

November 28, 2007

MEMORANDUM TO: Patrice M. Bubar, Deputy Director
Division of Intergovernmental Liaison
and Rulemaking (DILR)
Office of Federal and State Materials
and Environmental Management Programs (FSME)

FROM: Andrea Jones, Health Physicist *original signed by*
Intergovernmental Liaison Branch (ILB)
DILR/FSME

SUBJECT: COMMUNICATION PLAN: STATE, LOCAL, FEDERAL
AND TRIBAL GOVERNMENT PROGRAM

Enclosed is a revision to the Communication Plan for the State, Local, Federal and Tribal Government Program. In March 2006, this plan was written and approved by the former Office of State and Tribal Programs and submitted to the Office of the Executive Director of Operations (OEDO). The enclosed plan has been revised to reflect the new DILR and ILB organization and follows the OEDO guidance for preparing communication plans. If you have any questions regarding this communication plan, please don't hesitate to contact me.

Enclosure:
Communication Plan

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Communication Plan

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STATE, LOCAL, FEDERAL AND TRIBAL GOVERNMENT LIAISON COMMUNICATION PROGRAM PLAN

NOVEMBER 2007

INTRODUCTION

The Office of Federal and State Materials and Environmental Management Programs (FSME), Division of Intergovernmental Liaison and Rulemaking (DILR) is responsible for recommending Agency policy and developing programs related to the Agency's relationships with State and local governments, Federal agencies and Native American Tribal governments (Tribal governments). This plan details how the U.S. Nuclear Regulatory Commission (NRC) communicates with these important stakeholders and how the NRC staff identifies opportunities for meaningful stakeholder involvement in NRC's regulatory programs.

GOALS

As communicated in its Strategic Plan, the NRC views building and maintaining public trust and confidence in the execution of its mission as an important Agency performance goal. To reach this goal, the NRC must be viewed as an independent, open, efficient, clear and reliable regulator. This will be accomplished by providing NRC's stakeholders with clear and accurate information about, and a meaningful role in, our regulatory programs. The NRC desires that diverse stakeholder groups (i.e., general public, Congress, NRC licensees, other Federal agencies, States, Indian Tribes, local governments, industry, industry workers, technical societies, the international community, and citizen groups) increasingly recognize that NRC actions assure that public health and safety, the common defense and security, and the environment are, and will remain, adequately protected from hazards resulting from the use of radioactive materials.

The objective of this communication plan is to effectively communicate the NRC's working relationships with State and local governments, Federal agencies and Tribal governments concerning policies and activities as they relate to radiological safety.

The communication goals include:

- Establishing and maintaining effective communications and working relationships with Federal, State, and local governments; interstate organizations; and Tribal governments, as appropriate.
- Soliciting NRC Regional management input and comments on NRC's Regional State Liaison Program policies and providing program guidance on matters which could impact the Regional State Liaison Officers (RSLOs) and their stakeholders.
- Informing Governor-appointed State Liaison Officers (SLOs) on matters related to nuclear regulations, nuclear security and related public health and safety issues.

Enclosure

BACKGROUND

Section 274 of the Atomic Energy Act, as amended, enacted by the Congress in 1959, recognized the States' interest in nuclear energy activities. Entitled "Cooperation With States," Section 274, in part¹, directed the Commission to recognize the need, and establish programs for cooperation between the States and the Commission with respect to control of radiation hazards associated with the use of radioactive materials. The Commission adopted a policy on "Cooperation With States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities" on February 22, 1989 (54 FR 7530) and amended on February 25, 1992 (57 FR 6462) to address adjacent States. This policy sets out the general framework for NRC's cooperation with States, including keeping the States informed of issues in a timely manner and establishing the process for States to either observe or participate in NRC inspections.

Important elements of the policy include the Commission's commitment to keep SLOs routinely informed on matters of interest to the States, and to respond in a timely manner to a State's requests for information and its recommendations concerning matters within NRC regulatory jurisdiction. The SLOs are Governor-appointed State officials whose role is to provide a communication channel between the State and the NRC. The Commission established the SLO program in 1976 as a result of a recommendation from several State organizations, including the National Governors' Association, that NRC request each State to appoint a single person to act as a liaison to NRC for the purpose of improving Federal/State cooperation. The SLO is intended to be the principal person in the State to keep the Governor completely informed of nuclear regulatory and related public health and safety matters, to keep other State officials informed of such matters, and to provide NRC with answers to questions posed to the States on particular issues.

As reflected in NRC's Strategic Plan, the Commission also recognizes local and Tribal governments and other Federal government agencies as important external stakeholders. NRC's policy is to ensure appropriate consultation at the earliest possible stage between NRC and States, local government, other Federal agencies and Tribal governments, and their national and regional associations regarding major interagency agreements, major organizational changes, major rules and regulations, statements of policy, guides and standards, and major studies that may have a significant State or local impact (See Management Directive 5.1, Intergovernmental Consultation). Appendix A provides a listing of formal opportunities for State, local and Tribal government involvement in NRC processes.

Interaction with local government officials is usually dictated by the local community interest in the vicinity of a facility licensed by the NRC. The NRC often communicates with local government organizations, often through communications with regional resident inspectors.

¹Section 274 also allows the NRC to enter into agreements with States where NRC relinquishes its authority to regulate certain radioactive materials and States assert their own authority under State law. The States that have agreements with the NRC allowing them to regulate these activities are called Agreement States. There is a separate Communications Plan for the Agreement States Program.

However, the NRC has not issued a formal policy for staff interactions with local government officials. Interactions with the local community usually result from response to requests from interested parties, and entails notification of those interested parties, and coordination of local public meetings.

The Commission directed the NRC staff to implement the spirit and letter of former President Clinton's April 29, 1994, executive memorandum to ensure that the rights of sovereign Tribal governments are fully respected and to operate within a government-to-government relationship with Federally-recognized Native American Tribes. Interaction with Native American Tribal officials is usually dictated by the Tribal interest in the vicinity of a facility licensed by the NRC.

FSME provides NRC liaison and coordination with other Federal agencies, primarily on National Historic Preservation Act (NHPA) and National Environmental Policy Act (NEPA) related policy issues.

AUDIENCE

The following five groups are the primary stakeholders addressed in this plan:

Internal to NRC

Group A - Headquarters (HQ) staff and management within FSME

Group B - HQ staff and management outside FSME -

- Office of Nuclear Reactor Regulation (NRR)
- Office of New Reactors (NRO)
- Office of Nuclear Material Safety and Safeguards (NMSS)
- Office of Nuclear Security and Incident Response (NSIR)
- Office of Congressional Affairs (OCA)
- Office of the General Counsel (OGC)
- Office of Public Affairs (OPA)
- Office of Nuclear Regulatory Research (RES)
- Office of the Executive Director for Operations (OEDO)
- Commission

Group C - Regional staff and management, including State Liaison and Public Affairs Officers.

External to NRC

Group D - States, local, Federal and Tribal Government Officials

Group E - National associations representing the groups above (i.e., National Governors' Association, National Conference of State Legislatures, National Association of Regulatory Utility Commissioners, National Congress of American Indians)

KEY MESSAGES

- The Commission recognizes that stakeholder outreach is an important factor in building and maintaining trust in NRC regulatory policies and programs.
- The Commission's policy is to cooperate with State, local, Federal and Tribal governments on a government-to-government basis.
- State, local, Federal and Tribal governments will receive clear and accurate information about NRC's regulatory programs.
- Affected State, local, Federal and Tribal governments have a meaningful role and will be provided the opportunity for early and substantive involvement in NRC's regulatory programs.
- DILR should be used as a resource by NRC Program Offices in the implementation of their own communications plans involving communications with State, local, Federal or Tribal governments.

TOOLS

FSME administers NRC's Federal, State and Tribal Liaison Program (FSTLP); State, local, Federal and Tribal liaison activities are implemented by FSME and the NRC Regional Offices, primarily by the RSLOs, with policy and program guidance provided by FSME. FSME works to assure effective liaisons with State, local and Tribal jurisdictions and governmental organizations having an interest in NRC policies, and coordinates these activities with other NRC offices. FSME's DILR has the primary responsibility for recommending policy and developing programs related to regulatory relationships with State and local governments, and some interstate organizations.

The Regional Administrators, principally through the RSLOs, play a vital role in implementing NRC's FSTLP by facilitating communications, when appropriate, between the NRC and other pertinent State and Federal agencies located within the Region relative to licensing and other regulatory concerns where there is a shared mutual interest regarding both State and NRC licensed organizations. For example, while the NRC negotiates Memoranda of Understanding (MOU) with States on various NRC and State activities involving mutual cooperation, the RSLOs assist in negotiations with States or other government entities within purview of the Region. The RSLOs are part of the Regional Organization and report directly to the Regional Administrator; their familiarity with Regional priorities as well as State-specific or Tribe-specific issues enables them to communicate effectively and efficiently within their Regions. RSLOs also maintain communications with the Governor-appointed SLOs, other State and local officials, as appropriate, and with Tribal governments affected by, or otherwise interested in, NRC's programmatic and regulatory affairs. FSME Procedure SL-100, *Regional State Liaison Officers*, provides additional information about the responsibilities and functions of the RSLOs and can be found at the FSME web site at <http://www.hsr.gov/nrc/procedures>.

Accurate and timely internal communications and coordination with RSLOs and NRC HQ management and staff are also key factors critical to the success of any liaison program. FSME routinely uses e-mail and the telephone to communicate information internally (Groups A-C). On a bi-monthly basis, DILR holds a RSLO counterpart teleconference. The objective of the

teleconference is to facilitate a free and open exchange of information between the RSLOs, DILR and other NRC staff who share responsibilities in communicating information about Federal/State nuclear regulations and policies.

Also, FSME Senior managers participate in weekly interface meetings at the Deputy OEDO level and share issues of interest related to current FSTLP activities.

Tools for information dissemination to external audiences (Groups D-E) include both hard copy and electronic distribution of e-mail or more formal correspondence through FSME's web site. FSME also either coordinates or participates in face-to-face meetings or teleconferences with other appropriate NRC staff to explain or discuss NRC regulatory and policy issues of interest to the audiences.

STATES

A key mechanism used by NRC in its program of intergovernmental relations is its national program of Governor-appointed SLOs. NRC's Chairman writes to each newly-elected Governor requesting the Governor appoint an SLO. SLOs provide a communication channel between the State and the NRC. They can act as the principal contact in the State to keep the Governor informed on radiological health, safety, and regulatory matters, as appropriate, with regard to the interests and responsibilities of the State, and can respond to questions posed by NRC. The Commission's policy is to keep the SLOs informed on matters of interest to the State. This includes emergency notifications, preliminary notifications, inspection reports, nuclear power plant performance assessments, notices of meetings with NRC licensees or other NRC informational meetings and workshops and other matters which may be of interest to the State. States are also provided an opportunity for early and substantive involvement in NRC's regulatory programs. For example, States have assumed an increased role in NRC's processes by their participation in Commission stakeholder meetings, participation in workshops, training and oversight panels on the Reactor Oversight Process, workshops on reactor decommissioning and entombment and continued presence at shutdown nuclear power plants undergoing decommissioning. NRC HQ and Regional liaison staff also communicate and respond to requests from other State officials such as: State radiological health; emergency preparedness; public utility commission; and State nuclear safety agencies. The RSLOs have established and maintain communications with the SLOs through personal visits and meetings, as well as through telephonic and electronic means.

Once every two years, a national meeting of the SLOs is held at the NRC HQ, with the Chairman and other Commissioners and senior NRC officials participating. The meetings feature presentations by State and NRC officials, with panel discussions which encourage the open exchange of views and ideas. These meetings provide excellent opportunities for both the NRC and the States to gain valuable perspectives into each other's programs, policies and concerns.

FSME maintains a State Contacts Database, which includes a current list of SLOs, including telephone numbers and e-mail addresses. These contacts, with the exception of Governors, are posted on the FSME web site. In addition, FSME operates a list server for e-mail distribution of important generic information (press releases, proposed or final rules or policy statements, requests for comment) or State, plant or issue specific information. The Regional Offices have similar capability to communicate with the SLOs in their Regions. SLOs are usually added to the service list for major NRC licensees in their States and receive notification of enforcement

actions, public meetings concerning NRC licensees in their States and other information of potential interest to the State.

LOCAL GOVERNMENTS

Interactions with local government officials are usually dictated by local community interest in the vicinity of a facility or activity licensed by the NRC. Initial contact with local government officials is usually handled through resident inspectors. An important duty assigned to resident inspectors is to serve as a point-of-contact with local officials in the area of their assigned nuclear power plant and interested local stakeholders. However, depending on activities surrounding a particular nuclear power plant site, inquiries may be referred to a Regional Office public affairs specialist, Regional management or the RSLOs. The NRC Program Offices also assist in responding to local official interest and coordinating local public meetings. The RSLO may assist, as appropriate, the resident inspectors in fulfilling their responsibility of periodically meeting with local government officials.

TRIBAL GOVERNMENTS

The Commission has directed the NRC staff to implement the spirit and letter of former President Clinton's April 29, 1994, executive memorandum to ensure that the rights of sovereign Tribal governments are fully respected and to operate within a government-to-government relationship with Federally-recognized Tribes. Interaction with Tribal officials is usually dictated by the Tribal interest in the vicinity of a facility licensed by the NRC. To date, NRC staff has maintained government-to-government communications with national Tribal organizations, such as the Yukon River Inter-Tribal Watershed Council and the National Congress of American Indians, and with Federally-recognized Tribes who are potentially affected by, or otherwise interested in, NRC regulatory activities. On a case-by-case basis, exchanges of information and provision for Native American Tribal participation are made on specific issues. For example, the Prairie Island Dakota Community is located within the 10-mile emergency planning zone of the Prairie Island Nuclear Power Plant in Welsh, Minnesota. Because of interest expressed by the Community in the nuclear power plant, the Commission determined that representatives from the Community may observe NRC inspections at the plant if the Community meets the same requirements which an adjacent State must meet as spelled out in the Commission's policy of State cooperation. In addition, information related to the Prairie Island Nuclear Power Plant is provided to the Tribal government, similar to how information is provided to the State. For the most part, Tribal interest in nuclear related activities provides for case-by-case exchanges of information on specific issues related to NRC's policy and regulatory authority, primarily in the areas of high-level radioactive waste and low-level radioactive waste storage, transportation, disposal and reclamation.

FEDERAL AGENCIES

NRC liaison with the White House Council on Environmental Quality (CEQ) on NEPA-related issues lies primarily with FSME. FSME participates in periodic NEPA Liaison meetings hosted by CEQ and provides feedback to NRC management and staff on those discussions. FSME is also instrumental in arranging separate discussions with CEQ and the Environmental Protection Agency (EPA) on NEPA-related policy issues. FSME coordinates the NRC response to the U.S. Department of Interior's annual request for input to the Report to Congress on Federal Archeological Activities. Additionally, FSME coordinates NRC review and comment on a variety of NEPA-related issues, including revisions to the Advisory Council on Historic Preservation's

regulations on Section 106 requirements under the NHPA. FSME has also participated in interagency working groups, such as the one on Environmental Justice, to provide guidance and help coordinate the Federal effort to consider environmental and health conditions of minority communities and low-income communities when performing NEPA reviews. In this regard, FSME was responsible for coordinating the update to NRC guidance documents on performing environmental justice reviews and providing this information to the working group. FSME also assists NRC staff in identifying State and Tribal Historic Preservation Officers when there is a need to consult with these officials on historic preservation issues.

The RSLOs coordinate regulatory activities with other Federal agencies' regional offices. Examples of such activities include: liaisons with Department of Homeland Security/Federal Emergency Management Agency (DHS/FEMA) for response to events affecting or potentially affecting NRC-licensed materials or facilities and with the DHS Field Offices on emergency planning and preparedness issues, including participation in, or evaluation of (as the NRC representative on the Radiological Assistance Committees) emergency preparedness exercises; coordination with the EPA on Clean Air Act implementation; liaison to the Occupational Safety and Health Administration; and consultation and coordination with the Department of Energy and the Department of Transportation on radioactive waste shipments.

COST AND SCHEDULE

There is no increase in staffing or resource expenditures required for this plan. Costs of operating the FSME web site and personnel costs associated with communications are contained in FSME's current budget.

EVALUATION/FINDINGS

FSME/DILR will evaluate the performance of this plan through continued interaction with and feedback from the primary stakeholders. Stakeholder comments on the effectiveness of these communications will be considered for periodic modifications to the plan. The FSME web site contains an e-mail comment form; additionally, a contact name, telephone number and e-mail address is included in all FSME correspondence so that the audience can readily provide comments or pose questions to the contact for resolution.

APPENDIX A

FORMAL OPPORTUNITIES FOR STATE, LOCAL AND NATIVE AMERICAN TRIBAL GOVERNMENTS INVOLVEMENT IN NRC PROCESSES

General

- Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities, February 22, 1989 (54 FR 7530) and amended on February 25, 1992 (57 FR 6462).
- Interested State or local government status in NRC Adjudicatory Hearings - 10 CFR 2.715(c).

Nuclear Power Plants

- License Amendments - 10 CFR 50.91; requires State consultation on all amendments to reactor licenses.
- Emergency Plans - 10 CFR 50.47 and Appendix E - State and local government emergency response planning.
- Decommissioning - 10 CFR 50.82 - provide decommissioning documents to affected State(s).
- Environmental Reviews - 10 CFR 51.28 Scoping Meeting. Other State, local, Tribal consultation required in the implementation of other laws such as NEPA and NHPA.
- 10 CFR 51.74 - NRC provides the opportunity for State and local agencies and Indian Tribes to comment on draft environmental impact statements.

High Level Radioactive Waste Disposal

- 10 CFR Part 60 Subpart C - Participation by State Governments and Affected Indian Tribes.

Low-Level Radioactive Waste Disposal

- 10 CFR Part 61 Subpart F - Participation by State Governments and Indian Tribes.

Monitored Retrievable Storage (MRS)

- 10 CFR Part 72 Subpart J - Provision of MRS Information to State Governments and Indian Tribes.

APPENDIX A (Continued)

Advance Notification of Shipments of irradiated fuel or nuclear waste to Governors or their designees

- 10 CFR Part 71.97 and 73.37

Rulemaking

- Procedure for Consultation with States During Preparation of Rulemaking Environmental Assessment Documents - Memorandum from David L. Morrison, Director, Office of Nuclear Regulatory Research, dated May 18, 1995 entitled: "Implementation of Procedure for Consultation with the States on Rulemaking Environmental Assessments."