



COMMONWEALTH of VIRGINIA
Department of Health

CYNTHIA C. ROMERO, MD, FAAFP
STATE HEALTH COMMISSIONER

PO BOX 2448
RICHMOND, VA 23218

TTY 7-1-1 OR
1-800-828-1120

September 16, 2013

Lisa Dimmick
Office of Federal and State Materials and Environmental Management Programs
U. S. Nuclear Regulatory Commission
Washington, DC 20555

RE: Request for Comments on Draft Revisions to the “Policy Statement on Adequacy and Compatibility of Agreement State Programs”

Dear Ms. Dimmick,

The Virginia Office of Radiological Health (ORH) has reviewed the above document and submits the following comments for review:

- 1) Policy Statement on Adequacy and Compatibility of Agreement State Programs:
 - a) The ORH proposes the following definition of “significant transboundary implication”:
“One which crosses multiple regulatory jurisdictions and would have a consequential impact on public health and safety if not directly and equally adhered to.”
 - b) Examples of program elements with significant transboundary implications should be included in the Policy Statement. ORH recommends some of the examples include dose limits, patient release criteria, transportation requirements, requirements on portable devices such as those used in industrial radiography and training requirements.
 - c) The movement of goods and services across regulatory boundaries should not be considered in the definition of significant transboundary implication.
 - d) Economic factors should not be considered when assigning compatibility to a program element. The ORH recommends allowing each Agreement State’s legislative authority to set the economic impact limitations for their state.
 - e) The original text from the 1997 document should be retained.
- 2) Summary and Conclusions:

The ORH recommends that the wording regarding the expectation on the number of regulatory requirements that Agreement states will be requested to adopt in an identical manner be changed to read: “The Commission will minimize the NRC regulatory requirements that the Agreement States must adopt in an identical manner to those meeting

the significant transboundary implication definition. These would include regulations under compatibility categories A and B.”

3) Performance Based Approach for Determining Compatibility:

Agreement States should be allotted as much flexibility as possible to regulate the possession and use of radioactive material in a manner that has proven most effective for them. The ORH supports a performance-based approach in determining the compatibility of an Agreement State program. The ORH also recommends that if the NRC finds an Agreement State that is using non-standard methods to meet the compatibility objectives, then these methods should be shared by the NRC among the other Agreement States for review and consideration.

4) Adequacy Determinations:

The current IMPEP process and metrics are appropriate. The process allows the team to review all the indicators and determine if the Agreement State is properly protecting the public health and safety. The ORH would only recommend changes to the IMPEP if it can be demonstrated that the process is not working as it was designed. The ORH, though, does recommend the following changes to the IMPEP:

- a) The Commission should require an annual audit be performed by the Agreement State and NRC programs which will be made available during the IMPEP.
- b) The Commission should consider creating a full-time IMPEP team leader to ensure consistency for the process and reports.

Steven A. Harrison, MA, MEP
Director, Office of Radiological Health
Virginia Department of Health
109 Governor St., 7th Floor
P.O. Box 2448
Richmond, VA 23218

RulemakingComments Resource

From: Welling, Mike (VDH) <Mike.Welling@vdh.virginia.gov>
Sent: Monday, September 16, 2013 9:15 AM
To: RulemakingComments Resource
Cc: Harrison, Steve (VDH); Dimmick, Lisa
Subject: NRC-2013-0081 Comments
Attachments: VA Adequacy-Compat comment letter 9-16-13.docx

Attached our the Virginia's comments regarding the Adequacy and Compatibility and Policy Statement.

Michael Welling
Director Radioactive Materials Program
Virginia Dept of Health
109 Governor St, Room 730
Richmond, VA 23219
(T) 804-864-8168
(F) 804-864-8155

<http://www.vdh.virginia.gov/Epidemiology/RadiologicalHealth/>

From Vince Lombardi: "The achievements of an organization are the results of the combined effort of each individual"

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