June 14, 2007

SUMMARY OF COMMENTS ON SA-201, REVIEW OF STATE REGULATORY REQUIREMENTS

I. Sent to the Agreement States for Comment: August 31, 2006 (STP-06-080)

Comments/Dated: Washington - 9/8/06 (e-mail - no comments)
Illinois - 9/19/07 (e-mail)

Illinois:
Comment:
I only have one comment on Appendix A, Section II, "State Submittal Guidance," paragraph A. The first sentence in that paragraph reads, "When regulations are at the draft stage or, preferably, the public comment stage, the Radiation Control Program Director, or designee, or CRCPD (Director), should submit the regulations to the Deputy Director, STP." Later in that same paragraph, the proposed language would say, "for the final promulgated regulation changes, the RCPD is requested to identify..."

I am simply suggesting that if you choose to use the acronym RCPD, you should add that in the first sentence so it will read, "When regulations are at the draft stage or, preferably, the public comment stage, th Radiation Control Program Director (RCPD), or designee, or CRCPD (Director), should submit the regulations to the Deputy Director, STP." Appendix A is the first and only time this acronym is used in the document.

Response:
We agreed with this comment, and the procedure was revised to eliminate the RCPD acronym.

II. Sent to the NRC Offices for Comment: August 31, 2006

Comments/Dated: Region I - 9/29/06 (e-mail)
Region III - 10/4/06 (e-mail - no comments)
Region IV - 9/29/06 (e-mail - no comments)
OGC - 9/18/06 (mark-up)

Region 1:
Comment 1:
In light of the reorganization of STP and NMSS into the Office of Federal and State Materials and Environmental Management Programs, the offices and manager titles referenced in the procedure should reflect the new office and its divisions.

Response:
We agreed with this comment, and the procedure was revised accordingly.

Comment 2:
The reorganization may affect the process that is described in the revision. The final version of this document should have the process described in context of the new organization.

Response:
We agreed with this comment, and the procedure was revised accordingly.

Comment 3:
II.D. Objectives: The last sentence should be deleted since the Operating Plan goals are internally maintained and should not be noted in a public document.

Response:
The reference to the Operating Plan has been deleted but staff believes that the goal should be included in the procedure to reflect the NRC's mission of openness.

Comment 4:
Appendix B.I.: Each of the listed differences that are not significant should also include an illustrative example.

Response:
We appreciate the comment, however we believe that an illustrative example for each difference is not necessary since the difference is self-explanatory. No changes were made to the procedure in response to this comment.

Comment 5:
Appendix B.II.: The writeup provided on differences that are significant is not clear and does not provide practical guidance to the reviewer. This section should be revised with examples that provide illustrate examples of the differences. Finally, the various definitions from MD 5.9 should be defined and incorporated as appropriate into the writeup.

Response:
Addressed in OGC Comment 2 (below).

Comment 6:
Appendix G, Frequently Asked Questions (FAQs): Number the questions and in the first question, provide examples for each one of the compatibility categories.

Response:
We agreed with this comment, and the procedure was revised accordingly. The FAQs were numbered accordingly and the examples for each compatibility category that were listed in MD 5.9 were included in the revised procedure.

Comment 7:
The procedure should incorporate a brief discussion (or a FAQ) indicating that SSRs should not be used to determine compatibility.

Response:
We agreed with this comment, and the procedure was revised accordingly.

NRC Office of General Counsel (OGC):
Comment 1:
V.D.6. Sentence should read "The standard format and content for the letter are set out in form letters that are partially complete **and** available on the Regulation Toolbox..."

Response:
We agreed with this comment, and the procedure was revised accordingly.

Comment 2:
Appendix B.II. Is the last sentence in this paragraph (the first) accurate? Doesn't Compatibility Category C allow States to require different action, so long as the essential objective (i.e. surveillance, a specific contamination limit, etc.) was achieved? This section is not clear. OGC has provided the specific language to address this concern, and recommends Appendix B.II. should read as follows:

> In some cases, the difference in the wording between State and NRC regulations may significantly change the meaning and/or intent of the regulation and may, therefore, affect compatibility or the health and safety objectives of the regulation. The reviewer is also responsible for checking the requirements that have been adopted by reference to ensure that the corresponding sections refer to the appropriate criteria.
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> For regulations with Category A and B compatibility designations, differences between NRC and State regulations are significant and result in incompatibility if the licensee actions required to satisfy the NRC regulation are not the same as the actions required to satisfy the corresponding State regulations for all phases of the licensee's operations. Such a conclusion- that the text of the State regulation leads to a different interpretation than the text of the corresponding NRC regulation - would result in a finding that the State regulation does not meet the Category A or B designation. The reviewer should describe why the State's regulation leads to a different interpretation.
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> For regulations with a Category C compatibility designation, differences between NRC and Agreement State regulations are acceptable only if, despite such differences, the Agreement State has adopted the essential objectives of the corresponding NRC program element in order to avoid conflicts, duplication, gaps or other conditions that would jeopardize the orderly regulation of agreement materials on a nationwide basis. For regulations with a Health and Safety designation, the Agreement State regulation must adopt the essential objectives of the corresponding NRC program element because of the health and safety significance of the program element. Please see Section VII of Management Directive 5.9 for definitions of "essential objective", "conflict", "duplication", and "gap". A conclusion that the a State regulation does not reflect either the essential objectives of the corresponding NRC regulation or the State's regulation creates a conflict, duplication or a gap would result in a finding that the regulation does not meet the Category C or Health and Safety designations.

Response:
We agreed with this comment, and the procedure was revised accordingly.