

STATE OF ILLINOIS  
**DEPARTMENT OF NUCLEAR SAFETY**

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George H. Ryan  
Governor



Thomas W. Ortziger  
Director

October 10, 2001

Frederick C. Combs, Deputy Director  
Office of State and Tribal Programs  
U.S. Nuclear Regulatory Commission  
Mail Stop 3D23  
Washington, D.C. 20555-0001

Re: Program Management Information: Draft Revision to STP Procedure SA-500, "Jurisdictional Determinations" (STP-01-071)

Dear Mr. Combs:

The Illinois Department of Nuclear Safety (IDNS) submits the following comments on the above referenced draft procedure.

1. Clarification of jurisdiction over naturally occurring and accelerated produced radioactive materials (NARM). Under the Atomic Energy Act, the Nuclear Regulatory Commission (NRC) has jurisdiction over source material, byproduct material and special nuclear material. NRC does not have jurisdiction over NARM, and Section 274b agreements do not apply to NARM. The draft procedure provides only vague recognition of NRC's limited jurisdiction (e.g., the use of the phrase "Agreement material"). To clarify that Agreement States continue to exercise authority over NARM in areas of non-exclusive federal jurisdiction, IDNS recommends modifying III.D.4. to read as follows:

"D. The State will exercise regulatory jurisdiction over:

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Persons using naturally occurring and accelerator produced radioactive materials in areas of non-exclusive jurisdiction. Private companies operating on Indian lands."

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2. Special nuclear materials. The draft procedure uses imprecise language regarding special nuclear materials. While NRC has exclusive jurisdiction over quantities of special nuclear materials sufficient to form a critical mass, an Agreement State can assume jurisdiction over special nuclear materials in quantities not sufficient to form a critical mass. IDNS recommends modifying III.E. to read as follows:

" E. Byproduct Material Intimately Mixed with ~~large quantities of~~ Special Nuclear ~~Materials~~ Material in Quantities Sufficient to Form a Critical Mass at Facilities within Agreement States:

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2. If the facility is neither a "production or utilization facility as defined" in 10 CFR 50.2, nor an uranium enrichment facility, separate licenses issued by the Agreement State and by the NRC cover the byproduct material and the special nuclear ~~material~~ materials in quantities sufficient to form a critical mass, respectively.

3. Correction of misspelling. In Attachment 1, B.1., change "failing" to "falling."

4. NARM in Non-Agreement States. With the changes identified above, the draft procedure should correctly address Agreement State issues, including regulation of NARM in Agreement States. The draft procedure does not, however, recognize the potential regulation of NARM in a state that is not an Agreement State. IDNS suggests that NRC review the draft procedure to identify necessary changes regarding state regulation of NARM in areas of non-exclusive federal jurisdiction in states that are not Agreement States.

Thank you for the opportunity to review and comment on the draft procedure. Please contact me at 217/785-9930 if you have any questions.

Sincerely,

  
Joseph G. Klinger, Chief  
Division of Radioactive Materials

JGK:scc