

Appendix A

Handbook on Regional State Liaison Officers (RSLO) Guidance

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Office of Federal and State Materials and Environmental Management Programs, Division of
Intergovernmental Liaison and Rulemaking Office of State and Tribal Programs
U.S. Nuclear Regulatory Commission

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I. Introduction

The **Division of Intergovernmental Liaison and Rulemaking (DILR), Office of Federal and State Materials and Environmental Management Programs (FSME)** ~~Office of State and Tribal Programs (STP)~~ has the responsibility for recommending policy and developing programs relating to regulatory relationships with State, **tribal**, and local governments, National, interstate and Tribal organizations; assuring effective liaison with State, tribal and local jurisdictions and governmental organizations, and serving as primary point of contact with a number of other external organizations having an interest in NRC policies. Specifically ~~STP~~ **DILR** administers NRC's Federal, State and Tribal Liaison Program (FSTLP).

A. Federal Liaison Overview

Within the Federal Liaison area of the program, ~~STP~~ **DILR** establishes and maintains effective communications between NRC and other pertinent Federal agencies, including, but not limited to, the U.S. Environmental Protection Agency; the Council on Environmental Quality (CEQ); and the Department of the Interior. As prescribed by the National Environmental Policy Act (NEPA), ~~STP~~ **DILR** staff communicates NRC analysis and comment on matters related to NEPA procedures and implementation to the CEQ and provides coordination within NRC on those matters, including Environmental Justice.

~~(<http://www.nrc.gov/what-we-do/state-tribal/fst-liaison.html#federal>~~

<http://www.nrc.gov/about-nrc/organization/fsmefuncdesc.html#dilr>)

As prescribed under the National Historic Preservation Act, NRC staff maintains communication with officials at the National Park Service and the Historic Preservation Advisory Council and prepares NRC's response for the Secretary of the Interior's Annual Report to Congress on Federal Archeological Activities.

B. State Liaison Overview

Under the State Liaison area of the program, the NRC coordinates activities of interest to State and local governments with NRC offices to keep the Commission and staff informed of significant State actions. Each Governor is asked to appoint a State Liaison Officer (SLO) to serve as the primary point of contact between the state and NRC. The SLO provides a communication channel between the State and the NRC; keeps the Governor informed of all significant nuclear regulatory and related public health and safety matters and provides NRC with information on specific issues such as State radiological health; emergency preparedness; public utility commission actions and State nuclear safety agency matters as needed. The NRC regularly consults with the Governor-appointed SLO and also maintains contact with representatives of State Public Utility Commissions, National Governors' Association, The National Conference of State Legislators **Legislatures**, and the National Association of Regulatory Utility Commissioners to identify NRC regulatory initiatives affecting States and to keep the NRC apprised of those organizations' activities.

The NRC negotiates memoranda of understanding (MOUs) with States on various NRC and State activities involving mutual cooperation ("Policy on Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities," 54 FR 7530, February 22, 1989, and amended to address adjacent States, 57 FR 6462, February 25, 1992 (<http://www.hsrp.doe.gov/nrc/frdocs/54FR7530.pdf> <http://www.nrc.gov/reading-rm/doc-collections/commission/policy/57fr6462.pdf>). This policy sets out the general framework for cooperation with States by routinely keeping Governor-appointed State Liaison Officers (SLOs) (<http://www.hsrp.doe.gov/nrc/asframe.htm> <http://nrc-stp.doe.gov/asdirectory.html>) informed on matters of interest to the States and responding to all requests from States in a timely manner. The policy identifies the SLO as the primary State contact for all requests involving observation of NRC inspections of plants or facilities. The SLOs are the NRC's primary point of contact with the States regarding all relevant NRC decisions and actions.

C. Tribal Liaison Overview

Within the tribal liaison area of the program, NRC is committed to implementing programs by acknowledging the sovereign rights of Federally-recognized Native American tribal governments. NRC maintains government-to-government communications with those tribes, as well as with their national organizations, who are potentially affected by, or otherwise interested in, NRC regulatory activities. 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, in areas such as ~~high and low level radioactive waste storage, transportation, and disposal~~ **including reactor licensing and inspection activities, reactor license renewal, radioactive waste disposal and transport, and uranium recovery licensing and long-term strategies for treating uranium mill tailings**. NRC also maintains a cooperative relationship with the National Congress of American Indians.

II. Regional State Liaison Officer (RSLO) General Overview

STP **DILR** develops NRC policy and program guidance at a national level and acts as primary contact with nationally based organizations such as the National Governors' Association or the Conference of Radiation Control Program Directors. State liaison activities are primarily implemented through the NRC Regional Offices by the RSLO in cooperation with Regional management with policy and program guidance provided by STP **DILR**. The RSLOs serve as the primary contact between SLOs for States within their Regional boundaries and report directly to the Regional Administrator. Since the RSLOs are located in the Regional Offices, they are familiar with current State issues and concerns in the Region, and thus, are able to respond quickly to inquires from the States.

This document provides supplemental guidance for RSLOs regarding interactions with organizations within and external to the NRC and suggested methodologies for

implementing various aspects of the FSTLP. The STP DILR realizes that priorities and concerns will be Region and State specific; therefore the duties and responsibilities of each RSLO will be dictated by the unique needs of the States and Region. Therefore this document provides suggested practices which may be used by RSLOs as circumstances dictate.

III. RSLO Duties: Interfaces and Relationships

A. RSLO General Responsibilities

RSLOs should establish an effective working relationship with each SLO in the region. SLOs are the Governor's appointed principal point of contact (<http://www.hsrp.ornl.gov/nrc/asframe.htm> <http://nrc-stp.ornl.gov/asdirectory.html>) who play a key role in communications between the NRC and the State. Specifically the RSLO is responsible for:

1. Performing assigned work; responsible to Regional Management for implementing policy and guidelines provided by STP DILR or the Region.
2. Attending hearings and other public meetings as NRC's liaison to the State, tribes, or other government entity.
3. Arranging for NRC speakers for State and tribal relations purposes, including making presentations as appropriate. RSLOs will conduct this activity in accordance with Regional Management guidance.
4. Advising Regional Management on whether to participate in meetings regarding State, tribal, or other government entity activities; obtaining the Regional Management's concurrence before scheduling such participation, where the information affects other Regional divisions or involves significant policy issues.
5. Keeping Regional Management informed of all State and tribal relations information released from the Regional Office.
6. Keeping Regional Management and STP DILR informed of all current and significant activities involving States, tribes, or other government entities within the region that relate to, or have potential impact on NRC activities and responsibilities.
7. Coordinating regulatory activities with the regional offices of Federal agencies.
8. Participating in RSLO counterpart meetings arranged by STP DILR.
9. Maintaining a general knowledge of all NRC programs of interest to State, tribal and local governments.
10. For Regions with Agreement States, maintains a general knowledge of NRC's Agreement State Program sufficient to serve as a liaison to Agreement States in the absence of the Regional State Agreements Officer (RSAO) if Regional responsibilities require.

11. Establish and maintain effective communications with State, Federal, tribal, and local government representatives, in particular, SLOs.
12. Identify information or subject areas of special interest to the States, tribes, or other government officials within the Region's purview.
13. Maintain an awareness of State and tribal issues of interest to the NRC.
14. Assist in negotiation of Memoranda of Understanding with States or other government entities within purview of the Region.
15. Review and process requests to observe NRC inspections within the Region.
16. Keep Regional management and STP DILR informed of nuclear related legislative developments within the Region.

RSLOs should also be kept generally informed of major issues regarding high and low level waste disposal and storage in the States in their regions (<http://www.nrc.gov/waste/high-level-waste.html>). In their day to day activities, they should be alert to any political developments or concerns of the States, Tribes and local governments and bring them to the attention of the Regional management, the Division of High Level Waste Repository and Safety, the Division of Waste Management, the Spent Fuel Project Office and STP.

B. Frequent Interfaces and Relationships

1. Internal to NRC

a. Headquarters

1. Offices of the Commission

(<http://www.nrc.gov/who-we-are/organization/commfuncdesc.html>)

<http://www.nrc.gov/about-nrc/organization/nrcorg.pdf>)

RSLOs may be asked to assist in obtaining background information for a Commissioner visit to a facility within the Regional jurisdiction. In addition, the RSLO may be called upon to arrange Commissioner visits with Governors or other State officials.

2. Office of Nuclear Security and Incident Response

(<http://www.nrc.gov/who-we-are/organization/nsirfuncdesc.html>)

<http://www.nrc.gov/about-nrc/organization/nsirfuncdesc.html>)

a. ~~Division of Nuclear Security~~ Division of Security Operations

(<http://www.nrc.gov/who-we-are/organization/nsirfuncdesc.html#dns>)

<http://www.nrc.gov/about-nrc/organization/nsirfuncdesc.html#dso>)

NRC advisories regarding security or safeguards information are typically generated within NSIR and shared with STP DILR. In November 2003, STP DILR provided the updated distribution lists for SLOs and All State Radiation Control Program Directors and for selected licensees (nuclear power plants, ISFSIs and other designated facilities) to the Headquarters Operations Officers (HOOs) to facilitate future distributions.

From time to time, NSIR may issue Safeguards or security advisories. If these advisories affect the States, NSIR will coordinate with STP DILR. To ensure timely distribution of advisories, STP DILR and NSIR have the capability (through the NSIR Headquarters Operations Officers) to send out advisories directly to two groups: the State Liaison Officers and State Radiation Control Program Directors. NSIR also distributes the advisories to all major nuclear facilities such as nuclear power plants, ISFSIs and others.

RSLOs may be asked to inform State representatives of the issuance of advisories or to verify that States have received the advisories in a timely manner and inform STP DILR and/or NSIR of any unsuccessful communications.

- b. ~~Division of Incident Response Operations (DIRO)~~ Division of Security Policy
(<http://www.nrc.gov/who-we-are/organization/nsirfuncdesc.html#dir>)

<http://www.nrc.gov/about-nrc/organization/nsirfuncdesc.html#dsp>)

The ~~Division of Incident Response Operations (DIRO)~~ Division of Security Policy (DSP) develops and directs implementation of the policies and programs for the agency's response to incidents involving licensed facilities and materials. This includes coordination with Federal, State, tribal and local governments and licensees.

~~DIRO DSP~~, in cooperation with the Regions, support the conduct of State outreach programs designed to increase and improve the NRC's interactions with States during exercises and emergencies and to improve the States' understanding of the response to a severe accident at a facility for which the NRC is the lead Federal agency. RSLOs are usually involved in planning and conducting these outreach meetings. NRC attempts to exercise and/or meet with each State on a 3-year cycle.

The RSLOs serve as the Commission's representative on the applicable Regional Assistance Committee(s) (RAC), which

are chaired by the Department of Homeland Security, Federal Emergency Management Agency (FEMA). RSLOs, as representatives of NRC, review state and local radiological emergency response plans and procedures to ensure compliance with the applicable Federal regulations and guidance, and evaluate State and applicable local government response in joint exercises involving NRC licensees and represent the Commission in exercise-related public meetings. ~~RSLOs may also represent NRR at Regional public meetings.~~

3. Other Program Offices (NRR/ **NRO**/NMSS/RES/OE)

From time to time program offices find that they need to inform or consult with the States on existing or proposed rule changes, or policy, program, technical or other issues involving a specific NRC licensee or agency research project. In some cases, States are invited to comment on proposed NRC rules or guidance through the NRC web page at:

~~<http://www.nrc.gov/what-we-do/regulatory/rulemaking.html>~~

<http://www.nrc.gov/about-nrc/regulatory/rulemaking.html> In some cases, the program office will enlist STP's **DILR's** aid in obtaining a quick snapshot of State views. This is typically done through the Regional State Liaison Officers.

a. Office of Nuclear Reactor Regulation (NRR) and Office of New Reactors (NRO)

~~<http://www.nrc.gov/who-we-are/organization/nrrfuncdesc.html>~~

~~(<http://www.nrc.gov/about-nrc/organization/nrrfuncdesc.html>)~~

~~(<http://www.nrc.gov/about-nrc/organization/nrofuncdesc.html>)~~

Pursuant to 10 CFR 50.91, NRC consults with designated affected State officials, **such as the State Liaison Officer (SLO)**, on matters affecting the licensing of nuclear power plants. The NRR/**NRO** Project Manager for the facility informs the States of NRC's proposed licensing actions by providing a copy of pertinent Federal Register Notices to the designated State official. State comments are welcome. Regardless of whether or not the State provides comments, the NRR/**NRO** Project Manager, in a good faith effort, will attempt to contact the State official just prior to issuing a licensing action to determine whether the State has any comments. Having made a good faith effort, inability to contact the State official will not prevent NRR/**NRO** from issuing a given licensing action if the action involves a no significant hazards consideration. Questions regarding licensing issues at nuclear power plants should be directed to the specific NRR/**NRO**

Project Manager. A list of Project Managers may be found at: <http://www.nrc.gov/reactors/operating/project-managers.html#pwr>

(<http://www.nrc.gov/reactors/operating/project-managers.html#pwr>)

STP Although DILR and the RSLO are not directly involved in the consultation process, the RSLO can aid in introducing the NRR/NRO project manager to the SLO. RSLOs may also represent NRR/NRO at Regional Public meetings.

- b. Office of Nuclear Material Safety and Safeguards (NMSS)
<http://www.nrc.gov/who-we-are/organization/nmssfuncdesc.html>

(<http://www.nrc.gov/about-nrc/organization/nmssfuncdesc.html>)

One of the high visibility and long-term Federal/State activities is management of high-level radioactive waste <http://www.nrc.gov/waste/high-level-waste.html> (<http://www.nrc.gov/waste/hlw-disposal.html>). As the Department of Energy (DOE) and NRC proceed to carry out their respective roles under the Nuclear Waste Policy Act (<http://epw.senate.gov/nwpa82.pdf>), certain States, tribes, and local governments will continue to have an interest in these activities. The RSLOs need to be aware of these interests and to follow NRC's action. STP DILR will notify the RSLOs and their management of any meetings that should be considered for attendance. ~~NMSS maintains liaison with the State of Nevada, the associated local governments and Native American tribes for activities related to Yucca Mountain in Nevada.~~ NMSS maintains the lead for liaison with States, tribes, and local governments for activities related to high-level radioactive waste.

The RSLOs should keep generally informed of major issues regarding high-level radioactive waste storage, transportation, and disposal storage <http://www.nrc.gov/waste/gl-waste.html> (<http://www.nrc.gov/waste.html>) in the States in their regions. In their day-to-day activities, they should be alert to any political developments or concerns of the States, tribes and local governments and bring them to the attention of the Regional management, the Division of Waste Management and Environmental Protection, the Division of High Level Waste Repository Safety, the Spent Fuel Project Office Division of Spent Fuel Storage and Transportation, Division of Fuel Cycle Safety and Safeguards, and the Division of High-Level Radioactive Waste Repository Safety and STP DILR.

On July 6, 1982, revisions to 10 CFR Part 71 and 73 became effective requiring licensees to provide notification of the shipment of most spent fuel and high-level radioactive waste to designated State officials

<http://www.nrc.gov/waste/spent-fuel-transp.html> (<http://nrc-stp.ornl.gov/special/designee.pdf>). STP DILR publishes each June an updated list following a letter to each State to verify the continued designation. STP DILR can respond to inquiries about Governors' designees, but questions about the rules governing waste transportation should be addressed to the ~~Spent Fuel Project Office~~ **Division of Spent Fuel Storage and Transportation** in NMSS.

In general, RSLOs should be aware of decommissioning activities within their Region and work to keep affected State, local and tribal officials informed of NRC related activities.

4. Office of Public Affairs (OPA)

<http://www.nrc.gov/who-we-are/organization/opafuncdesc.html>

(<http://www.nrc.gov/about-nrc/organization/opafuncdesc.html>)

OPA staff, whether HQ or Regional staff, should ensure DILR and RSLOs are informed in a timely manner of any NRC press releases that may be of interest to external government entities. This will assist the RSLOs in keeping their contacts up to date. The RSLO should also ensure that OPA is informed in a timely manner of any situations or information from States pertaining to NRC or its licensees that could have implications for the media or special interest groups that cover the agency. **RSLOs should inform DILR of changes to State, tribal, and local government official email addresses and ensure updates for NRC press release distribution.**

~~OPA generally provides press releases to STP DILR one hour before issuance. This enables STP DILR to distribute press releases to the SLOs, State Radiation Control Program Directors (RCPDs) and appropriate Tribal officials before NRC actually issues the press release.~~

5. Office of Congressional Affairs

<http://www.nrc.gov/who-we-are/organization/ocafuncdesc.html>

(<http://www.nrc.gov/about-nrc/organization/ocafuncdesc.html>)

~~Most~~ **Contacts** with Congressional Members or Congressional staff will be coordinated through the Office of Congressional Affairs. OCA has designated Regional Coordinators for each Region who will work directly with the RSLO to address any

Congressional or State legislative inquiries. From time to time, State or locally elected officials may request information from the Regional Office to support a local concern or issue. These requests should be handled by the RSLO and coordinated with appropriate Regional and HQ offices for response.

6. Office of Enforcement (OE)

<http://www.nrc.gov/about-nrc/organization/oefuncdesc.html>

The RSLO is to provide the SLO advance notification of any escalated enforcement with NRC licensees in their respective State. Typically, this is coordinated with the regional enforcement staff and does not involve OE. However, if an order is issued by the Director of OE that involves licensees in the State, then the notification process will involve OE.

b. NRC Regions

1. Regional Administrators

Although the RSLOs implement the STP DILR programs within the Region, the RSLOs are part of the Regional organization. As such, RSLOs report to the Regional Administrators. Regional Administrators concur in NRC information issued to the State by the RSLO and originated in the Regional Office where the information affects other Regional divisions or involves significant policy issues; concurrence is not necessary for information prepared by STP DILR and released through the Regional Office as a matter of convenience. The Director, STP DILR provides policy and program guidance to Regional Administrators for carrying out State liaison functions which the Regional Administrator manages on a day-to-day basis.

2. Regional State Agreements Officers

Regional State Agreements Officer (RSAOs) (<http://www.hsrdo.nrc.gov/nrc/contacts/ospstaff.htm> http://nrc-stp.ornl.gov/special/crcpd_map_jan09.pdf) were created in each Region with Materials Program responsibilities to facilitate communications between NRC and the Agreement States (<http://www.hsrdo.nrc.gov/nrc/asframe.htm> <http://nrc-stp.ornl.gov/asdirectory.html>). The RSAOs serve as the primary contact between the Agreement States and the NRC for matters involving the regulation of materials defined in Section 274 of the Atomic Energy Act. As such, they

participate in reviews and evaluation of Agreement State regulatory programs to avoid overlapping, conflicting or inconsistent standards or practices among different jurisdictions.

Although the functions of the RSAO and RSLO are different, RSLOs should be prepared to provide back up to the RSAO in their absence or if needed to help address a significant issue. RSAOs should also be prepared to serve as back up to the RSLOs, depending on Regional needs and concerns.

2. External to NRC

The RSLO should have a continuing knowledge of the appropriate person in the State (e.g., SLO, Radiation Control Program Director, emergency preparedness director, public utility commission member, persons notified under 10 CFR 71/73), tribes and/or local government representatives, and a reasonable rapport with these parties so that their views can be obtained in a timely fashion, in a broad context of continuing exchange of information in an atmosphere of trust, confidence, and mutual respect. Since the RSLO is the primary point of contact with the States, tribes and/or local governments in his/her Region, NRC management will rely considerably on the RSLO's ~~judgement~~ **judgment** and recommendations regarding the best persons in the State with whom to consult. It is anticipated that the RSLO can make this decision without consulting Regional management.

The RSLO should exercise judgment as to whether he or she continues to serve as point of contact between the State and the NRC requester or whether State and knowledgeable NRC staff should communicate with each other directly.

a. Interactions with States

1. State Liaison Officers

RSLOs serve as the primary NRC point of contact for State officials. In most cases, communications go through the SLO who may also be the State Radiation Control Program Director.

From time to time, STP **DILR** is asked to provide information on the views of States on particular issues. The RSLO will be the individual in the Region to whom STP **DILR** will turn to assist in obtaining these views promptly from the States in the Regions and for follow-up where appropriate. In responding to

an NRC-generated request, the RSLO may be requested to provide suggested State individuals to participate in a workshop or conference. This should be handled the same as a request for State information. The RSLO should obtain background information on what will be expected of the State participant in terms of background knowledge and responsibilities before the RSLO approaches State officials.

A key mechanism used by NRC in its program of intergovernmental relations is its national program of Governor-appointed State Liaison Officers (SLO) (<http://www.hsrp.ornl.gov/nrc/contacts/ospstaff.htm> <http://nrc-stp.ornl.gov/asdirectory.html>). The NRC writes to each Governor asking the Governor to appoint an individual who can provide a communication channel between the State and the NRC; be the key State person responsible for keeping the Governor completely informed on all significant nuclear regulatory and related public health and safety matters; and who can provide the NRC with answers to questions posed to the States on particular issues. The NRC will keep SLOs informed on matters of interest to the States, respond in a timely manner to a State's requests for information and acknowledge State recommendations concerning matters within the NRC's regulatory jurisdiction. **The RSLO will keep DILR informed of any changes in SLO contact information.** Some general guidelines on interactions between RSLOs and SLOs follow.

- a. Upon change of either the RSLO or a particular SLO in the region, communication between the RSLO and SLO should be established promptly. This may be done either formally or informally, e.g., by an introductory letter, a telephone call, or a meeting, depending on the circumstances and on RSLO and Regional management ~~judgement~~ **judgment**. Regardless of the contact method chosen, the "introduction" should take place soon after the personnel change.
- b. RSLOs should use their ~~judgement~~ **judgment** when compiling an agenda for the "introduction" meeting. Possible topics for discussion include, but are not limited to:
 1. A description of the scope of NRC's regulatory authority, including the role of the regional offices.

2. A review of the current areas of mutual interest to the State and the NRC.
 3. A review of other State agencies and officials who have an interest in nuclear matters, e.g., radiation control program directors, energy departments, emergency preparedness officials, public utility commissioners.
 4. A reminder that the SLO should feel free to contact the RSLO at any time.
- c. The RSLO is encouraged to visit the SLO in the SLO's office whenever the need arises, and especially if such a visit can be coordinated with other travel in the vicinity of the SLO's office. The RSLO should also explore with each SLO the desire, need and value of arranging an in-State briefing on NRC activities in that State.
 - d. In order to increase efficiency, RSLOs should be alert to opportunities to attend regional or national State meetings where contact can be made with a number of SLO's and other State officials at one time.
 - e. The RSLOs are expected to maintain an ongoing dialogue with each SLO as appropriate.

2. Protocols for State Observation of NRC Inspections

Commission policy allows for qualified State personnel observation of NRC inspections at nuclear power plants. Some States routinely attend NRC meetings with licensees and/or observe NRC inspection activities. The State must agree to abide by an accompaniment protocol as noted in Management Directive 5.2, ~~"Governmental Relations and Public Affairs Memoranda of Understanding with States, Handbook 5.2 Exhibits"~~ *"Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities,"* Exhibit 1, Appendix A: Protocol Agreement for State Observation of NRC Inspections.

b. Interactions with Tribes

NRC interaction with tribal governments is primarily based on interest expressed by the tribal government in particular NRC regulatory activities. The RSLO serves as the primary point of contact for tribal Nations interested in NRC activities within each Region.

1. Guidance

~~NRC staff interacts with national Tribal organizations such as the National Congress of American Indians (NCAI) and the Council of Energy Resource Tribes (CERT) and deals with Tribal communities on specific issues on a case-by-case basis. The Commission has directed the staff to implement the spirit and letter of President Clinton's 1994 guidance that the rights of sovereign Tribal governments are fully respected and to operate within a government-to-government relationship with Federally-recognized Tribes. Information on the Federally-recognized tribes may be obtained through the Bureau of Indian Affairs web site at:~~

~~<http://www.doi.gov/bureau-indian-affairs.html>~~

~~<http://www.doi.gov/bia/> NRC's current practices for government-to-government interaction with Native American tribes reflect the spirit of Presidential Executive Orders without establishing a formal agency policy. The agency has demonstrated a commitment to achieving the Orders' objectives by implementing a case-by-case approach to interactions with Native American tribes. NRC's case-by-case approach has proven effective and allows for custom-tailored approaches that meet the Commission's needs and those of the tribes. The staff identifies and initiates dialogue with Federally-recognized Native American tribal governments during NRC regulatory processes and activities. DILR staff has developed an internal protocol that reflects a set of practices, communication skills, cultural sensitivities and historical awareness, intended to foster and promote effective interaction between NRC staff and Native American tribal governments.~~

Additionally, DILR staff developed the NRC tribal protocol manual (TPM) as a reference tool intended to provide NRC management and staff with information that will allow them to develop and maintain government-to-government relationships with tribes in preparation for, and throughout, NRC's regulatory processes. It is organized around three major subject areas considered essential to gaining a better understanding of Native American tribes and issues of concern to them. To view the TPM in its entirety, please consult ADAMS document ML092990559 (Non-public document).

2. Protocols for Tribal Nation Observation of NRC Inspections

The Commission established an inspection protocol with the Prairie Island Indian Community in Minnesota to allow tribal representatives to observe NRC inspections at the Prairie Island Nuclear Power Plant. The Community meets the same requirements as an adjacent State [see Management Directive 5.2, "~~Governmental Relations and Public Affairs Memoranda of Understanding with States, Handbook 5.2 Exhibits~~", "*Cooperation with States at Commercial Nuclear Power Plants and Other Nuclear Production or Utilization Facilities*" Exhibit 1, Appendix A: Protocol Agreement for State Observation of NRC Inspections (page 5-13)]. This decision was based on the fact that the Prairie Island Community is located within the 10-mile emergency planning zone for the Prairie Island plant.

c. Interactions with other Federal Agencies

1. Federal Liaison Program Scope

The Federal Liaison area of the program, located in the ~~Office of State and Tribal Programs~~ **Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs**, is limited to representing NRC and its policies to other Federal agencies and serving on interagency committees. RSLOs are responsible for coordinating regulatory activities with the regional offices of other Federal agencies.

2. Department of Homeland Security

On occasion, RSLOs may serve as an interface between NRC's NSIR and the State Homeland Security official. Specifically, RSLOs are responsible for verifying that appropriate State and tribal officials receive security advisories or orders issued by the Headquarters Operations Officers within NSIR.

Should an RSLO receive an inquiry or pertinent information regarding physical security from a State Homeland Security official, he/she should inform the Regional Administrator, NSIR, STP **DILR** and others, as appropriate.

3. Advisory Council for Historic Preservation (ACHP)

The Advisory Council for Historic Preservation periodically asks NRC for input on any potential impact on Historic sites. Typically this request comes to one of the Program Offices. Although RSLOs are not directly impacted, this discussion is included for completeness.

C. Special Issues, Requests and Circumstances

1. Low-Level **Radioactive** Waste Issues

The RSLO is NRC's chief regional contact with those compact commissions whose proposed disposal sites are located in the NRC region. The RSLO is also the liaison with any development or operating authority. The Regional State Agreement Officer is the contact with Host State radiation regulatory agencies where the State has authority through an Agreement with the NRC to regulate low-level **radioactive** waste disposal.

<http://www.nrc.gov/waste/low-level-waste.html>

If time and duties permit, the RSLO should observe meetings of the compact commissions and, if possible, interact with the compact commissioners in order to establish a working relationship and to develop an understanding of the commission's objectives and plans for meeting its objectives. The RSLO shall periodically brief Regional management, and STP **DILR** and Division of Waste Management and **Environmental Protection** staff on commission activities, goals and plans. These briefs may be via written report or by e-mail.

In particular, the RSLO should be alert to the following:

- a. State interest to negotiate a Memorandum of Understanding for LLW packaging and transportation inspections with a State;
- b. Interface or jurisdictional problems between the compact States, individually or collectively, and the federal government in general, NRC in particular;
- c. Technical or procedural questions with respect to 10 CFR Part 61 or any other NRC regulation;
- d. Generic questions that while arising in one compact group might be expected to arise in others, including innovative solutions to special problems.

2. **Specific RSLO Action Regarding Memoranda of Understanding Pertaining to Low-Level Radioactive Waste Inspection**

Since the passage of the Low-Level Radioactive Waste Policy Amendments Act, STP DILR formulated an MOU for the States which would allow State inspectors to inspect waste packaging and shipping procedures on the premises of certain NRC licensees. The model MOU was developed in response to State requests during formulation of LLW compacts.

The RSLO will be the lead NRC individual responsible for initiating and coordinating these MOUs with the States. STP DILR will provide support to the RSLOs in these activities and should be informed of all significant developments during the negotiations. RSLOs should establish effective channels of communication in order to be alert to compacts' movements towards actual implementation and enforcement of sections in the compact which deal with inspection of waste transportation and packaging procedures. If interest is expressed in an MOU, the RSLO, in conjunction with STP DILR, should initiate action to accommodate the State. If the RSLO determines there would be minimal benefit to an MOU, that determination should be discussed with STP DILR and, if agreement is reached, subsequently discussed with the State.

3. **High-Level Radioactive Waste Issues**

One of the high visibility and long-term Federal/State activities is management of high-level radioactive waste storage and disposal. As the Department of Energy (DOE) and NRC proceed to carry out their respective roles under the Nuclear Waste Policy Act, certain States will continue to have an interest in these activities. The RSLOs need to be aware of these

interests and to follow NRC's action. STP DILR will notify the RSLOs and their management of any meetings that should be considered for attendance. The RSLOs should keep generally informed of major issues regarding high-level radioactive waste disposal and storage in the States in their regions. Specifically, RSLOs should be alert to any political developments or concerns of the States, tribes and local governments and bring them to the attention of the Regional management, ~~Division of Waste Management and Environmental Protection~~ the **Division of High-Level Waste Repository Safety, NMSS** and STP DILR.

4. **Transportation of Nuclear Waste**

Section 301.(a) of P.L. 96-295 required the NRC to promulgate regulations providing for timely notification to the Governor of any State prior to the transport of nuclear waste, including spent fuel, to, through, or across the boundaries of such State. This was implemented by the NRC in 10 CFR 71.97 and 10 CFR 73.37. An annual publication of the Governors' list is required to be published in the Federal Register on or about June 30. STP DILR updates this list annually.

<http://www.hsrdo.ornl.gov/nrc/procedures/sl200.pdf> (<http://nrc-stp.ornl.gov/procedures/sl200.pdf>)

5. **Emergency Planning and Response**

Generally in the Regions, the RSLO is the primary liaison between the NRC Regional response team and other government representatives. Management Directive 8.2, "NRC Incident Response Program," (http://www.internal.nrc.gov/ADM/DAS/cag/Management_Directives/md8.2.pdf) delineates the roles and responsibilities of the Regional Administrators when NRC responds to radiological incidents under NRC jurisdiction if requested by the State or provide technical assistance to an Agreement State in responding to an event under Agreement State purview. Regional Administrators may request RSLO assistance in accomplishing the roles and responsibilities specified in MD 8.2, "NRC Incident Response Program," particularly in the area of establishing and carrying out an outreach program.

6. **Legal Interpretations**

Formal communications with State, tribal, or local officials such as letters explaining regulatory matters, NRC statements of position etc., should not be issued until they are reviewed and concurred in by the affected NRC Offices (NRR, NMSS, RES, NRO, OE, NSIR), and either the Regional Counsel or the Office of the General Counsel in Headquarters must have determined that NRC has "no legal objection" in writing. Any questions about legal interpretations should be directed to Regional Counsel or OGC at NRC Headquarters.

D. Other Communications

Formal communications with State officials (letters re: regulatory matters, MOUs, statement of positions regarding State legislation, etc.) need to have the concurrence of other affected offices and the determination of "no legal objection" from the Office of the General Counsel and/or from the Regional Counsel. In all such communication, ~~STP's~~ **DILR's** concurrence should also be sought and **STP DILR** will provide needed HQ coordination.

1. Requests for NRC Views

RSLOs may receive requests from State, **tribal**, or other legislative officials for information or for NRC representation at a licensee or public meeting for a variety of reasons including public outreach. The request may be made directly to the RSLO or forwarded from another NRC office (Region or HQ). The RSLO should consult with Regional management to determine whether the request can be handled by the Region or whether **STP DILR** should be involved. Depending on the nature of the request, **STP DILR** may request the assistance of the Office of the General Counsel. Additional information on this subject may be found in 10 CFR 9, Subpart D, "Production of Disclosure in Response to Subpoenas or Demands of Courts or Other Authorities."

The RSLO will normally remain the Regional point of contact with the State or other government entity requesting an NRC witness unless directed otherwise by Regional Management.

2. Requests to Attend or Participate at Meetings/Conferences

Barring any scheduler conflicts or higher priorities, RSLOs should attend meetings of national organizations that are convened within the Region. In particular, RSLOs should try to attend meetings of the National Governor's Association and the National Council of State ~~Legislators~~ **Legislatures**. **STP DILR** monitors the schedule for these meetings and will notify the affected RSLO of any meetings that should be considered.

a. ~~National SLO Meeting~~ **Conference**

RSLOs should attend and participate in the National State Liaison Officer ~~meetings~~ **Conference** that ~~are~~ **is** sponsored by **STP DILR**. These meetings are typically held triennially. These ~~meetings~~ **conferences** provide an opportunity to interface with all of the SLOs at

one time and location to effectively and efficiently provide information on significant regulatory issues.

The RSLO will want to use the occasion of the National SLO Conference to also hold discussions separately with their SLO and to facilitate interactions with other Regional or Headquarters staff.

b. Attendance at State, local, or Tribal Nation Sponsored meetings

RSLOs may be asked to attend meetings sponsored by State, local or tribal governments. RSLOs may represent the NRC at these informational meetings to discuss regulatory issues. If the meeting purpose involves issues that are beyond the expertise of the RSLO, Regional Management will determine the appropriate participants either instead of the RSLO or in addition to the RSLO.

c. Meetings of Professional Organizations

RSLOs should use their discretion when deciding whether to attend meetings of other professional organizations in coordination with the Regional Administrator. Representative organization meetings include, but are not limited to:

- The Conference of Radiation Control Program Directors (CRCPD)
- The National Radiological Emergency Preparedness Annual Conference
- Meetings of the Organization of Agreement States (OAS)
- The National Association of Regulatory Utility Commissioners (NARUC)
- The National Council of State Legislators ~~Legislators~~ Legislatures

TABLE 1
Reference Documents for RSLO Guidance Handbook

| <i>Document Date</i> | <i>Document Title</i> | <i>Locator number</i> |
|----------------------|---|-----------------------|
| 11/04/1982 | 1982 RSLO Guidance (Frank Young) | ML033450375 |
| 02/22/1989 | 54 FR 7530 - 7539 Policy Statement on NRC Interactions with States | ML033450316 |
| 02/25/1992 | 57 FR 6462 - 6468 Policy Revision to Permit Adjacent State Observations of NRC Inspections | ML033450312 |
| 09/30/1993 | Executive Order 12866: Regulatory Planning and Review | ML040070197 |
| 10/26/1993 | Executive Order 12875: Enhancing the Intergovernmental Partnership | ML040550043 |
| 03/14/1994 | EPA's Policy on Native Americans | ML040160791 |
| 04/29/1994 | Clinton memo on to Interact with Native American Tribal Governments | ML033450323 |
| 05/18/1994 | DOE Memo on Government-to-Government Relations with Native American Tribal Governments | ML040160784 |
| 06/17/1994 | Letter to D. Homer, US DOI Bureau of Indian Affairs | ML040120159 |
| 06/17/1994 | Letter to Homer, D, Bureau of Indian Affairs on Prairie Island Dakota Community | ML040360214 |
| 03/27/1995 | Letter to Deer, A., Assistant Secretary of Indian Affairs on Prairie Island Dakota Community | ML040360215 |
| 06/10/1996 | 61 FR 29424 - 29426 Department of Justice Policy on Indian Sovereignty and Government-to-Government Relations | ML040160781 |
| 08/07/1996 | Letter from Morris, L. Bureau of Indian Affairs regarding Prairie Island Dakota Community | ML040160798 |
| 08/28/1996 | SECY 96-187 Policy Issues Raised in Meeting with Prairie Island Dakota Indian Representatives | ML040120574 |
| 11/13/1996 | SRM for SECY 96-187, "Policy Issues Raised in Meeting with Prairie Island Indian Representatives | ML040120150 |
| 12/02/1996 | Letter to C. Campbell, Prairie Island Community regarding Clinton memorandum | ML040120156 |
| 09/03/1997 | 62 FR 46517 - 46525 Statement of Principles and Policy for the Agreement State Program; Policy Statement on Adequacy and Compatibility of Agreement State Program | ML040070213 |
| 06/22/1998 | Regional State Liaison Officer Program Guidance | ML040260038 |
| 11/06/2000 | Executive Order 13175 Consultation and Coordination With Indian Tribal Governments | ML040070159 |
| 03/28/2003 | Revised Guidance for Developing Briefing Materials | ML030900838 |
| 12/11/2009 | Tribal Protocol Manual (Non-public document) | ML092990559 |
| 12/28/2009 | U.S. Nuclear Regulatory Commission Interaction with Native American Tribes | ML092800263 |