

## Working Group's Responses to Draft Report Comments

**From:** Duncan White  
**To:** Josephine Piccone; Lance Rakovan  
**Date:** May 11, 2004  
**Comment:** "In request to your April 16, 2004 memorandum, Region I has no comments on the NMP Pilot Project Two Draft Report."  
**WG response:** The Working Group acknowledges the comment.

**From:** James Lynch (Region III)  
**To:** Josephine Piccone; Lance Rakovan  
**Date:** May 12, 2004  
**Comment:** "Marc Dapas asked me to respond to your April 16<sup>th</sup> request for comments on the draft National Materials Program Pilot #2 report.

The Working Group proposal provides a good methodology to develop a standardized certification process, ensure sharing of radiographer certification and safety violations data, and to establish an oversight committee. We support the Working Group's efforts and have no comments."

**WG response:** The Working Group acknowledges the comment.

**From:** Chuck Cain  
**To:** Josephine Piccone  
**CC:** Lance Rakovan  
**Date:** May 14, 2004  
**Comment:** "This responds to your memo to Elmo Collins, et al, dated 4/16/04, same subject. Region IV has no comments on the draft."  
**WG response:** The Working Group acknowledges the comment.

**From:** Charles L. Miller (Division of Industrial and Medical Nuclear Safety, NMSS)  
**To:** Josephine Piccone  
**Date:** May 28, 2004  
**Comments:** "On behalf of NMSS, I am responding to your memorandum dated April 16, 2004, requesting comments on the National Materials Program Pilot Project Two Draft Report. The comments from NMSS are listed below.

1. NMSS is supportive of the objective, however the approach seems very prescriptive and not performance based. Is there another more risk informed or performance based option that could be created that is

focused on the end product?

**WG response:** The Working Group did consider, to the degree possible, performance-based criteria. However, some certification components do not lend themselves to being performance-based, and that approach is not practical. In order for programs to be nationally-recognized, the core requirements should be uniform. Implementation of these requirements, though, may vary from program to program depending on local resources.

2. The Background section states that currently there are 10 states and the American Society for Nondestructive Testing, Inc. recognized as certifying entities. Was there a central entity recognizing these states? If yes, does it still exist? If not, who recognized the states?

**WG response:** There was not a central entity, as is mentioned in the proposed national certification program, that recognized the current certifying entities. Participating certifying states voluntarily achieved the standards and expectations that were established in rules as part of the Agreement State process and through CRCPD. As stated in the Background section of the draft report, ASNT received recognition as an Independent Certifying Organization as a result of a formal program review by an NRC working group. NRC officially noticed ASNT in the June 17, 1998, Federal Register (63 FR 32971) and acknowledged the Agreement States that were certifying entities at that time.

3. NRC regulation 10 CFR 34 was the basis for industrial radiography activities using radioactive materials. For X-ray only or combination certificates, are there rules (outside the NRC) regulating x-rays that are available and are equivalent in scope to the 10 CFR 34 regulations on radioactive materials?

**WG response:** X-ray only or combination rules are available through CRCPD's Suggested State Regulations for Control of Radiation, Part E, for states to use as a basis for implementing their regulations. Yes, they are equivalent in scope to NRC's 10 CFR 34 radioactive materials regulations.

4. The Alliance Concept should be explained in more detail in the Background Section including who is part of the alliance and could there be a change in membership.

**WG response:** The Alliance Concept is applicable to the entire NMP, not specific to this pilot project. Throughout the history of its existence, the G-34 Committee on Industrial Radiography has used a collaborative approach in addressing issues associated with industrial radiography.

5. Are the training requirements for certification conflicting with any state regulations? If yes, how will the differences be considered?

**WG response:** No, certifying entities must have all components to be recognized. The certification requirements drive state and NRC regulations to ensure comparable programs. A central entity would help to ensure differences were minimized in order to not compromise comparable programs.

6. After this proposed new entity is established, how will the difference between new certificates and those issued before the criteria was identified be addressed? For example, those certified before the new concept may not have passed the same examination. Do those radiographers need to be re-certified if their certificates issued based on a different criteria before? Is there a program for follow-up or re-examination?

**WG response:** The proposed centralized oversight group would continue the work that has already been started. The criteria for new certificates are the same as for those already issued. The new certificates issued will mean the same as those already issued. This is not a whole new initiative. Radiographers renewing their certification take exams that are comparable to exams taken by radiographers just getting their certifications because the exam structure and administration have already been evaluated to assure compatibility between programs.

NMSS would be happy to provide OSTP assistance if there are questions regarding these comments."

**WG response:** The Working Group acknowledges the comment.

**From:** Stanley Fitch (OAS)

**To:** Kevin Hsueh

**CC:** Lance Rakovan; Richard Ratliff; Ed Bailey

**Date:** June 3, 2004

**Comment:** "Thank you for this opportunity to comment on the Pilot 2 draft report. After review, I have no comments."

**WG response:** The Working Group acknowledges the comment.

**From:** Richard Ratliff

**To:** Kevin Hsueh, Stanley Fitch

**CC:** Lance Rakovan

**Date:** June 3, 2004

**Comment:** "Kevin, I did not have any comments. Ed Bailey is now Chair of CRCPD and should be the contact for CRCPD in the future."

**WG response:** The Working Group acknowledges the comment.

**From:** Leonard R. Smith, CHP (Council on Radionuclides and Radiopharmaceuticals)  
**To:** Lance Rakovan  
**CC:** SRS3, Paul Lohaus, Stanley Fitch  
**Date:** June 9, 2004  
**Comments:** "CORAR Comments to NRC on Potential Objectives for the National Materials Program

1. Eliminate or minimize dual regulations
  - a. Include NARM in NRC and Agreement State Exempt Quantity Distribution Licenses.
  - b. Continue assisting State Agencies to submit Sealed Source and Device registrations that are accepted by all State Agencies.
  - c. Consider how to establish an independent radiation standard setting agency not responsible for promulgating and implementing regulations. There is a need for an independent Federal Agency to set stands that must then be uniformly adopted by all Regulatory Agencies.
  - d. Increase participation in international efforts to harmonize radiation standards and regulations.
  - e. Exercise preemptive authority to ensure that variance in State or Local regulations are only permitted when an essential benefit can be substantiated. For example consider joint NRC and State Agency action in California to eliminate recent unconstitutional legislative initiatives concerning decommissioning and regulatory control.
  
2. Establish a comprehensive classification system for radioactive waste based on hazard characteristics and controls rather than the origin of the waste.
  
3. Regulate radioactive materials according to hazard characteristics and controls rather than origin.
  - a. NRC should regulate the licensing of possession, use and distribution of NARM sources and materials and their inspection and associated enforcement in Non-Agreement States. The regulation of NARM and byproduct material in Agreement States should continue to be strictly compatible with NRC regulation of byproduct material.
  - b. Accelerator and x-ray facilities and NARM produced and used in accelerator facilities should continue to be regulated by the States. Provide assistance and financial incentives to State Agencies to establish strictly compatible standards and regulations for accelerators and x-ray machines and for NARM produced and used

- in the accelerator facility.
- c. Coordinate with EPA in classifying and regulating NORM.
- d. Determine low risk uses of radioactive materials, such as medical diagnostic uses, and exempt these uses or establish a lower level of regulatory control commensurate with the risk.

4. Coordinate with EPA to fully implement the EPA's Conditional Exemption Rule on Mixed Waste.
  - a. Establish generic conditions and qualifications for licensees to allow them to use catalytic oxidation processes to treat specified Mixed Waste forms.
  - b. Extend NRC regulations to include NARM such that NARM is included in the EPA's Conditional Exemption Rule.
  - c. Coordinate with the EPA to provide federal funds to assist State Agencies to adopt the EPA's Conditional Exemption Rule.
5. Expand Implementation of performance based inspection programs.
  - a. Establish criteria for identifying and deregulating low risk diagnostic nuclear medical practices.
  - b. Assist Agreement State Agencies to recognize and eliminate redundant prescriptive requirements and license conditions.
  - c. Coordinate with Agreement States to reduce the time to complete license renewals and amendments.
6. Establish a set of terms to specify the form of radionuclides in Possession Licenses and coordinate with Agreement States to use these terms uniformly.
7. Reconsider the purpose and procedure for Event Notifications.
  - a. Reconsider whether the purpose is educational and/or punitive.
  - b. Coordinate with Agreement States to develop procedures to ensure the accuracy of Event Notices. Event notifications should be verified prior to publication to eliminate those due to incorrect interpretation of measurements.
  - c. Establish a method to clearly communicate the significance of Individual Event Notifications to ensure that the public achieves proper perspective.
  - d. Consider including Events that demonstrate good controls for their education value for licensees."

**WG response:** The Working Group feels the comments are not applicable to Pilot Project 2.

**From:** Paul Lohaus  
**To:** Kevin Hsueh  
**CC:** Ed Bailey, Charles Miller, Jim Myers, Josephine Piccone, Patricia Holahan, Jan Endahl  
**Date:** June 30, 2004  
**Comments:** "I have completed my review of the National Materials Program Pilot Project Number 2 draft report. I suggest consideration of the following 2 comments:

1. The Charter of the Pilot Project Working Group was to develop the process and criteria for the CRCPD to review requests by States or other organizations seeking recognition as certifying entities for industrial radiographers. While the report does an outstanding job in establishing a set of criteria for a national radiographer certification program, the report does not define or describe the process that should be followed by the CRCPD in implementation of such a national program. Such a description is essential.

The report contains 2 flow charts, and in some places, speaks to entities that would be involved in the national process. (e.g. reference to the "oversight committee on page 4). But, the report contains essentially no information about the process that would be followed by CRCPD such as the entities that would be involved, their roles and responsibilities, how they would function, the process steps which would be followed by the CRCPD to approve a certifying organization, how the CRCPD would communicate approvals to Agreement states and NRC, or a description of other process steps. A description of the process will be necessary in order for the CRCPD to implement a national program.

My thought here is that without such a description, the national program will advance no further until the process steps are defined and known. With a set of process steps defined in the pilot project report, the paper transmitting the final NMP pilot project report to the Commission could recommend that the CRCPD either begin implementation, or initiate a pilot test for 3-5 years, of a CRCPD run national program using the process and criteria developed by the working group.

**WG response:** The Working Group's opinion is that before the actual process implementation details can be delineated, a volunteer organization needs to agree to take on the project. Although processes and procedures are important, they shouldn't precede the decision to make the commitment to implementing this project. Because CRCPD's G-34 Committee on Industrial Radiography has spearheaded radiography projects and issues, CRCPD is a likely candidate. However, the Working Group does not feel like any

formal agreement has been entered into at the level of CRCPD's Board of Directors and NRC's management. Additionally, to designate CRCPD as the responsible organization for this project seems to be beyond the charter and scope of this project, with no one on the Working Group being in a position of authority to officially make that designation. While CRCPD is not a regulatory agency, its "center of expertise" certainly could be the vehicle that drives the activities associated with radiographer certification. Because certification is in regulatory space, CRCPD, would need regulatory backup.

2. On page 8, in the last paragraph labeled "Resources", the report notes that Donny Dicharry who serves as an industry representative to the G-34 Committee under CRCPD procedures, "...accepted the group's invitation to participate in this pilot project..." I would suggest that this be deleted from the report since Mr. Dicharry was already a representative on the working group given his advisor role to the G-34 Committee. The G-34 Committee was assigned responsibility to carry out pilot project number 2.

**WG response:** The Working Group agrees with this comment and will delete the phrase from its final report.

I thank you for the opportunity to review and provide comments on the draft report."