

POLICY ISSUE NOTATION VOTE

May 18, 2000

SECY-00-0110

FOR: The Commissioners

FROM: William D. Travers
Executive Director for Operations

SUBJECT: EVALUATION OF THE FEASIBILITY OF NRC CREATING AND
MAINTAINING A WEB PAGE SERVING AS A BULLETIN BOARD
FOR AGREEMENT STATE RULEMAKING ACTIVITIES

PURPOSE:

To respond to the December 13, 1999 Staff Requirements Memorandum (SRM) from the November 9, 1999 meeting on NRC interactions with stakeholders on nuclear materials and waste activities by providing to the Commission an evaluation of the feasibility of NRC creating and maintaining a web page serving as a bulletin board for Agreement State rulemaking activities.

BACKGROUND:

Presently, the 31 Agreement States issue proposed and final regulations under their individual State administrative laws and requirements for promulgation of regulations. There is no central clearing house or location for stakeholders to examine all 31 Agreement States regulations or to learn the status of Agreement State rulemaking activities. During the November 9, 1999 meeting on NRC interactions with stakeholders on nuclear materials and waste activities, stakeholders discussed the impacts of more stringent compatibility requirements for Agreement States, especially regulatory requirements involving interstate commerce. Several stakeholders noted that in some instances, Agreement State rules have consequences that were not expected and affected parties may not be adequately informed about proposed or final revisions.

The Commission directed that in conjunction with current efforts to improve materials regulations, the staff evaluate the appropriate compatibility levels for new regulations, including the public comment process in Agreement States, so as to balance the benefits of uniformity in regulations that have transboundary implications against the benefits of providing flexibility to the Agreement States.

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The Commission also, requested that staff provide an evaluation of the feasibility of NRC creating and maintaining a web page serving as a bulletin board for Agreement State rulemaking activities. This bulletin board could consist of simply a link to all the appropriate NRC and Agreement State web sites or something different. There are no legal constraints barring NRC's linking to other public sites through STP homepage.

Presently the Office of State and Tribal Programs (STP) maintains a web site of pertinent information on the NRC's Agreement State programs through a contract with Oak Ridge, that includes links to those Agreement State radiation programs that have established web sites for this purpose.

In the last 5 years, NRC has promulgated approximately 4 revisions per year to the regulations which have been determined to be items of compatibility with the Agreement States.

DISCUSSION:

NRC has established policy, developed procedures and seeks early and substantive input from Agreement States to determine compatibility requirements for new regulations. In response to the December 13, 1999 SRM, staff has reviewed the current procedures, including recently revised rulemaking procedures to ensure that through these procedures staff will evaluate the appropriate compatibility levels for new regulations, so as to balance the benefits of uniformity in regulations that have transboundary implications against the benefits of providing flexibility to the Agreement States in accordance with the 1997 NRC Policy Statement on Adequacy and Compatibility. Those regulations with significant direct transboundary implications are classified as Category B. The State program element should be essentially identical to that of NRC. Staff believes these procedures, and the opportunities offered for Agreement State participation in rule development activities, are adequate to address the compatibility assignment for new NRC regulations.

Currently, all Agreement States are requested to send both proposed and final regulations to NRC for review. Most States share proposed and final regulations with NRC. NRC places copies of State rules into the PDR upon receipt, including the outgoing NRC comment letter dispatched to the State (NRC staff always responds; either providing comments or indicating the States rules meet compatibility procedures). In connection with the NRC's evolution to a paperless agency, copies of all incoming rules and NRC's correspondence with the State are placed into the Agency Wide Document Access and Managements System (ADAMS). In considering potential alternatives to the web page, the staff did not identify any efficient or economical method to distribute these documents to a large number of interested stakeholders. Therefore, staff has evaluated only electronic alternatives based on the present technological capabilities of the public and NRC.

Staff examined four alternatives in addressing the question of NRC creating and maintaining a web page serving as a bulletin board, for Agreement State regulations. These alternatives included:

Alternative 1 - slight modification in current practice;

Alternative 2 - providing a direct link from the STP web site to State web sites where proposed and final regulations are listed;

Alternative 3 - implement Alternative 2 and establish a listing of ADAMS accession numbers on the STP web site of all proposed and final regulations submitted to NRC;

Alternative 4 - collect, prepare, post and maintain all State proposed and final regulations at the STP web site.

Advantages and disadvantages of each alternative are discussed below.

Staff also conducted a survey of the current availability of proposed and final Agreement State regulations. Currently, of the 35 Radiation Control programs in the 31 Agreement States (2 programs in Texas, 4 in New York), 28 programs make final regulations available to the public on State web sites, although not necessarily on the Radiation Control program's site. Seven programs do not post any information on their regulations on the web; however, all have plans to do so in the future. In addition, 14 of those 28 programs post proposed regulations for public comment on the web. Also, two of the four States negotiating Agreements responded to the survey and have final regulations on the web and one of the two posts proposed regulations.

Alternative 1:

Slight modification in current practice. STP would continue to maintain links to the Agreement State Radiation Control program web sites, but would ask the Agreement State Radiation Control program to establish links to, or post, their proposed and final regulations on their web pages.

Advantages:

- Within present budget. No additional costs or resources needed.
- Agreement State participation is voluntary.
- Links are easily maintained.
- Stakeholders may provide comments on proposed rules at individual State web sites.
- Rules and rulemaking content would be maintained by cognizant State staff.

Disadvantages:

- Seven Agreement States Radiation Control programs do not currently have web sites.
- Some Agreement States may not voluntarily agree to link, or post, regulations to their web sites.
- Presently STP links are to the Radiation Control program sites and not directly to sites containing individual State regulations. Stakeholders may need to search web sites to determine if the given State maintained proposed or final regulations on the internet.

- Relies on the Agreement States to provide information about proposed and final regulations at their web sites.

Alternative 2:

Provide a direct link from the STP web site to the State web site where proposed and final regulations are listed. Under this alternative, stakeholders could use STP's web page index to identify and link to the regulations at the State's site. Staff estimates this option would cost approximately \$9000 to set up with minimal annual cost (i.e., \$2000) to maintain. This cost is within the existing STP web site budget.

Advantages:

- Most Agreement States (28) post final regulations at State web sites. Half of the Agreement States also post proposed regulations at State web sites.
- Minimum cost to NRC to set up, low maintenance cost and within existing STP budget.
- Stakeholders directly access specific State web site for information at one location.
- Agreement State participation is voluntary.
- Stakeholders may provide comments on proposed rules at individual State web sites.
- Rules and rulemaking content would be maintained by cognizant State staff.

Disadvantages:

- Seven Agreement States Radiation Control programs do not currently have web sites.
- Currently only 14 programs have web sites for proposed State regulations.
- Relies on the Agreement States to voluntarily provide information about proposed and final regulations at their web site.
- Stakeholders would need to search some State web sites to identify specific proposed and final regulations.

Alternative 3:

Implement Alternative 2. Additionally, establish a listing on the STP web site of all proposed and final regulations submitted to NRC. (STP receives approximately 100 proposed and final regulations from Agreement States per year). The web site listing maintained by STP would include a cross reference of each Agreement State's rulemaking to the corresponding NRC regulation. This cross reference would help identify the subject area or specific rule being adopted by the States. The listing would also identify the ADAMS accession numbers for each rule. Stakeholders could, therefore, access and download regulations from the NRC's Public Electronic Reading Room (ADAMS library). The linkages on the STP homepage to individual State web sites, as described in Alternative 2, could then be used by the stakeholder to obtain additional information on each rule and to provide comments. Staff estimates this alternative would cost approximately \$13,000 with minimal maintenance costs (\$2,000) in subsequent years. This cost could be accommodated within the existing STP web site budget without significant impact on other web site activities.

Advantages:

- Under Alternate 3, an electronic copy of proposed and final State rules received by NRC would be available to the public on receipt by the NRC. With the launching of ADAMS, all submitted documents on Agreement State regulations would be publically available in an electronic form within 5 days. Posting a list of proposed and final rules received from Agreement States with their ADAMS accession numbers would also allow stakeholders to have ready access and to view the documents NRC has received for comment in a timely fashion.
- Stakeholders could obtain additional information on proposed or final regulations at individual States web sites.

Disadvantages:

- Stakeholders would need to exit STP web page to access ADAMS documents. (Can not internet link to ADAMS documents.)
- All States may not submit proposed and final regulation to NRC for review at the time they are promulgated. (Experience in the Integrated Material Performance Evaluation Program (IMPEP) IMPEP has found that States sometimes promulgated new regulations without providing copies to NRC. In such cases, staff reviews the final regulations as a part of the IMPEP review.
- Stakeholders may not have proposed regulations available in a timely fashion if Agreement States do not submit proposed regulations.
- Slight additional cost to NRC over Alternative 2 to maintain the STP web site listing of proposed and final State rules received by NRC (approximately 100 entries per year).

Alternative 4:

STP, through the web site contract, would collect, prepare, post and maintain all State proposed and final regulations at the STP web site. Additionally, links would be provided for ease of stakeholders access to State regulation web sites. Documents would be provided in a web site catalog, cross referenced to NRC regulations, listing all State proposed and final regulations submitted to NRC. A search tool would be provided for user convenience. The cost to implement this alternative would be between \$21,000 to \$25,000 this fiscal year. To maintain accurate information at the site, frequent surveys of the State's web sites for new rules, or changes, would need to be performed. Staff estimates these surveys should be conducted at least every 30 days for optimal performance at an estimated additional cost of \$96,000 per year.

Advantages:

- All rules are available at one site for stakeholders. There would not be any need to search any other web sites.
- Documents could be searched and will download faster than Alternative 3.
- States need not volunteer.
- Provides a searchable index of all regulations at the site.

Disadvantages:

- Most expensive alternative.
- High maintenance costs with frequent updates for accuracy to ensure timely information.
- Duplicates some State web site information
- Stakeholders must access State web site to provide comment or get additional information.
- Alternative can not be accommodated within the existing STP web site budget.

RECOMMENDATION:

Staff supports Alternative 3 on the basis that it utilizes the current NRC and State web sites for making State rulemaking information available to stakeholders and requires minimal NRC resources to establish a new area on the STP homepage to identify proposed and final regulations received by NRC for review and to identify their location in ADAMS. Staff is prepared to implement this alternative. Staff also believes this alternative has minimal impact on the States and as additional States establish web site pages, it is an easy matter for NRC to include the linkage on the STP homepage.

RESOURCES:

Alternative 1, 2 and 3 could be accommodated within existing resources for maintenance of the STP homepage. At the present there is no additional funding mechanism available to finance this activity except through the routine budget.

COORDINATION:

The Office of the General Counsel has no legal objections. The Office of the Chief Financial Officer has reviewed this Commission paper for resource implications and has no objections. The Office of the Chief Information Officer has reviewed this paper for information technology and information management implications and concurs in it.

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