



Revision to Agreement State Policy Statements

Public Meeting
Rockville, MD
August 6, 2013



Background

- Commission direction in SRM-SECY-10-0105, dated December 2, 2010
 - Update the policy statements and associated guidance documents to include both safety and source security considerations in the determination process
- Policy Statements issued in September 1997
 - Did not specifically address source security
 - Basis for guidance documents (MD 5.6 and 5.9)
- Update to include experience and lessons learned



Some History...

- Adequacy and Compatibility were not defined in Atomic Energy Act when Section 274 was adopted in 1959
- Terms had differing interpretations by NRC and States due to their vagueness (1962-1997)
- Development of policy statements
 - Seven years (1990-1997) to develop policy statements and associated guidance
 - Significant Agreement State, NRC, public and Commission involvement



Our Approach

- Two working groups under MD 5.3
 - Address each policy statement and associated documents
 - Incorporate IMPEP lessons learned
 - Incorporate any transboundary impacts
- Scope of revisions determined by the working group



Proposed Revisions to Policy Statements





“Adequacy and Compatibility of Agreement State Programs”

- Focuses on the meaning and use of adequacy and compatibility
 - Defines program elements
 - Addresses significant transboundary implications
 - Provides flexibility in Agreement State program implementation
- Clarifies the meaning and use of the terms
 - “Adequate to protect public health and safety”
 - “Compatible with the Commission’s regulatory program”





Compatibility Categories

- Category A: basic terminology and most dose limits
- Category B: significant transboundary implications
- Category C: no gaps, conflicts or duplications
- Category D: not required
- Category NRC: reserved to NRC
- H&S: Health and safety





Adequacy and Compatibility Revisions

Summary of proposed revisions and issues on which NRC is requesting comments

- Proposing changes to the definition Compatibility Category B, “significant transboundary implications”
 - Clarify the meaning of the term
 - What types of program elements should be a Category B?



Adequacy and Compatibility Revisions

- Proposed revisions (continued)
 - Category B (continued)
 - Recommending removing examples to remove confusion as to what types of program elements should be a Category B
 - Should economic factors be a consideration in determining a Category B designation?



Adequacy and Compatibility Revisions

- Proposed revisions (continued)
 - Clarified that States may be more restrictive than NRC requirements for Compatibility Category C
 - Requesting comments on specific language in the Policy Statement



Compatibility Category B

- significant transboundary implication
 - Proposed definition: one which crosses regulatory jurisdictions, has a particular impact on public health and safety, and needs to be addressed to ensure uniformity of regulation on a nationwide basis
 - “***Particular***” can be vague and cause confusion.
 - The NRC is **requesting specific comments** on the proposed draft definition of “significant transboundary implication” and whether the word “particular” should be replaced with another phrase such as “significant and direct.”

Transboundary Examples

- Program elements with significant transboundary implications are illustrated by examples in the 1997 version of the Policy Statement.
- The NRC staff concluded the examples listed are not all-inclusive and could lead to misinterpretation by stakeholders, Agreement States, and the NRC staff. The NRC staff is **seeking additional comment** on whether or not the examples should be retained in this section of the policy statement.

Compatibility Category B

- The NRC is **requesting comments** on the description of Compatibility Category B and whether or not the movement of goods and services, which historically has been a main factor in determining whether an issue has transboundary implications, should be considered in the definition of significant transboundary implication.

Compatibility Category B

- The NRC is **requesting comments** on whether or not economic factors should be a consideration when making a Compatibility Category B determination. The NRC believes that health and safety should be the primary consideration in making a Compatibility B determination and that economic factors should not be a consideration.



Alternate Wording

- 1997: “The Commission will limit this category < Compatibility Category B> to a small number of program elements (e.g., transportation regulations and sealed source and device registration certificates) that have significant transboundary implications.”
- Alternate: “The Commission will limit this category < Compatibility Category B> to program elements that have significant transboundary implications. The Commission expects that these will be limited in number.”



Alternate Wording

- 1997: “The Commission will minimize the number of NRC regulatory requirements that Agreement States will be requested to adopt in an identical manner to maintain compatibility.”
- Alternate: “The Commission will identify regulatory requirements that Agreement States will be requested to adopt in an identical manner to maintain compatibility. The expectation is that these requirements will be limited.”





Comments / Questions





“Statements of Principles and Policy of the Agreement State Program”

- Presents the respective roles and responsibilities of NRC and States in the administration of radioactive materials programs for the protection of public health and safety
- Focuses on roles and responsibilities under Section 274
 - Coherent national program
 - IMPEP
 - New Agreements



Revision to Principles

- Provides a clear connection between public health, safety, and security
 - NRC and Agreement State radiation control programs maintain regulatory oversight for the safe and secure handling of nuclear materials.
 - “safe use of material” → “safe and secure use of materials”

Revisions to Principles

- Aligns the policy statement with current practices under the Integrated Materials Performance Evaluation Program (IMPEP).
 - NRC actions based on IMPEP findings
 - Monitoring, Heightened Oversight, Probation, Suspension, Termination



Revision to Principles

- Levels of Agreement State Program Review Findings
 - Adequate, but needs improvement → adequate with improvement needed





Comments / Questions



Additional Tasks from SRM- SECY-12-0112





Performance Based Approach for Determining Compatibility

- The NRC staff is seeking additional input on whether a performance-based approach for determining compatibility of an Agreement State's radiation control program should be developed.
- A performance-based approach would not rely on a requirement to adopt within 3 years from the effective date of the NRC regulation in order to determine compatibility of an Agreement State program.



Adequacy Determinations of Agreement State Programs

- The NRC staff is seeking additional input on whether:
 - (1) a revised set of performance metrics could be used to replace, supplement, or expand upon IMPEP in determining adequacy of an Agreement State's radiation control program
 - (2) a single holistic determination can be made that would accurately reflect the overall adequacy and compatibility of a program.



Comments / Questions



- For more information, contact:
 - Lisa Dimmick
 - 301-415-0694
 - Lisa.Dimmick@nrc.gov
- E-mail comments to:
 - Rulemaking.Comments@nrc.gov
 - Reference Docket ID NRC-2013-0081