



Organization of Agreement States

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June 22, 2006

Ms. Janet Schlueter, Director
Office of State and Tribal Programs
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

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Dear Ms. Schlueter:

Thank you for the opportunity to provide our perspectives on the proposed reorganization of the Office of Nuclear Materials Safety and Safeguards and the Office of State and Tribal Programs. The OAS Executive Board read the draft "Functional Statements" provided to me on June 16, 2006, and we would like to share our views and concerns about the current proposal. I would also like to endorse the comments provided to you today by Mr. Pearce O'Kelley, Chair, Conference of Radiation Control Program Directors (CRCPD).

The first concern many of us share is that we do not have a clear understanding of what is motivating this change at this time. While everyone can speculate on various reasons the Commission would have to create this new office, we believe it would be helpful to avoid any misunderstanding to learn more in the way of the reasons for this change. Although, we are aware that similar proposals have been made in the past, I don't believe anyone was aware that this was being seriously considered again at this time, so it does come as somewhat of a surprise. We think that rather than suffer the rampant speculation that often accompanies an abrupt change, it would be more helpful if the NRC were forthcoming about why there is a need or desire to reorganize the offices at this time.

Secondly, we are concerned with the draft proposal for the division of office functions. It appears that the most significant interactions the States have with NRC are being moved to the Division of Industrial and Medical Nuclear Safety (IMNS). These include:

1. Structuring and implementing the National Materials Program;
2. Providing technical support and guidance to the States;
3. Developing policies and procedures for assessing Agreement State adequacy and compatibility;

Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah, Washington, Wisconsin

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4. Coordinating with States to plan and provide for compatibility;
5. Reviewing Agreement State programs under IMPEP;
6. Providing technical support and training for Agreement State staff; and
7. Managing allegations involving Agreement State programs.

Except for the rulemaking tasks, the proposed Division of Intergovernmental Liaison and Rulemaking is left with functions that appear to be mainly diplomatic, rather than for the provision of substantive support.

There are two specific and significant concerns that arise from this proposed division of labor. The first is that the draft description of IMNS functions includes "Oversee[ing] licensing, inspection, event response, allegation management...and other regulatory activities for radioactive material licensed under the Atomic Energy Act." If "licensed under the Atomic Energy Act" refers only to NRC licensees, then we would agree that this is just a description of their current functions. If, however, it was intended to include NRC and Agreement State licensees, then we would have to object. In signing the agreements with the 34 Agreement States, the NRC expressly discontinued their regulatory authority in this regard, and does not "oversee licensing, inspection...and other regulatory activities" in the States in the same way NRC does in its Regions - i.e., NRC may directly oversee these actions in the Regions and direct the Regions to implement policies, procedures and guidance, but such authority does not exist over the Agreement States. We suggest that as the divisions' functions are refined, the partnership of the NRC and the States be described, so as not to create the misunderstanding that the NRC directly oversees the activities over which they agreed to discontinue regulatory authority.

The second significant concern is that the diffusion of the current NRC-State interactions across three divisions will adversely impact the strong relationship the States have with the NRC, due in large part to the high-visibility of, and long-standing relationship the States have with the Office of State and Tribal Programs. The loss of a primary conduit for interaction will, we believe, tend to engender more potential for miscommunication. In addition, even the loss of the word "State" from all functional units, tends to dismiss the State portion of the partnership we've worked so hard to create.

Finally, thrusting the name "National Materials Program" upon a program that is neither the program envisioned by the NRC-State Working Group, nor one that was developed through the partnership concept the National Materials Program embraces, is somewhat disconcerting. This may seem a trivial matter, but it is somewhat disingenuous to adopt the nomenclature, while rejecting the substance of the program.

We would be happy to meet with you to discuss these issues further. More importantly, we hope that you will release additional information to the States as soon as possible. The views expressed here are only the general thoughts of the members of the Executive Board, and our partners in twenty-seven other Agreement States should have the opportunity to provide their insights as well.

Sincerely,



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