

POLICY ISSUE NOTATION VOTE

July 19, 2013

SECY-13-0076

FOR: The Commissioners

FROM: R. W. Borchardt
Executive Director for Operations

SUBJECT: REQUEST BY THE STATE OF GEORGIA TO RELINQUISH AUTHORITY
TO EVALUATE AND APPROVE SEALED SOURCE AND DEVICE
APPLICATIONS

PURPOSE:

To obtain Commission approval to accept the State of Georgia's request to relinquish its sealed source and device (SS&D) evaluation and approval authority and for the U.S. Nuclear Regulatory Commission (NRC) to assume regulatory authority over this activity. This paper does not address any new commitments.

BACKGROUND:

Section 274b. of the Atomic Energy Act of 1954, as amended (AEA) provides the NRC authority to enter into agreements with States so they can assume, and the NRC can relinquish, regulatory authority over specified AEA radioactive materials and activities. On December 15, 1969, Georgia entered into a 274b. Agreement with the Atomic Energy Commission (the predecessor regulatory agency to the NRC) to regulate source, byproduct, and special nuclear material under critical mass.

Currently, the State of Georgia has an Agreement with the NRC which recognizes the State's regulatory authority to evaluate and approve SS&D applications. It should be noted that the relinquishment of SS&D evaluation authority by an Agreement State does not affect the State's ability to license manufacturers or users of SS&Ds since SS&D evaluation authority and the State's authority to license manufacturers or users of SS&Ds are separate parts of the 274b.

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Agreement. The State of Georgia is only relinquishing the part of the 274b Agreement that involves SS&D evaluation authority. Consequently, Georgia would continue to retain regulatory authority to license the use and manufacturing of sealed sources and devices in the State.

In a Staff Requirements Memorandum (SRM) dated June 30, 1995 (NRC's Agencywide Documents Access and Management System (ADAMS) Accession No. ML003756818), in response to SECY-95-136, "Options to Improve and Standardize the Evaluation and Approval of Sealed Sources and Devices Manufactured in Agreement States" (ADAMS Accession No. ML12261A623), the Commission approved a process for the voluntary return of the SS&D evaluation and approval authority from Agreement States to the NRC. The process indicates that a letter from the Governor of the State requesting relinquishment of the SS&D evaluation and approval authority and assumption of the authority by the NRC should be submitted to the Chairman. The request from the Governor serves as the basis of the NRC's action. The first application of this process to return an SS&D program back to the NRC occurred in 1996. In an SRM (ADAMS Accession No. ML003754192) dated April 10, 1996, in response to SECY-96-050, "To Seek Authorization to Accept Relinquishment of Sealed Source and Device Evaluation Authority from the Agreement States of Iowa, North Dakota, and Utah" (ADAMS Accession No. ML12262A600), the Commission approved the NRC assuming regulatory authority for evaluating and approving SS&D applications in these three Agreement States.

DISCUSSION:

In a letter dated June 5, 2013, from Georgia Governor Nathan Deal to Chairman Macfarlane (Enclosure 1, ADAMS Accession No. ML13165A092), the State of Georgia requested relinquishment of its SS&D evaluation and approval authority with an effective date of July 1, 2013. In his letter, the Governor indicated that it has become increasingly challenging for Georgia to recruit and retain the necessary personnel resources to perform the specialized SS&D activities, and that in the best interest of the State, it is necessary to return the SS&D part of the materials program to the NRC in order to focus attention on the primary areas of the program.

The NRC staff has discussed with the State of Georgia staff the proposed effective date of July 1, 2013, contained in the Governor's request. Even though the July 1, 2013, date could not be met, it was mutually agreeable to both the State and the NRC to expeditiously transfer the program. The effective date will follow Commission approval.

Following the process established in SECY-95-136, the staff is providing as background the letter from the Governor of Georgia as Enclosure 1; a proposed response to Governor Deal from the Chairman, accepting the Governor's request (Enclosure 2); and a proposed notice to be published in the *Federal Register* announcing the NRC's intention to resume SS&D evaluation and approval authority in the State of Georgia effective 5 days after sending a letter notifying the Governor upon Commission approval of the request to relinquish regulatory authority (Enclosure 3). If the Commission approves accepting the State of Georgia's request to relinquish its SS&D evaluation and approval authority and for the NRC to resume regulatory authority over this activity, the staff will follow the process established in SECY-95-136 to facilitate an orderly transfer of authority.

RESOURCES:

The staff notes that the State has 77 active SS&D sheets in the national registry. Georgia has identified that there are 17 pending applications for actions on SS&D sheets. The staff estimates that it will take 1.5 full-time equivalents (FTE) of effort to process the 17 pending applications and convert the 77 existing Georgia registry sheets to NRC sheets.

This effort will occur in fiscal years (FY) 2013 and FY 2014. The ongoing annual work resulting from the SS&D program return will be about 0.3 to 0.5 FTE after this initial work is completed. These resources were not included in the budget development for FY 2013 and FY 2014; resources will be allocated to the SS&D program through the Planning, Budgeting, and Performance Management process by delaying lower-priority work elsewhere in the materials users business line. The resources for future budget years will be addressed through the Planning, Budgeting, and Performance Management process.

RECOMMENDATIONS:

The staff recommends that the Commission approve:

1. The NRC's assumption of regulatory authority in the State of Georgia to evaluate and approve SS&D applications.
2. The proposed letter to the Governor of Georgia and the proposed *Federal Register* notice.

NOTE:

Upon Commission approval of the above actions, the staff will recommend to the Georgia Agreement State Program that they provide public notice of this action to their licensees.

COORDINATION:

The Office of the General Counsel has no legal objection to this paper. Additionally, the Office of the Chief Financial Officer has reviewed this SECY Paper for resource implications and has no objections.

/RA M. Weber for/

R. W. Borchardt
Executive Director
for Operations

Enclosures:

1. Letter from the Governor of Georgia
2. Proposed Response to the Governor of Georgia
3. Proposed *Federal Register* notice

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