

Arkansas Department of Health

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Governor Asa Hutchinson
Nathaniel Smith, MD, MPH, Director and State Health Officer

August 15, 2016

Cindy Bladney
Office of Administration
Mail Stop: OWFN 12-H08
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

6/2/2016
81 FR 35388

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Subject: Docket ID NRC-2016-0094

Dear Ms. Bladney:

The Arkansas Department of Health is providing the following comments regarding the "Policy Statement for the Agreement State Program." The Department appreciates the opportunity to comment on this important document which sets the tone for describing the respective roles and responsibilities of the U.S. Nuclear Regulatory Commission and the Agreement States.

The Policy Statement uses the term "regulatory partners" and it is in this spirit that it is crucial that this document uses correct and well defined terms and that the elements expressed in the document clearly reflect the responsibilities of all parties to this partnership.

In reviewing the document the State of Arkansas has identified the following areas for comment:

1. The Department restates its previous comment (Item 3 of the Department letter dated September 26, 2014) and urges a careful analysis when using the terms "adequacy" and "compatibility" in this document. As stated in our previous comment, the emphasis should be placed on a program being "adequate to protect public health and safety" with compatibility taking a secondary role. Compatibility, while defining the roles within the national partnership, does not necessarily add to the protection of the public health and safety. As stated in our previous letter, a program could be found compatible and yet not be adequately protecting public health and safety.

SUNSI Review Complete

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Add= *L. Dimmick (ed1)*

With this in mind, the Department agrees with and restates the comment made by the State of Alabama in their September 24, 2016, letter where in comment number 4, they suggested changing the order of the sentence which in the current version reads: “In order to discontinue its authority, the NRC must find that the State program is compatible with the NRC program for the regulation of agreement material and that the State program is adequate to protect public health and safety.”

As you can see, the order of the sentence was not changed and emphasis appears to be on compatibility and not on public health and safety.

2. There remain examples in the document where the terms “shall” are used and should be replaced with “should.”

Some examples noted by the Department:

- a. Section E. Adequacy and Compatibility; Item 1. Adequacy; i. Legislation and Legal Authority states the following:

“Specifically, Agreement States should adopt legally binding requirements based on those identified by the NRC because of their particular health and safety significance. In adopting such requirements, Agreement States shall implement the essential objectives articulated in the NRC requirements.”

In the first sentence, “should” is used; however, in the second sentence the word “shall” is used creating a conflict in the language.

- b. Section E. Adequacy and Compatibility; Item 2. Compatibility; contains the following statement:

“For purposes of compatibility, the State shall adopt program elements assigned Compatibility Categories A, B, and C.”

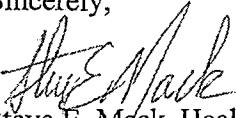
But in Section E. Adequacy and Compatibility; Item 2. Compatibility; iii. *Category C—Other NRC Program Elements* we find the following:

“Such Agreement State program elements should embody the essential objective of the corresponding NRC program elements. Agreement State program elements may be more restrictive than NRC program elements; however, they should not be so restrictive as to prohibit a practice authorized by the AEA and in the national interest without an adequate public health and safety or environmental basis related to radiation protection.”

Again, we find mixed usage of the words “shall” and “should” which may create conflicts in the language.

Again, the Department appreciates the opportunity to comment on the Policy Statement and if there are any questions, please contact me at (501) 661-2173 or address correspondence to me at the address noted above, including Mail Slot 30.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Mack". The signature is written in a cursive style with a large, prominent "S" and "M".

Steve E. Mack, Health Physicist
Radioactive Materials Program
Arkansas Department of Health

Gallagher, Carol

From: Steve Mack <Steve.Mack@arkansas.gov>
Sent: Monday, August 15, 2016 4:54 PM
To: Dimmick, Lisa
Subject: [External_Sender] AR comments on Policy Statement STP-16-044
Attachments: AR comments on Policy Statement STC-16-044.pdf

Lisa,

Attached you will find the Arkansas comments on the Policy Statement. A hard copy will also be sent out tomorrow.

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