

**CENTER FOR NUCLEAR WASTE
REGULATORY ANALYSES**

ADMINISTRATIVE PROCEDURE

Proc. AP-015

Revision 0

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Title

DIFFERING PROFESSIONAL VIEWS

EFFECTIVITY AND APPROVAL

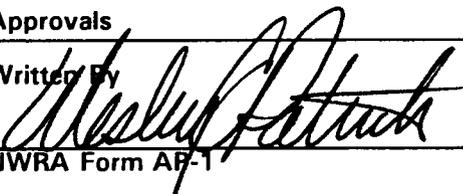
Revision 0 of this procedure became effective on 05/10/96. This procedure consists of the pages and changes listed below.

<u>Page No.</u>	<u>Change</u>	<u>Date Effective</u>
1-4	0	05/10/96

Supersedes Procedure No. None

Approvals

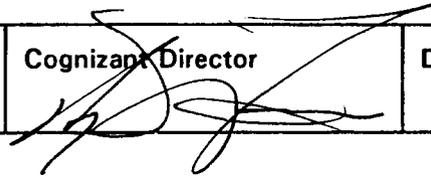
Written By



Date

5/10/96

Cognizant Director



Date

5/10/96

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DIFFERING PROFESSIONAL VIEWS

1. INTRODUCTION

It is a policy of the Nuclear Regulatory Commission (NRC) to support contractor expressions of professional health and safety related concerns associated with the contractor's work for NRC. This policy is expressed in the current contract between the NRC and Southwest Research Institute (SwRI) regarding operation of the Center for Nuclear Waste Regulatory Analyses (CNWRA).

2. PURPOSE AND SCOPE

The purpose and scope of this procedure are to (i) advise CNWRA, SwRI, and subcontractor staff regarding the NRC policy on differing professional views (DPVs); (ii) elucidate a process for staff to raise concerns to CNWRA and NRC management regarding such DPVs; and (iii) give staff visibility to the procedure that NRC would use to process any DPV that may be brought to their attention. This procedure is applicable only to professional health and safety concerns related to matters directly associated with performance of work under the NRC contract.

3. DEFINITION

A DPV may arise when CNWRA, SwRI, or subcontractor staff develops a professional health and safety related concern that (i) may differ from the prevailing NRC staff view, (ii) disagree with an NRC decision or policy position, or (iii) take issue with proposed or established agency practices.

4. RESPONSIBILITIES

- 4.1 CNWRA management shall provide CNWRA, SwRI, and subcontractor staff copies of this procedure, including the attached NRC DPV procedure. This will be done at the time of new employee indoctrination, or when SwRI or subcontractor staff services are first engaged.
- 4.2 CNWRA management shall forward all DPVs received under this procedure to NRC, but need not endorse them.
- 4.3 CNWRA, SwRI, and subcontractor staff shall follow this procedure to ensure that differing professional views regarding professional health and safety concerns are raised to CNWRA and NRC management, as appropriate.

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- 4.4 CNWRA shall authorize an employee expressing a DPV up to eight hours of pay at the regular hourly rate for preparation and other activities associated with the DPV. Such costs are reimbursable by the NRC under their contract with SwRI. Any additional time and costs shall be borne by the individual.

5. PROCEDURE

The CNWRA was established to provide independent technical assistance and research support and counsel to the NRC. Consequently, the independent professional views of the organization, its staff, and subcontractors are highly valued. CNWRA is also charged with developing and sustaining high technical competence and providing high quality reviews and analyses in the areas of support it provides to the NRC. To satisfy both of these mandates (i.e., that its judgments and services be independent and of high technical quality), staff should take advantage of the internal review and external peer publication processes to assure that the views it expresses are technically sound.

- 5.1 An individual who has a professional health and safety concern that meets any one or more of the criteria noted in section 3 may have a DPV.
- 5.2 If the concern relates to an imminent safety hazard associated with a laboratory, field, or other office practice, it should be immediately brought to the attention of the CNWRA Safety Point of Contact, CNWRA or SwRI Radiation Safety Officer, or Manager of the SwRI Safety Department, as appropriate.
- 5.3 The SwRI Policy and Procedures Manual should be consulted regarding how to handle particular concerns of an administrative, personal, or financial nature.
- 5.4 Either of two courses of action may be followed by an individual who believes he or she may have a DPV. First, the individual can work through the CNWRA and SwRI management chain and associated procedures to both raise the concern and obtain independent technical review of the basis for the concern. If this option is selected, the individual should continue with section 5.5 of this procedure. Alternatively, the individual may request the DPV be submitted directly to the NRC, bypassing internal CNWRA management and technical review. If the latter option is selected, the individual should prepare the written DPV in accordance with the attached NRC procedure, and submit it to CNWRA management with a request that it be provided directly to the NRC for further processing in accordance with NRC procedures.
- 5.5 The individual should discuss the concern with an associate or line manager to obtain the benefit of his/her technical insights. If the concern persists, it should be elevated sequentially to the Technical Director and President.

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5.6 If the professional view has been or will be expressed in a report, paper, or presentation, the individual should use the CNWRA QAP-002 review process to secure an assessment of the technical merits of the concern.

5.7 If after raising the potential DPV to CNWRA management and/or the normal document review process the individual remains concerned, the attached NRC procedure should be exercised.

6. RECORDS

Any DPV and records associated therewith shall be maintained in the CNWRA administrative records for a period of six years.

F.3 Period of Performance

In order to provide program continuity, NRC desires to use the contractor as the operator for the Center throughout the duration of the NRC program under NWPAs (estimated over twenty years). The period of performance for this contract commenced on October 15, 1987 and shall expire on September 26, 1997. The term of the contract may be renewed following conduct of a comprehensive review of the use and need for the Center and will not exceed five-year increments. Each Operations/Project Plan for directed work shall specify its own period of performance.

F.4 FAR Citations

The contractor shall refer to Section I, Clause No. 52.252-2 for citations incorporated by reference.

F.5 RESOLVING NRC CONTRACTOR DIFFERING PROFESSIONAL VIEWS (DPVs)

The Nuclear Regulatory Commission's (NRC) policy is to support the contractor's expression of professional health and safety related concerns associated with the contractor's work for NRC that (1) may differ from a prevailing NRC staff view, (2) disagree with an NRC decision or policy position, or (3) take issue with proposed or established agency practices. An occasion may arise when an NRC contractor, contractor's personnel, or subcontractor personnel believes that a conscientious expression of a competent judgement is required to document such concerns on matters directly associated with its performance of the contract. The procedure that will be used provides for the expression and resolution of differing professional views (DPVs) of health and safety related concerns associated with the mission of the agency by NRC contractors, contractor personnel, or subcontractor personnel on matters directly associated with its performance of the contract, may be found in Section J of the solicitation. The contractor shall provide a copy of the NRC DPV procedure to all of its employees performing under this contract and to all subcontractors who shall, in turn, provide a copy of the procedure to its employees. NOTE: The prime contractor or subcontractor shall submit all DPVs received but need not endorse them.

PROCEDURES FOR RESOLVING NRC CONTRACTOR DIFFERING PROFESSIONAL VIEWS

The Nuclear Regulatory Commission's (NRC) policy is to support the expression of professional health and safety related concerns associated with the contractors' work for NRC that may differ from a prevailing staff view, an NRC decision or policy position, proposed or established agency practices or similar considerations. The following procedure provides for the expression and resolution of differing professional views (DPVs) of health and safety related concerns of NRC contractors and contractor personnel on matters connected to the subject of the contract. The NRC may authorize up to eight reimbursable hours for the contractor to document in writing a DPV by the contractor, the contractor's personnel, or subcontractor personnel. Subcontractor DPVs shall be submitted through the prime contractor. The prime contractor or subcontractor shall submit all DPV's received but need not endorse them. In the event sufficient funds are not available under the contract, the contractor shall first obtain authorization from the Contracting Officer providing sufficient funds to cover the cost of preparing the DPV. With the exception of the above specified payment for eight hours work on a DPV, the contractor shall not be entitled to any additional compensation or additional work under its contract by virtue of the DPV submission.

Contract funds shall not be authorized to document an allegation in the following instances where the use of this NRC contractor DPV process is inappropriate. This process shall not be used for allegations of wrongdoing which should be addressed directly to the NRC Office of the Inspector General (OIG); issues submitted anonymously; issues that are deemed by NRC to be frivolous or otherwise not in accordance with the policy underlying these procedures; or issues raised which have already been considered, addressed, or rejected, absent significant new information. Note that this procedure does not provide anonymity. Individuals desiring anonymity should contact the NRC Office of the Inspector General or submit the information under NRC's Allegation Program, as appropriate.

Each DPV shall be submitted in writing and will be evaluated on its own merits.

DPV PROCEDURE

When required, the contractor shall initiate the DPV process by submitting a written statement directly to the NRC Office Director or Regional Administrator responsible for the contract, with a copy to the Contracting Officer, Division of Contracts, Office of Administration.

PROCEDURES FOR RESOLVING NRC CONTRACTOR DIFFERING PROFESSIONAL VIEWS

The DPV, while being brief, shall contain the following as it relates to the subject matter of the contract:

- a summary of the prevailing NRC view, existing NRC decision or stated position, or the proposed or established NRC practice.
- a description of the submitter's views and how they differ from any of the above items.
- the rationale for the submitter's views, including an assessment based on risk, safety and cost benefit considerations of the consequences should the submitter's position not be adopted by NRC.

The Office Director or Regional Administrator will immediately forward the submittal to the NRC DPV Review Panel and acknowledge receipt of the DPV, ordinarily within five (5) calendar days of receipt.

The panel will normally review the DPV within seven calendar days of receipt to determine whether enough information has been supplied to undertake a detailed review of the issue. Typically, within 30 calendar days of receipt of the necessary information to begin a review, the panel will provide a written report of its findings to the Office Director or Regional Administrator and to the Contracting Officer, which includes a recommended course of action.

The Office Director or Regional Administrator will consider the DPV Review Panel's report, make a decision on the DPV and provide a written decision to the contractor and the Contracting Officer normally within seven calendar days after receipt of the panel's recommendation.

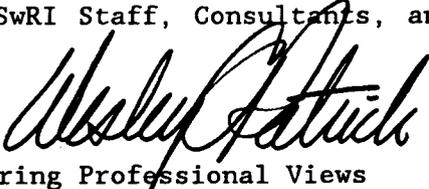
Subsequent to the decision made regarding the DPV Review Panel's report, a summary of the issue and its disposition will be included in the NRC Weekly Information Report submitted by the Office Director. The DPV file will be retained in the Office or Region for a minimum of one year thereafter. For purposes of the contract, the DPV shall be considered a deliverable under the contract. Based upon the Office Director or Regional Administrator's report, the matter will be closed.

CENTER FOR NUCLEAR WASTE REGULATORY ANALYSES

MEMORANDUM

May 10, 1996

TO: CNWRA Staff, and SwRI Staff, Consultants, and Subcontractors Working on CNWRA Projects

FROM: Wesley C. Patrick 

SUBJECT: Procedure on Differing Professional Views

The attached procedure implements a policy of the Nuclear Regulatory Commission (NRC) dealing with "differing professional views." Although this policy has been used within the NRC, its application has just recently been extended to all NRC contractors. As an NRC contractor, the Center for Nuclear Waste Regulatory Analyses is responsible for implementing the policy. This responsibility extends to assuring that all CNWRA staff and any SwRI, consultant, or subcontractor staff working on NRC-funded projects through the CNWRA are provided a copy of the implementing procedure.

Please read the procedure and the associated attachment carefully. Furthermore, each consultant or subcontractor is responsible for providing a copy of the attached to its employees that are working on CNWRA projects. Please contact me directly at (210)522-5158 if you have any questions regarding this matter.

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