on the CRCPD working groups. However, should the working group chairperson desire to obtain comments from the working group's state government advisor(s), he/she may share the appropriate component of the predecisional information with the appropriate state government advisor(s). Individuals expressing interest in the information who are not employed by the state or federal government should be directed to contact the NRC directly on the availability of the NRC predecisional information.

2. Appropriate CRCPD working groups, as determined by the Board of Directors, will have a statement in the charges of that working group on the availability and use of the CRCPD unique name and password to access NRC's predecisional information. These statements will clearly specify that the unique name and password is to be used only by the working group's "state government members" and "Federal resource persons," and that the information obtained should not be released to the public. A letter will be issued to each individual authorized to use the CRCPD password (see Attachment A for sample letter).
3. For any working group meeting at which NRC predecisional information is discussed, the working group chairperson shall declare the meeting closed during the time NRC predecisional information is being discussed, and shall be open only to state government members, state government advisors in attendance, and Federal resource persons to the working group.

- **OED Staff**

Those staff members in the OED who have an interest and expertise in areas addressed by NRC rules and documents, as determined by the Executive Director, will be given the privilege of using the unique name and password to access the predecisional information. Each individual will be clearly instructed not to release the information to the public.

- **Program Directors of Non-Agreement States**

1. Only radiation control program directors or his/her designee of Non-Agreement States will be eligible to receive the CRCPD unique name and password to gain access to the NRC predecisional information.
2. If the program director of a Non-Agreement State has interest in using the CRCPD unique name and password to access the NRC predecisional information, a formal request is to be made to the OED Deputy Director.
3. The OED Deputy Director will provide the CRCPD unique name and password to the radiation control program director or his/her designee under a cover letter that clearly defines the condition of use. This letter will state that the NRC predecisional information obtained from use of the CRCPD unique name and password should not be released to the public (See Attachment B for sample letter).
4. Consideration will be given to withdrawing the CRCPD password should the NRC predecisional information be released to the public. In the event that the CRCPD password is withdrawn from an authorized user, a new CRCPD password will be obtained by the OED and redistributed to the remaining authorized users.

**Sample Letter to CRCPD Working Groups' State Government
Members/Federal Resource Persons
Giving Permission to Use the CRCPD Password to
Access NRC Programmatic Predecisional Documents**

(Note: *Italicized text* is guidance for determining text to be entered.)

Dear (*Working Group State Government Member/Federal Resource Person*)

As a privilege granted to the Conference of Radiation Control Program Directors (CRCPD) by the Nuclear Regulatory Commission (NRC), we are extending this privilege to you as (*Chairperson or a state government member of the _____ working group*) (*the _____ federal resource person to the _____ working group*). This privilege is the use of the CRCPD's unique name and password to access predecisional NRC rulemaking and guidance documents as indicated below. (*Add this sentence for Working Group Chairpersons only: Working group chairpersons may choose to provide components of the NRC predecisional information to "state government advisors" when their input is deemed appropriate by the working group chairperson.*) Due to its predecisional nature, this information is exempt from public disclosure under NRC rules. We request that you not release the information to the public. If this information is released, please inform the individual named below within 24 hours.

In the event that the information obtained by use of the CRCPD's unique name and password is released to the public, the privilege of using the password may be withdrawn. In the event that the CRCPD password is withdrawn, the OED will obtain and redistribute a new password to all remaining authorized users.

CRCPD's Unique Name — *insert unique name*
CRCPD Password — *insert password*

If you have comments on the predecisional information, there are two options available to you:

- If the CRCPD has a working group developing similar suggested rules and regulations parallel with the NRC, then it is recommended that state's comments be provided to the chairperson of that working group. This CRCPD working group can consolidate the comments and provide the consolidated position to the NRC. These same comments may also be provided directly to the NRC in addition to the CRCPD working group, or in lieu of providing to the CRCPD working group, if that is the desire of the commentator (see below for directions on how to send information to the NRC directly).

Since different CRCPD working groups may be addressing separate rules and regulations being considered by NRC, you will need to call or email Bruce Hirschler in the OED office (502/227-4543 ext. 2234 or <bhirschler@crcpd.org> to determine the appropriate working group chairperson to receive your comments.

- If there is no CRCPD working group developing similar suggested rules and regulations, any comments may be sent directly to the NRC. Please send your comments to NRC either by fax (*NRC staff contact, address, phone and e-mail address, and fax*) or electronically to the Technical Conference Forum (<http://techconf.llnl.gov>) via the NRC Home Page (<http://www.nrc.gov>).

If you have any questions regarding this correspondence, please contact the individual named below.

Sincerely,

(Mrs.) Patricia C. Gorman
Deputy Director, CRCPD

PCG/___

POINT OF CONTACT:

(OED Staff)

(Address)

Email: xxx@crcpd.org

Telephone: (502) 227-4543 ext.

FAX: (502) 227-7862

**Sample Letter to Non-Agreement State Program Directors
Giving Permission to Use the CRCPD Password to
Access NRC Programmatic Predecisional Documents**

(Note: *Italicized text* is guidance for determining text to be entered.)

Dear (*Non-Agreement State Program Directors*):

As a privilege granted to the Conference of Radiation Control Program Directors (CRCPD) by the Nuclear Regulatory Commission (NRC), we are extending this privilege to you as a (*Non-Agreement State Program Directors*). This privilege is the use of the CRCPD's unique name and password to access predecisional NRC rulemaking and guidance documents as indicated below. Due to its predecisional nature, this information is exempt from public disclosure under NRC rules. We request that you limit the distribution of the predecisional information to your staff and not release the information to the public. If this information is released, please inform the individual named below within 24 hours.

In the event that the information obtained by use of the CRCPD's unique name and password is released to the public, the privilege of using the password may be withdrawn. In the event that the CRCPD password is withdrawn, the OED will obtain and redistribute a new password to all remaining authorized users.

CRCPD's Unique Name — *insert unique name*
CRCPD Password — *insert password*

If you have comments on the predecisional information, there are two options available to you:

- If the CRCPD has a working group developing similar suggested rules and regulations parallel with the NRC, then it is recommended that state comments be provided to the chairperson of that working group. This CRCPD working group can consolidate the comments and provide the consolidated position to the NRC. These same comments may also be provided directly to the NRC in addition to the CRCPD working group, or in lieu of providing to the CRCPD working group, if that is the desire of the commentator (see below for directions on how to send information to the NRC directly).

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If you have any questions regarding this correspondence, please contact the individual named below.

Sincerely,

(Mrs.) Patricia C. Gorman
Deputy Director, CRCPD

PCG/___

POINT OF CONTACT:

(OED Staff)

(Address)

Email: *(xxx@crcpd.org)*

Telephone: (502) 227-4543 ext.

FAX: (502) 227-7862