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Remarks by
Dr. Ivan Selin, Chairman
United States Nuclear Regulatory Commission
at the
Agreement State Managers Workshop
Hunt Valley, Maryland
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I am pleased to be here today with you for the NRC/Agreement States Managers workshop. I believe the topics that you are addressing in these sessions are timely, especially in light of the recent GAO report and the Synar hearing held on August 2, 1993. This report and the Congressional hearing have been extremely helpful to the NRC in re-evaluating the strengths and weaknesses of the current NRC agreement state program after 30 years of positive experience together.

First, I think we all share the view that the agreement states program is a successful and unique federal-state partnership, which has proven beneficial to the NRC, the states, the public and to the industries we regulate. I believe that the agreement states program has provided reasonable assurance that public health and safety have been adequately protected throughout the thirty year history of the program. However, currently this belief can only be validated by the NRC's monitoring of the technical and administrative aspects of the programs, with a few snapshot surveys reflecting direct protection of the public health and safety. We believe the general public will be better served when both NRC and the Agreement States are able to base this belief on performance measures in addition to the programmatic measures we now use.

Therefore, as a result of the recent GAO report and other NRC review efforts, the Commission has come to the conclusion that we should go to the next stage in the evolution of this very successful program. We are currently considering what steps should be taken in this regard.

Carl Kammerer has provided excellent leadership in developing our present program with the active participation of 29 agreement states. We appreciate his efforts and salute his achievements during these past years. However in the further development of the program, the Commission has concluded that we need closer coordination of the agreement states program with the NRC materials licensing program, a step requiring different skills. Consequently, the Executive Director for Operations has appointed a new manager of the NRC agreement states program, Richard Bangart, from our office of Nuclear Materials Safety and

Safeguards, Division of Low Level Waste Management and Decommissioning. He has an extensive background in materials licensing and low-level waste management. We have great confidence that his considerable technical and managerial skills can strengthen the program, while maintaining the excellent rapport that we and you have built up over the years.

I would like to take this opportunity to discuss with you some of the issues we touched upon during the recent hearing on the agreement states program.

The GAO found first that we need, ..."common performance indicators in order to obtain comparable information to evaluate the effectiveness of both the agreement state and NRC regulated state programs in meeting NRC's goal."

This is true -- if anything, it is an understatement. Without common performance indicators, we do not have a good yardstick to evaluate and compare NRC programs against agreement state programs, or even to communicate with each other. Development of a performance evaluation system, using some output measures as well as programmatic measures, appears to be the linchpin to all the corrections and improvements I will discuss below.

We are developing a new program evaluation approach which we intend to implement beginning next year. The core indicators will include both the traditional programmatic indicators as well as output indicators such as medical misadministrations, lost or abandoned radioactive sources, radiation overexposures, and contaminated sites. These core performance indicators could be used in the development of an annual integrated materials safety evaluation for each agreement state and NRC regional office. We seek your help in developing this approach. You have received the recently completed NRC task force study comparing the way we review our regional materials programs with our evaluation of the agreement states' materials programs and have a discussion session scheduled. Our goal is to identify the strengths of each program, to provide comparable core performance assessment measures for both programs so that the public is better served regardless of where the license comes from.

Next, recently we have found that we need to take more vigorous action to ensure that potentially inadequate state programs receive necessary attention and to achieve improvement. Once the common performance evaluation program is worked out, we will look at ways of using the evaluations to communicate directly with state programs that lag the expected level of performance. We are considering an intermediate stage between an adequate and compatible program and revocation, in which a state might more formally be put on notice that certain program remedies are needed if revocation is to be avoided. I do not expect this performance evaluation program to affect the majority

of agreement states whose performance has been consistently high over the years. However, the weaker programs will continue to need close scrutiny for additional action.

Third, in reviewing the cases where an agreement state was not immediately found adequate I was struck by two observations - (1) in almost every case, staffing deficiencies were a major contributing cause, and (2) although in most cases the state did have a fee structure, the state's fees were either too low to support the program or were not dedicated directly to support the program. When a state is experiencing difficulties with funding an adequate program, the state should increase its licensing fees to generate the necessary resources to support the program. This action by the Agreement State to preserve the regulatory program is in the best interests of its licensees, as well as in the best interest of the State and its citizens. Most agreement state licensees could pay higher fees and still be paying less than the fees that NRC would charge if the state program failed and were returned to NRC jurisdiction.

Fourth, the GAO found that we were not taking steps to guarantee that abnormal occurrences and radiation events would be, "reported completely and accurately so that NRC can include the occurrences in its quarterly report to Congress." It is essential that this information from the Agreement States be submitted.

Last year we advised the state regulators of the need for complete event data, and we followed up with telephone calls to the states. As a result, for the first time we obtained event reports from all 29 agreement states for 1992. This is a good start, but the rate of abnormal occurrences reported from agreement states remains implausibly low, compared to states that the NRC regulates directly. We must get to the point where there is no significant difference in accuracy or completeness between NRC and agreement state event reporting.

We have taken or are taking some other important steps -- we look forward to continuing to work with the agreement states on these additional initiatives:

The issue of compatibility is one that has been of significant concern to us and to you for some time. The staff is developing a more comprehensive compatibility policy for Commission review in November, including the views of the Agreement States and other participants from the July workshop. I regard the Commission's work to refine our policy approach to compatibility to be a key point in defining the NRC/agreement states' relationship.

A frequent criticism of the agreement states is that it takes too long for them to adopt changes to their regulations once NRC changes have been made. Although in most cases that

criticism is not justified, I believe this delay can be shortened when demonstrable health and safety considerations require it. This is also a point to be discussed this week.

We are also considering action to gather in one document the formal basis for the agreement state program, which is now spread through policy statements, regulatory guides, and oral tradition.

A topic that has come under additional scrutiny is the financial requirements for decontamination and decommissioning arising from all sources of contamination. We are reviewing the options available to revise the inadequate levels of funding in the present regulation.

We are also looking at next steps in the Commission's Site Decommissioning Management Plan, including potential extension of this program to the agreement states.

Another issue under review is improvement of our medical licensing program. This, of course, could have implications for the medical licensing programs which you implement in the various agreement states. Our objective here is, as always, to ensure that members of the public receive adequate radiation protection without our interfering unnecessarily in the practice of medicine. We promised Senator Glenn a short and very preliminary scoping study on possible alternatives to our current regulatory scheme. We expect to complete this study around Labor Day.

In conclusion, I believe our thirty years of success in the Agreement State program has established a firm basis for this partnership. It is time for initiatives which will move the agreement states program on to a higher level of excellence. These initiatives and the new management oversight will build public trust and confidence in nuclear materials program of both NRC and the Agreement States. In all of these initiatives we seek your cooperation and your assistance.