

**Comments and Responses to Comments on revised Draft STP Procedures SA-800,
Providing NRC Predecisional Documents to Agreement States and Appropriate Working
Groups of the Conference of Radiation Control Programs Directors, Inc.**

Commenter: Terry Frazee, Head, Radioactive Materials Section, Division of Radiation Protection, Department of Health, Washington (1/30/01)

Comment 1: Since this replaces a previous issue of SA-800 (which is dated March 26, 1999), it would have been better if the "new" issue had a readily identifiable date on it so we could refer to the right version.

Response:

We agree with this comment. In the future, we shall denote the final document with a date.

Comment 2: The scope of the procedure includes Agreement State management and staff, CRCPD working groups and "All State Radiation Control Program Directors and staff." This latter group includes Agreement States as well. In the overall context of the procedure, it would be more precise to change this to "non Agreement State Radiation Control Program Directors and staff."

Response:

We agree with this comment and where appropriate in the Introduction and Objectives have inserted before State Radiation Control Program Directors, "the non-Agreement."

Comment 3: With respect to CRCPD working groups, these may include members other than "RCP" personnel. Some sense of whether the CRCPD has to exclude or account for these non-State personnel should be included.

Response:

We agree with this comment and have inserted a sentence at the end of III.C.

Under CRCPD procedures, licensees and non-State advisors are excluded from receiving predecisional information.

Comment 4: In section III. C. the acronym SSRs is used before it is defined (a short while later). A suggested fix: "The appropriate CRCPD working groups are those responsible for developing regulations and guidance, which are compatible ... "

Response:

We agree with the comment and have revised the first sentence to read:

The appropriate CRCPD working groups, including the Suggested State Regulations (SSRs) Committees, are responsible for developing regulations and guidance...

Also, we have made the appropriate editorial change in the second sentence.

Comment 5: Appendix A no longer carries the warning "Do not send to STP-Announcements." Seems like a prudent thing to restore to this procedure!

Response:

We appreciate the comment, however, under our new procedures, such a warning is no longer necessary because we are communicating exclusively by electronic means through the Technical Conference Forum so that a document does not have to be enclosed with the letter when we seek requests for comments. There will be no change to the procedure based on this comment.

Commenter: Richard Ratliff, Chief, Bureau of Radiation Control, Texas Department of Health (1/31/01)

Comment 1: Expanding the scope of persons receiving Nuclear Regulatory Commission predecisional documents is a positive move toward a truer partnership among radiation control regulators at the Federal and State level. Establishing a true partnership among regulators has been advocated for many years by the State radiation control programs and this expansion will allow greater coordination and cooperation.

Response:

The comment is noted and will be passed on to the National Materials Program Working Group.

Comment 2: The term "appropriate CRCPD working groups" is used throughout the procedure. Section IV.A. states that the Director, STP is responsible for developing procedures for providing non-sensitive predecisional documents to appropriate CRCPD working groups. However, Section III.C. seems to indicate that appropriate CRCPD working groups are considered to be the SSR committees. There are several CRCPD working groups other than the SSR committees whose charges involve review, comment, and coordination on multiple radioactive material issues that are pertinent to the NRC and State radiation control programs. There is the potential that some NRC predecisional documents would be appropriately reviewed and evaluated by these committees.

An example of one such committee is the E-24 Committee on Decontamination and Decommissioning. They have spent a great deal of time reviewing and commenting on draft regulatory guide DG4006 and on the Standard Review Plan in which it was incorporated. Another example is the E-23 Committee on Resource Recovery and Radioactivity. This committee reviewed and commented on draft NUREG-1640 concerning the clearance of solid materials. These committees coordinate with one another and the goal is that, should the issues they deal with lead to rulemaking, they would then coordinate with the appropriate SSR committee. Therefore, we recommend that in Section IV.A., the wording be changed to indicate that the Director, STP, in coordination with the CRCPD Board, develop procedures for identifying the appropriate CRCPD working groups to which non-sensitive predecisional documents should be distributed.

Response:

See Response to Comment 4, Washington. In paragraph III.C., in the Response to Washington, the procedure will now cite the SSRs Committees as an example of an appropriate CRCPD working group. NRC staff recognizes that additional committees are involved and our procedure does not limit the predecisional information solely to SSR committees. The determination of which CRCPD committees will need to receive the material is the CRCPD's responsibility and not that of STP. We do not believe it is appropriate for STP to develop such procedures for CRCPD. The Director, STP as the NRC Federal liaison to the CRCPD Executive Board will continue to work the CRCPD if any issues are raised as to which CRCPD committees are appropriate. There is no change to the procedure based on this comment.

Comment 3: Section V.F. of the procedure states that the NRC staff (presumably STP staff) should determine which Agreement States can protect NRC sensitive predecisional documents from public disclosure under State law or through written protective agreements. If so, the sensitive predecisional document may be shared with the pertinent Agreement. This indicates that if the Agreement State cannot protect the documents from public disclosure under State law or if the Agreement State has no written protective agreement with NRC, the documents will not be shared with that State. Is this the case and have such determinations for each Agreement State been made?

Response:

Based on the State response to our request for information of this nature in SP-97-065, most States are able to protect sensitive predecisional documents without a written protective agreement between the State and NRC. Some may require a written agreement such as the sample protective agreement shown in Appendix B. There is no change to the procedure based on this comment.

Commenter: Thomas Hill, Manager, Radioactive Materials Program, Department of Natural Resources, Georgia (2/2/01)

Comment 1: I have read the draft STP Procedure SA-800 and have no comments.

Response:

There is no change to the procedure based on this comment.