



# 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](mailto:Lisa.Dimmick@nrc.gov)
- E-mail comments to:
  - [Rulemaking.Comments@nrc.gov](mailto:Rulemaking.Comments@nrc.gov)
    - Reference Docket ID NRC-2013-0081