

Comment Resolution Table for Agreement State Program Policy Statement (NRC Docket ID: NRC-2016-0094)  
The NRC published the proposed policy statement in the *Federal Register* on June 2, 2016 (81 FR 35388)  
ML17044A406

No.	Section/Para.	Lines	Comment	Resolution
1	General		Six commenters were not in favor of combining the two policy statements citing the following reasons: 1) the statements address unique topics (operational goals of a regulatory program vs review of an operation of a regulatory program); 2) the splitting up and redistribution of the sections of the two policy statements result in changes in the emphasis and relationship of both policy statements, both within each policy, and to each other; and 3) there are only five sentences that are common to both policy statements, which is not indicative of a great amount of redundancy.	<b>Reject:</b> In response to Commission direction in SRM-COMSECY-14-0028, NRC staff consolidated the two Agreement State Program policy statements into a single policy statement and removed the detailed discussions of the Integrated Materials Performance Evaluation Program (IMPEP) and "Principles of Good Regulation," and eliminated redundancies. This is a high-level guidance document; NRC Management Directive 5.6, "Integrated Materials Performance Evaluation Program (IMPEP)" discusses IMPEP in more detail. The consolidated policy statement reflects and preserves the content revisions that were developed by the two NRC/Agreement State working groups during their work on the two separate policy statements. The NRC staff also provided the draft consolidated policy statement to Agreement States for comment. No changes were made to the policy statement.
2	General		Five commenters stated the use of the word "relinquish" is not accurate and recommended changing "relinquish" to "discontinue" throughout the document so the wording is consistent with the AEA 274b.	<b>Accept:</b> Corresponding changes were implemented throughout the policy statement.
3	General	72	Three commenters suggested use of the term "physical protection" instead of "security" and deleting "secure handling" and leaving it as "safe handling" so as to not confuse the responsibilities of other State agencies.	<b>Reject:</b> First, the terms "physical protection" and "security" are used consistently in the policy statement. Second, the stated original purpose to revise this policy statement was to integrate source security into the adequacy and compatibility determination process (SRM-SECY-10-0105) so the term "safe and secure handling" is used in the policy state. See comments #152 and #153. No changes were made to the policy statement.
4	General		Commenter stated that adequacy and compatibility are two very different concepts with different goals and objectives and, as such, should remain separate and not equal. Commenter believed NRC places adequacy at high significance.	<b>Reject:</b> Adequacy and compatibility are two key and related components of the National Materials Program (NMP). The mission of the NMP is to provide a coherent national system for the regulation of agreement material with the goal of adequately protecting public health and safety through the implementation compatible regulatory programs. Therefore, the NRC reviews States' programs to ensure implementation of both adequacy and compatibility. No changes were made to the policy statement.
5	General		Five commenters believed NRC management made the decision to combine the policy documents and develop the "Consolidated Policy Statement" unilaterally, without input from the Agreement State working group members who worked on the individual policies. One commenter stated an expectation for NRC to involve Agreement State working group members in all aspects of working group projects to ensure that documents adequately address issues of the Agreement States as well as the NRC. Four commenters believed that unilateral action by NRC damages trust and relationship between NRC and the Agreement States. Three of the five commenters cited NRC Management Directive 5.3 and noted that the combined policy was not cooperatively developed.	<b>Reject:</b> The two NRC/Agreement State working groups proposed revisions to these two policy statements. The Commission approved the merger of the two policy statements in SRM-COMSECY-14-0028. One of the factors leading to the recommendation for a single policy statement was the identification, by the NRC, of redundant language between the two policy statements. The consolidated policy statement reflects and preserves the content revisions that were developed by the two NRC/Agreement State working groups during their work on the two separate policy statements. No changes were made to the policy statement.
6	General		Commenter agreed that "public health and safety" includes physical protection and suggests listing this information early in the document to limit redundancies.	<b>Accept:</b> Corresponding changes were implemented in the policy statement.
7	General		Commenter agreed with use of the term "physical protection" instead of "security."	<b>Accept:</b> The commenter agrees with changes already made and is not proposing additional changes to the policy statement. No changes to the policy statement were necessary.
8	General		Commenter requested an extension to submit comments.	<b>Beyond the scope of the policy statement</b>

9	General		Commenter believes document is too long and contains too much background detail. Commenter believes policy statement should be clear and concise and meet a well-defined objective(s).	<b>Accept:</b> We agree that the policy statement should be clear and concise and meet well-defined objectives. When NRC staff consolidated the two Agreement State Program policy statements into a single policy statement, the detailed discussions of the Integrated Materials Performance Evaluation Program (IMPEP) and "Principles of Good Regulation" were removed, and redundancies were eliminated.
10	General		Commenter believes that the policy does not define or sufficiently describe "compatible" as it applies to Agreement States and Section 274 of AEA.	<b>Reject:</b> The policy statement and the Atomic Energy Act of 1954, as amended (AEA) do not define compatibility. However, the policy statement does describe what constitutes a compatible program. In Section E: Adequacy and Compatibility, a compatible program is described as a program that "supports an overall nationwide program in radiation protection." No changes were made to the policy statement.
11	General		Commenter stated the use of the word "relinquish" is inconsistent with the AEA, which uses "discontinue", and commenter suggested using "effectively relinquishes" instead.	<b>Accept with modification:</b> All instances of the word "relinquish" have either been deleted or replaced with the word "discontinue." We did not revise the policy statement to use the term "effectively relinquish."
12	General		Commenter suggested consistent use of the terms "AEA materials", "physical protection", and "security."	<b>Accept:</b> Corresponding changes were implemented throughout the policy statement.
13	General		Commenter noted difficulty in reviewing because NRC did not provide the original documents or a red- line/strikeout version of the draft document. Commenter had to obtain the background documents and do a comparison independently. Commenter recommended NRC provide red-line/strikeout or underlining and highlighting methods to allow for comparisons in the future.	<b>Reject:</b> Although a redline document was eventually provided, it was NRC's hope to provide the policy statement without redlines to help commenters review it as a new document.
14	General		Commenter does not oppose majority of consolidation of policy statements and believes the resulting document with suggested changes adequately encompasses the elements of both individual policy statements.	<b>Accept:</b> The commenter agrees with changes already made and is not proposing additional changes to the policy statement.
15	General		Commenter appreciated extended discussions with NRC on this topic.	<b>Beyond the scope of the policy statement</b>
16	General		Commenter recommended some renumbering/re-lettering and additional section titles for clarity and organization throughout the document.	<b>Accept:</b> Corresponding formatting changes on re-numbering, re-lettering and section titles were implemented throughout the policy statement.
17	General	2-3	Commenter recommended revising policy title as follows: "Policy Statement for <b>Adequacy and Compatibility and for the Evaluation of the Agreement State Programs</b> "	<b>Reject:</b> The purpose of the policy statement is to describe the respective roles and responsibilities of the NRC and Agreement States in the administration of programs carried out under Section 274 of the AEA. The current title "Policy Statement for the Agreement State Program" is broad enough to cover the topics that were proposed to be in the title. Details on these topics are provided in the policy statement. No changes were made to the policy statement.
18	Section II. BACKGROUND	50-51	Commenter suggested removing the phrase, "Nor does this policy statement diminish or constrain the NRC's authority under the AEA" because the information is obvious and redundant.	<b>Reject:</b> This phrase is necessary to provide notice that the AEA supersedes the policy statement to all readers. No changes were made to the policy statement.
19	Section I. PURPOSE	6-9	Commenter recommended the following edits: "The purpose of this Policy Statement <del>for the Agreement State Program</del> is to <b>present the U.S. Nuclear Regulatory Commission's (NRC) policy for determining adequacy and compatibility, clarify the meaning and use of the terms "adequate to protect public health and safety" and "compatible with the NRC's regulatory program, and describe the respective roles and responsibilities of the U.S. Nuclear Regulatory Commission (NRC) and Agreement States..."</b> "	<b>Accept with modification:</b> The focus of the merged policy statement is on the respective roles of the NRC and Agreement States. Much of the suggested edit is included in Section B: Background.

20	Section I. PURPOSE	10-13	Commenter recommended the following edits: "Section 274 provides broad authority for a the NRC to establish a unique Federal- and State regulatory framework for the control of byproduct, source, and small quantities of special nuclear material and in the..."	<b>Reject:</b> In the policy statement, the term "agreement material" is used to describe "byproduct, source, and small quantities of special nuclear material." No changes were made to the policy statement.
21	Section I. PURPOSE	17-20, Foot-note #1	Commenter recommended the following edits: "Section 274b. of the AEA authorizes the NRC to enter into an agreement with a State by which the NRC relinquishes discontinues and the State assumes regulatory authority over some or all of these materials listed above."	<b>Accept with modification:</b> This sentence was moved to footnote #1 of Section A: Purpose. The word "relinquishes" was replaced with the word "discontinues."
22	Section I. PURPOSE	22-23	Commenter recommended the following edits: "This Policy Statement is solely guidance for the Commission <sup>1</sup> and the Agreement States in the implementation of the Agreement State Program and addresses adequacy and compatibility along with the Federal-State..." "For the purposes of this Policy Statement the definition of Commission is equivalent to Title 10 of the Code of Federal Regulations: Commission means the five members of the NRC or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974, as amended."	<b>Accept with modification:</b> The first sentence of this comment is included in Section B: Background. The definition of "Commission" was included as a footnote to mean the five-member Commission or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974 (42 USC 5841).
23	Section I. PURPOSE	46-51	Commenter recommended moving a paragraph from Background to the end of the Purpose section with additional edits: "This Policy Statement does not impose legally binding requirements on the Agreement States. In addition, nothing in this Policy Statement expands the legal authority of Agreement States beyond that already granted to them by Section 274 and other relevant legal authority. Nor does this Policy Statement diminish or constrain the NRC's authority under the AEA."	<b>Reject:</b> This sentence will remain in Section B: Background because it contains important background information regarding the scope of the policy statement. No changes were made to the policy statement.
24	Section V. ADEQUACY AND COMPATIBILITY	373-375	Commenter supported the addition of the phrase, "In identifying those program elements for adequate and compatible programs, or and changes thereto, the NRC staff will seek the advi[s]e of the Agreement States. The Commission will consider such advice in its final decision," and suggested the text be moved from the BACKGROUND to the end of the DISCUSSION section.	<b>Accept with modification:</b> The supported text was subsequently modified by the Commission and now appears in Section E: Adequacy and Compatibility.
25	Section II. BACKGROUND	48-51	Commenter suggested the following edits: "In addition, nothing in this policy statement expands the legal authority of Agreement States or NRC beyond..."	<b>Accept with modification:</b> The sentence was modified as follows: "In addition, nothing in this policy statement expands the legal authority of Agreement States beyond that already granted to them by Section 274 of the AEA and other relevant legal authority; nor does this policy statement diminish or constrain the NRC's authority under the AEA."
26	Section II. BACKGROUND		Commenter requested emphasis throughout the document that the States have been and will be assuming much of the burden for efforts related to physical protection. Commenter indicated there should be clarity for external stakeholders (GAO, Congress, DHS) that States are significant players in this area.	<b>Reject:</b> The policy statement recognizes the Agreement States' important role in physical security of agreement material. No changes were made to the policy statement.
27	Section II. BACKGROUND		Commenter stated that the concepts of "adequate" and "compatible" are not defined and are unclear.	<b>Reject:</b> These topics are described and discussed in Section E: Adequacy and Compatibility, in greater detail than in Section B: Background. No changes were made to the policy statement.

28	Section II. BACKGROUND	64-69	Commenter recommended deleting the following: " <del>Subsection 274g. authorizes and directs the NRC to cooperate with States in the formulation of standards to assure that State and NRC programs for protection against hazards of radiation will be coordinated and compatible. Subsection 274j(1) requires the NRC to periodically review the Agreements and actions taken by States under the Agreements to ensure compliance with the provisions of Section 274.</del> "	<b>Reject:</b> The commenter provided no reason for this deletion. These sentences are factual, pertinent to the policy statement, and describe the authority given to the NRC through the AEA. No changes were made to the policy statement.
29	Section II. BACKGROUND	45-46	Commenter strongly disagreed with the following statement stating that this document is policy, not guidance, and this first paragraph is not accurate: "This policy statement is intended solely as guidance for the NRC..."	<b>Reject:</b> The policy statement is intended as guidance. It is not legally binding and was determined not to be rulemaking. No changes were made to the policy statement.
30	Section II. BACKGROUND	64-67	Commenter notes that while the draft policy states that "Subsection 274g. authorizes and directs the NRC to cooperate..." , Article V of the State agreement states that the Commission and State will use their <b>best effort to cooperate</b> ....	<b>Reject:</b> This sentence in the policy statement mirrors what is written in Subsection 274g. of the AEA. Although the language suggested in this comment may exist in other places, the AEA language is preferred for use in the policy statement. No changes were made to the policy statement.
31	Section II. BACKGROUND	75-76	Commenter suggested the following edits: "Following the events of September 11, 2001, the NRC <b>and Agreement States developed and implemented</b> <del>its regulatory oversight has included developing and implementing</del> enhanced security measures <b>for higher risk sources.</b> "	<b>Accept with modification:</b> This edit was accepted except for the phrase "higher risk sources" because this term is ambiguous.
32	Section II. BACKGROUND	80-81	Commenter suggested deleting the first sentence of the fourth paragraph: " <del>Section 274 further directs the NRC to periodically review State programs to ensure compliance with the provisions of Section 274.</del> "	<b>Accept:</b> Corresponding change was implemented in this section of the policy statement.
33	Section II. BACKGROUND	81-82, 55-56	Commenter suggested moving this sentence to the beginning of Section I. PURPOSE; defining the terms "adequacy" and "compatibility"; and editing as follows: "This policy statement presents the NRC's policy for determining the adequacy and compatibility of Agreement State programs <b>established.</b> "	<b>Accept:</b> Corresponding change was implemented in this section of the policy statement.
34	Section II. BACKGROUND	88-91, Foot-note #2	Commenter suggested edits as follows: "For the purposes of this policy statement, "program element" means any component or function of a radiation control regulatory program, including regulations and other legally binding requirements imposed on regulated persons, which <b>contributes has a nexus to health [and] safety</b> <del>to implementation of that program.</del> "	<b>Reject:</b> Health and safety is inherent in all components and functions (i.e. program elements) of an Agreement State program. No changes were made to the policy statement.
35	Section II. BACKGROUND	64-69	Commenter recommended the following edits: "Subsection 274g. authorizes and directs the <b>NRC Commission</b> to cooperate with States in the formulation of standards to assure that State and <b>Commission standards</b> <del>NRC programs for protection against hazards of radiation</del> will be coordinated and compatible. Subsection 274j(1) requires the <b>NRC Commission</b> to periodically review the Agreements and actions taken by States under the Agreements to ensure compliance with the provisions of Section 274.	<b>Reject:</b> The definition of "Commission" was included as a footnote to mean the five-member Commission or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974 (42 USC 5841). The "NRC" means the U.S. Nuclear Regulatory Commission as an agency. In context for this section the term "NRC" is appropriate instead of "Commission." No changes were made to the policy statement.

36	Section II. BACKGROUND	80-85	<p>Commenter recommended the following edits: "<del>Section 274 further directs the NRC to periodically review State programs to ensure compliance with the provisions of Section 274. This Policy Statement presents the NRC's policy for determining the adequacy and compatibility of Agreement State programs established. This Policy Statement clarifies the meaning and use of the terms "adequacy" and "compatibility." "adequate to protect public health and safety" and "compatible with the NRC's regulatory program" as applied to the Agreement State program.</del></p>	<p><b>Accept with modification:</b> The first sentence was deleted from the policy statement as suggested. The suggested edit to the second sentence was not accepted. Using the extended phrases taken from the AEA, "adequate to protect public health and safety" and "compatible with the NRC's regulatory program," provides more context to the reader than condensing those terms down to "adequacy" and "compatibility."</p>
37	Section V. ADEQUACY AND COMPATIBILITY	373-375	<p>Commenter recommended moving paragraph from Section V. ADEQUACY AND COMPATIBILITY to be the last paragraph in BACKGROUND with an additional edit: "In identifying those program elements for adequate and compatible programs, or any changes thereto, the NRC staff <del>should</del> will seek the advice of the Agreement States. The Commission will consider such advice in its final decision."</p>	<p><b>Reject:</b> The Commission changed this language subsequent to the comment. The text was modified by the Commission and now appears in Section E: Adequacy and Compatibility. No changes were made to the policy statement.</p>
38	Section II. BACKGROUND		<p>Commenter in response to the language in the policy statement, "Implementation procedures adopted pursuant to this policy statement shall be consistent with the legal authorities of the NRC and the Agreement States," commented that NRC selectively applies policy statements and guidance as requirements that must be followed when making adequacy and compatibility determinations. The commenter suggested "[T]his section should explicitly state that determinations of adequacy and compatibility cannot be made based on adherence of policy and guidance documents that are not legally binding.</p>	<p><b>Reject:</b> AEA Section 274j.(1) requires the NRC to conduct periodic reviews to evaluate the adequacy and compatibility of an Agreement State program. While the policy statement does not impose legally binding requirements, it is used as guidance by the NRC staff during these reviews. No changes were made to the policy statement.</p>
39	Section II. BACKGROUND	60-64	<p>Commenter believes that the language in the policy statement, "Subsection 274d. states that the NRC shall enter into an Agreement under subsection 274b., discontinuing the NRC's regulatory authority over certain materials in a State, provided that the State's program is adequate to protect public health and safety and is compatible, in all other respects, with the Commission's regulatory program" does not properly reflect the direction from Congress for NRC to establish programs of assistance to enhance the delivery of public health and safety and that the exclusive focus on adequacy misses the critical policy goal of Congressional action</p>	<p><b>Accept with modification:</b> First, the authorization for the NRC to provide assistance to the States is found in Subsection 274i. of the AEA. Section C: Legislative Intent discusses this topic. Second, the description of Subsection 274d. within the policy statement states that a program must be adequate <u>and</u> compatible to receive an agreement. There is no exclusive focus on adequacy.</p>
40	Section II. BACKGROUND	72-78	<p>Commenter believes the following statement "These programs have always included the security of agreement materials as an integral part of their health and safety mission as it relates to minimizing the risk of exposure to workers and the public. Following the events of September 11, 2001, the NRC's regulatory oversight has included developing and implementing enhanced security measures. For the purposes of this policy statement, public health and safety includes physical protection of agreement material." fails to acknowledge the significantly altered approach to source security and the impacts both operational and financial federal regulation and policies have on Agreement State Programs. Furthermore, commenter suggests the policy statement should acknowledge that the federal government's approach to source security is driving these changes and that NRC will use its best efforts to provide technical and other assistance to Agreement</p>	<p><b>Reject:</b> Enhancements to security following the events of September 11, 2001 were developed in collaboration with the Agreement States. The NRC acknowledges the importance of Agreement State input into the evolution of the NMP. The NRC uses its best efforts to provide specialized technical assistance (e.g., training, guidance) to the Agreement States. The NRC's program for technical assistance to the Agreement States is outlined in NRC Management Directive 5.7, "Technical Assistance to Agreement States," which can be found at <a href="https://scp.nrc.gov/procedures.html">https://scp.nrc.gov/procedures.html</a>. No changes were made to the policy statement.</p>



			Programs to assist with the implementation of federal mandates not previously contemplated when a State agreed to assume regulatory responsibility under Section 274.	
41	Section III. STATEMENT OF LEGISLATIVE INTENT	125-127	Three commenters suggested the following edits, which places the primary emphasis on public health and safety, while also addressing compatibility: "In order to <del>relinquish</del> <b>discontinue</b> its authority to a particular State, the NRC must find that <del>the State program is adequate to protect public health and safety and compatible with the NRC's program for the regulation of agreement materials and that the State program is adequate to protect public health and safety.</del> <b>adequate to protect public health and safety</b> and compatible with the NRC's program for the regulation of agreement materials."	<b>Accept:</b> Corresponding change was implemented in this section of the policy statement.
42	Section III. STATEMENT OF LEGISLATIVE INTENT	130-137	Commenter suggested revising the paragraph with regard to NRC's ability to temporarily suspend all or part of an agreement in an emergency situation to reflect the statute as written in Section 274 of the AEA. Commenter further stated that the threshold for an emergency is a situation that creates a danger to persons.	<b>Reject:</b> This section paraphrases Subsection 274j. of the AEA. More detail on what constitutes an emergency situation is contained in NRC's implementing procedures: State Agreements procedure SA-112, "Emergency Suspension of a Section 274b. Agreement," State Agreements procedure SA-114, "Suspension of a Section 274b. Agreement," and State Agreements procedure SA-115, "Termination of a Section 274b. Agreement." No changes were made to the policy statement.
43	Section III. STATEMENT OF LEGISLATIVE INTENT	105, 125	Commenter recommended replacing "relinquish" with "discontinue" in this section. (2 instances)	<b>Accept:</b> Corresponding change was implemented throughout the policy statement.
44	Section III. STATEMENT OF LEGISLATIVE INTENT	112-123	Commenter believes this summary inaccurately presents the legislative intent, which provided multiple directions to NRC to develop programs of assistance to enhance the ability of Agreement States to respond to local hazards presented from byproduct material. Commenter believes the NRC is also misstating the phrasing for what forms of assistance were contemplated and what administrative support was mentioned in the Conference Report, which refers only to "cash grants".	<b>Reject:</b> This policy statement represents the current policy of the Commission regarding Agreement States. However, the manner of assistance to the Agreement States is periodically revisited by the NRC staff and the Commission. Such funding is very limited under the AEA and available at the discretion of the Commission. For example, the expenditure of funds for Agreement State travel and training have not always been available due to changes in federal fiscal policy. The use of a cash grant is also one of the few other fiscal tools available to the NRC. Cash grants were most recently used to provide grants to Agreement States to survey and remediate formally licensed NRC sites transferred to Agreement States. No changes were made to the policy statement.
45	Section III. STATEMENT OF LEGISLATIVE INTENT	130-137	Commenter believes the decision to terminate an agreement is not properly characterized in this section and suggested this section be revised to present the clear intent of Congress and confirmed by case law "This provision represents a reserve power, to be exercised only under extraordinary circumstances." Congress' clear intent was that once granted a state's authority was not to be revoked lightly and agreement is not to be permanently terminated or revoked for technical failure to comply with 42 USCS § 2021. See <i>Petition of Sunflower Coalition (1981, CLI) 13 NRC 847</i> . The policy statement should be revised to properly characterize this reserve power and require that the NRC present a health based risk assessment documenting the level of risk to public health and safety that would rise to such an "extraordinary circumstance."	<b>Reject:</b> This section paraphrases Subsection 274j. of the AEA. More detail on what constitutes an emergency situation is contained in NRC's implementing procedures: State Agreements procedure SA-112, "Emergency Suspension of a Section 274b. Agreement," State Agreements procedure SA-114, "Suspension of a Section 274b. Agreement," and State Agreements procedure SA-115, "Termination of a Section 274b. Agreement." No changes were made to the policy statement.
46	Section IV.A. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Basic Elements		Commenter believes that a policy statement should not be based on another policy or concept (i.e. NMP).	<b>Reject:</b> The description of the NMP in the policy statement helps describe the relationship between the NRC and Agreement States. However, this policy statement focuses on the Agreement State program, not the NMP. No changes were made to the policy statement.

47	Section IV.A. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Basic Elements		Commenter suggested defining which uses of AEA material, or items of adequacy and compatibility are in the national interest and are state responsibilities.	<b>Reject:</b> Section D.1.iv. of the policy statement lists the broad areas of national interest. The details of these broad areas are discussed in the implementing procedures which are developed in cooperation with the Agreement States. Documents that are used to determine adequacy and compatibility can be found on the NMSS-State Communication Portal at <a href="https://pki.nrc.gov/ecs/apps/scp/dcc-scp.html">https://pki.nrc.gov/ecs/apps/scp/dcc-scp.html</a> and the NRC/NMSS Procedures website at <a href="https://scp.nrc.gov/procedures.html">https://scp.nrc.gov/procedures.html</a> . No changes were made to the policy statement.
48	Section IV.A. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Basic Elements	155-167	Commenter suggested the following paragraph be moved to guidance, as edited: "NRC adopted "Principles of Good Regulation" 23 years ago to serve as a guide to both agency decision making and to individual behavior as NRC employees. There are five Principles of Good Regulation: independence, openness, efficiency, clarity, and reliability. Adherence to these principles has helped to ensure that the NRC's regulatory activities have been of the highest quality, and are appropriate and consistent. The "Principles of Good Regulation" recognize that strong, vigilant management and a desire to improve performance are prerequisites for success, for both regulators and the regulated industry. The NRC's implementation of these principles has served the public, the Agreement States, and the regulated community well. The NRC further suggests that such principles may be useful as a part of a common culture of the NMP that the NRC and the Agreement States share as co-regulators. Accordingly, the NRC encourages each Agreement State to adopt a similar set of principles for use in its own regulatory program."	<b>Reject:</b> "The Principles of Good Regulation" were initially adopted by the Commission in 1991 to serve as a guide to NRC decision-making and employee conduct. Then in 1997, the principles were included in the "Statement of Principles and Policy for the Agreement State Program" and recognized as part of a common culture that the NRC and Agreement States share as co-regulators. These principles have served as a foundation for good regulation, the NMP, and are included in the policy statement to indicate their importance. The principles should continue to form the basic building blocks for good regulation in the NMP into the future. No changes were made to the policy statement.
49	Section IV.A. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Basic Elements	142-152, 169-178	Commenter noted that most this paragraph is repeated in Section IV.A.2. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Basic Elements - National Materials Program. Commenter recommended consolidating the text of these paragraphs.	<b>Accept:</b> Corresponding change was implemented in this section of the policy statement
50	Section IV.A.3. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Basic Elements - Adequate to Protect Public Health and Safety	191-195	Commenter suggested referencing the AEA with regard to the following: "Accordingly, the NRC and Agreement State programs shall possess the requisite supporting legislative authority..."	<b>Reject:</b> The existing language in the policy statement is sufficient to reference the Agreement State requirement to have adequate legislative authority pursuant to Section 274b. No changes were made to the policy statement.
51	Section IV.A.4. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Basic Elements - Compatible in Areas of National Interest		Commenter suggested defining what compatibility means in terms of Section 274, noting that Webster's dictionary defines compatibility as "capable of existing or operation in harmony". Commenter stated that NRC has been applying the term as essentially identical (compatibility "A" and "B") or at least as restrictive as NRC's (compatibility "C"). Lastly commenter states that NRC added the word "consistent" to mean "compatibility".	<b>Accept with modification:</b> The overarching goal of the NMP in the policy statement speaks to a coherent national system that provides the framework for an adequate and compatible program. We agree that consistent and compatible do not have the same meaning. The word "consistent" has been changed to "compatible" where appropriate.

52	Section IV.A.4. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Basic Elements - Compatible in Areas of National Interest	201- 203	Commenter suggested the following edits: "They should be effective and cooperatively <b>developed and</b> implemented by the NRC and the Agreement States..."	<b>Reject:</b> This paragraph describes established programs. The development of regulation and policy is described in Section D.6. No changes were made to the policy statement.
53	Section IV.A.4. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Basic Elements - Compatible in Areas of National Interest	202, 476	Commenter stated that NRC added the word "uniformity" to mean "compatibility".	<b>Reject:</b> The use of "uniformity" is not intended to mean "compatibility" in the policy statement. No changes were made to the policy statement.
54	Section IV.A.4. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Basic Elements - Compatible in Areas of National Interest	204- 207	Commenter requested that NRC staff describe which aspects of licensing, inspection, and enforcement fall under the context of "national significance," "transboundary issues," and "national interests."	<b>Reject:</b> This policy statement is a high-level document. Virtually all aspects of licensing, inspection, and enforcement fall under the context of national significance, transboundary issues, or national interest, with the exception of those that are assigned Compatibility Category D. Further information on Compatibility categories can be found at: <a href="https://scp.nrc.gov/regsumsheets_newregs.html">https://scp.nrc.gov/regsumsheets_newregs.html</a> . No changes were made to the policy statement.
55	Section IV.A.5. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Basic Elements - Flexibility	215- 218	Commenter suggested the following edits: "...Agreement State radiation control programs <del>should</del> <b>will</b> be provided with flexibility in program implementation and administration..."	<b>Accept with modification:</b> The sentence was edited to read, "... Agreement State radiation control programs have flexibility in program implementation ..."
56	Section IV.B. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Basic Elements - Flexibility	215- 218	Commenter suggested NRC be open and clear by revising the following to indicate that NRC's policy is that Agreement States must be compatible: "With the exception of those compatibility areas where all programs <del>should</del> <b>must</b> be essentially identical, Agreement State radiation control programs..."	<b>Reject:</b> While the proposed change (i.e., to change "should" to "must") is to revise language in Section V Flexibility, the word "should" is preferable in order to be consistent with the language used in Section E.2.i. and E.2.ii.: Compatibility. No changes were made to the policy statement.
57	Section IV.B. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: New Agreements	224- 244	Commenter expressed confusion over why this information is included in the document. Commenter believes this section should be brief with a couple sentences and a reference to the applicable items in Section 274 of the AEA and to the policy statement in the last paragraph.	<b>Reject:</b> This section is consistent with the previous policy statement and provides valuable information on the agreement process. No changes were made to the policy statement.
58	Section IV.B. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: New Agreements		Commenter asked if the final version of this policy statement would cause NRC to revisit or revise the NRC's Policy Statement for Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.	<b>Beyond the scope of the policy statement:</b> There is no plan to revisit or revise the NRC's Policy Statement "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof By States Through Agreement" at this time.



59	Section IV.B. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: New Agreements	235- 239	Commenter stated that the policy statements referenced in this section do not retroactively apply to agreements that were in existence prior to the dates of these statements.	<b>Reject:</b> The comment refers to the Section IV.B. New Agreements, in the Agreement State Policy. The NRC does not require revision to old Agreements unless Congress specifically requires an Agreement State to amend its existing agreement to address a new statutory provision. Each individual Agreement contains a section requiring that the States maintain a compatible program. As the NRC program changes, Agreement States must maintain compatibility with the current NRC program.
60	Section IV.C. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Program Assistance	247- 256	Commenter suggested moving the first paragraph to Section IV.B. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: New Agreements. "The NRC will offer training and other assistance...the Agreement State will need to do so."	<b>Reject:</b> It's appropriate to keep the discussion about program assistance in this section because it applies to both new and existing Agreement States. No changes were made to the policy statement.
61	Section IV.C. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Program Assistance	258- 260	Commenter stated that the following sentence is contrary to the response from NRC in regard to a specific request from the State for NRC assistance with a sealed source and device review: "The NRC may also use its best efforts to provide specialized technical assistance to Agreement States to address unique or complex licensing, inspection, and limited enforcement issues."	<b>Reject:</b> The NRC uses its best efforts to provide specialized technical assistance. The NRC's program provides three broad categories (routine, special, and programmatic) of technical assistance to the Agreement States. This program is outlined in NRC Management Directive 5.7, "Technical Assistance to Agreement States," which can be found at <a href="https://scp.nrc.gov/procedures.html">https://scp.nrc.gov/procedures.html</a> . No changes were made to the policy statement.
62	Section IV.C. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Program Assistance	262- 263	Commenter suggested the following edits: "In addition, the NRC and Agreement States <del>will</del> <b>should</b> keep each other informed."	<b>Reject:</b> The language used in the policy statement is nearly verbatim to the language used in each Agreement States' 274b. Agreement with the NRC. The use of the word "will" denotes a requirement for the NRC and the Agreement States to keep each other informed. No changes were made to the policy statement.
63	Section IV.C. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Program Assistance	270- 272	Commenter requested clarity regarding what type of assistance the NRC would provide with respect to the following statement: "If an Agreement State experiences difficulty in implementing their program, the NRC will, to the extent possible, assist the State in maintaining the effectiveness of its radiation control program."	<b>Reject:</b> Since this document is a high-level policy statement, it uses appropriately broad language describing NRC assistance to the Agreement States. NRC Management Directive 5.7, "Technical Assistance to Agreement States," contains specifics on the range of assistance the NRC may provide. No changes were made to the policy statement.
64	Section IV.C. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Program Assistance	272- 274	Commenter requested clarity regarding which parts of a program could be returned with respect to the following statement: "Under certain conditions Agreement States can also voluntarily return all or part of its Agreement State program, e.g., Sealed Source and Device evaluations and uranium recovery regulatory oversight (SECY- 95-0136)."	<b>Reject:</b> More details for returning all or part of an agreement can be found in NRC Management Directive 5.8, "Proposed Section 274b Agreements With States" and State Agreements procedure SA-115, "Termination of a Section 274b. Agreement." No changes were made to the policy statement.
65	Section IV.C. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Program Assistance		Commenter believes this section unduly limits the forms and opportunities of assistance the NRC was directed to provide Agreement Programs and suggested this section be revised to reflect the funding Authorities of the Commission or the direction provided by Congress.	<b>Reject:</b> The NRC's technical assistance provided to the Agreement States is consistent with its statutory authority. The policy statement does not limit the forms or opportunities of assistance the NRC provides to Agreement State programs, but the policy statement uses appropriately broad language describing NRC assistance to the Agreement States. NRC Management Directive 5.7, "Technical Assistance to Agreement States," contains specifics on the range of assistance the NRC may provide. No changes were made to the policy statement.
66	Section IV.D. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Performance Evaluation	297- 298	Commenter suggested the following edits: "...As a part of the performance evaluation process, the NRC will take necessary actions <b>as defined [reference IMPEP Handbook or other document]</b> to help ensure that..."	<b>Reject:</b> Since this document is a high-level policy statement, it uses the broader term "necessary action" instead of listing specific guidance documents. No changes were made to the policy statement.

67	Section IV.D. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Performance Evaluation	277-283	Commenter suggested deleting the following because it is redundant: "Under Section 274 of the AEA, as amended, the NRC retains oversight authority for ensuring that Agreement State programs continue to provide adequate protection of public health and safety. In fulfilling this statutory responsibility, the NRC will determine whether the Agreement State radiation control programs are adequate and compatible prior to entrance into a Section 274b, agreement and will periodically review the program to ensure they continue to be adequate and compatible after an agreement becomes effective."	<b>Reject:</b> We disagree that these sentences are sufficiently redundant to warrant deletion of this entire section. No changes were made to the AS policy statement. No changes were made to the policy statement.
68	Section IV.D. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Performance Evaluation	287-290	Commenter suggested the following edits: "The IMPEP is a performance evaluation process that provides the NRC and Agreement State management with systematic, and integrated, and reliable evaluations of the strengths and weaknesses of their respective radiation control programs and identification of areas needing improvement."	<b>Accept:</b> Corresponding change was implemented in this section of the policy statement
69	Section IV.D. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Performance Evaluation	290-292	Commenter suggested deleting the following because it is redundant: "Performance indicators are used to evaluate and ensure that regulatory programs are adequate to protect public health and safety and that Agreement State programs are compatible with the NRC's program."	<b>Reject:</b> This information is not found to be sufficiently redundant as to warrant its complete removal from the policy statement. No changes were made to the policy statement.
70	Section IV.D. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Performance Evaluation	304-305	Commenter suggested the following edits: "The NRC's actions in addressing serious program deficiencies or emergencies will be a well-defined, clear, and vetted predictable process that is consistently and fairly applied."	<b>Accept with modification:</b> The word "predictable" was removed, but the words "clear and vetted" were not added, and the phrase "that is consistently and fairly applied" was not removed. The sentence was revised as follows: "... implemented through a well-defined process that is consistently and fairly applied."
71	Section IV.D. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Performance Evaluation		Commenter suggested the NRC implement a process by which an impartial third party can evaluate the facts and draw independent conclusions to make determinations of adequacy and mediate differences of interpretation of facts presented during the evaluation process.	<b>Reject:</b> NRC staff acknowledges that there is not an NRC appeal process within IMPEP concerning conclusions of the State's adequacy and compatibility. However, there has always been Agreement State staff participation in guidance and policy development, IMPEP reviews, and on the Management Review Board. No changes were made to the policy statement.
72	Section IV.D. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Performance Evaluation	277-305	Commenter suggested adding the following sentence to this section: "When making a determination of adequacy and compatibility, the NRC will not make a determination based upon the Agreement State's adherence to any [Management Directive] or [procedure] but rather based upon identifiable risks to the public health and safety. These identifiable risks must characterize the specific continuing risks to public health and safety in order for the NRC to establish deficiency finding."	<b>Reject:</b> One of the recommendations given to the Commission in SECY-15-0087 was to utilize a performance-based approach for assessing compatibility of Agreement State radiation control programs. The Commission rejected this approach in favor of retaining the existing approach. No changes were made to the policy statement.
73	Section IV.D. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Performance Evaluation		Commenter noted that IMPEP findings (i.e. Monitoring, Heightened Oversight, etc.) have not been retained in the consolidated document, and commenter supported moving this information from policy to procedure.	<b>Reject:</b> Commenter requested to remove all mention of IMPEP findings. However, these topics are introduced in the policy statement. Although monitoring and heightened oversight are mentioned in the policy statement, the majority of the description of these topics is contained in specific implementing procedures. IMPEP procedures can be found on the NRC/NMSS Procedures website at <a href="https://scp.nrc.gov/procedures.html">https://scp.nrc.gov/procedures.html</a> . No changes were made to the policy statement.

74	Section IV.E. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Performance Funding	308- 309	Commenter suggested the following edits: "Section 274 of the AEA does not allow Federal <b>grant</b> funding for the administration of Agreement State radiation control programs."	<b>Reject:</b> We disagree with inserting the word "grant" before "funding" because this revision would be inaccurate and imply other types of funding could be allowed under Section 274 of the AEA. No changes were made to the policy statement.
75	Section IV.E. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Performance Funding	308	Commenter suggested this section be revised to acknowledge that "The Commission is also authorized to provide training, with or without charge, to employees of, and <b>such other assistance to, any State or political subdivision thereof or group of States as the Commission deems appropriate.</b> Any such provision or assistance by the Commission shall take into account the additional expenses that may be incurred by a state as a consequence of the State's entering into an Agreement with the Commission pursuant to subsection (b) of this section."	<b>Reject:</b> The Commission's intent (SRM-SECY-07-0144) with regard to training is to provide assistance to the Agreement States to develop qualified material inspectors and license reviewers. While AEA Section 274i. provides authorization for the Commission to provide further assistance to States as appropriate, the NRC policy is not to provide cash grants to pay for the administration of States' regulatory programs under the AEA. States entering into 274b. Agreements are expected to understand that NRC does not provide direct funding for Agreement State programs. Agreement States can fund their regulatory programs using other mechanisms, such as licensing fees. No changes were made to the policy statement.
76	Section IV.E. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Performance Funding	308- 317	Commenter suggested that NRC should make clear that the Commission was directed when making funding decisions to take into account the costs incurred by a State AFTER its Agreement was approved.	<b>Accept with modification:</b> The policy statement was clarified to describe that the NRC's interpretation of AEA Section 274 does not allow for direct federal funding for the administration of States' radiation control programs. States entering into 274b. Agreements are expected to understand that NRC does not provide direct funding for the administration of their Agreement State programs. Agreement States can fund their regulatory programs using other mechanisms, such as licensing fees. However, as described in Management Directive 5.7, "Technical Assistance to Agreement States," the NRC does provide some forms of technical assistance to States (e.g. training, guidance).
77	Section IV.F. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Regulatory Development	40-42, 334- 344	Four commenters recommended removal of both paragraphs discussing the OAS and CRCPD because this policy statement is about the relationship between the NRC and those states that have signed an agreement with the NRC. Commenters further noted that neither of the organizations has the authority to speak on behalf of any state. Commenters believed that mention of these organizations is more appropriate in guidance instead of this policy.	<b>Accept with modification:</b> The sentence discussing the Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors (CRCPD) in Section A: Purpose, was deleted. The paragraph discussing the OAS and CRCPD in Section D.6: Regulatory Development, was kept because it describes important roles of the OAS and CRCPD in developing regulatory products.
78	Section IV.F. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Regulatory Development	320- 323	Commenter states that the roles for the NRC and Agreement States are to work [cooperatively] and the AEA does not specify that the NRC will be the lead and final arbiter for any disagreements. Commenter requested the NRC policy be stated in this regard. "Agreement States will have early and substantive involvement in the development of regulations affecting protection of public health and safety and of policies and guidance documents affecting administration of the Agreement State program."	<b>Reject:</b> Neither the AEA nor the policy statement specify that "the NRC will be the lead and final arbiter for any disagreements regarding regulatory development." The current policy statement also states that "Agreements States will have early and substantive involvement in the development of regulations affecting protection of public health and safety and of policies and guidance documents affecting administration of the Agreement State program." No changes were made to the policy statement.
79	Section IV.F. PROGRAM IMPLEMENTATION AND PROGRAM ASSISTANCE: Regulatory Development	320	Commenter suggested adding the following sentence to this section to promote cooperation and transparency: "The NRC will provide Agreement States with staff communications provided to the Commission regarding positions and recommendations presented by Agreement States and its membership organizations to promote transparency and cooperation between federal and state regulatory authorities."	<b>Reject:</b> We believe that the broad language sufficiently covers the topic of cooperation and transparency with the Agreement States by the statement, "[T]he NRC and Agreement States will keep each other informed about their individual regulatory requirements (e.g., regulations, orders, or license conditions) and the effectiveness of those regulatory requirements so that each has the opportunity to make use of proven regulatory approaches to further the effective and efficient use of resources[.]", found in Section D.1.6 and "The Principles of Good Regulation" found in Section D.1.i. of the policy statement. It has always been the intention to maintain transparent lines of communication with the Agreement States, including early and substantial involvement in the development of regulatory products. No changes were made to the policy statement.
80	Section V. ADEQUACY AND COMPATIBILITY	347- 349	Commenter suggested the following edits based on text from the AEA: "In accordance with Section 274, an Agreement State program <del>should</del> <b>must</b> provide for an acceptable level of protection of public health and safety in an Agreement State.	<b>Accept:</b> Corresponding change was implemented in this section of the policy statement

81	Section V. ADEQUACY AND COMPATIBILITY		Commenter believes the blended approach for adequacy and compatibility is problematic and disagrees with its application.	<b>Beyond the scope of the policy statement:</b> The blended approach was one option provided to the Commission in SECY-15-0087 as a way to review Agreement State Programs. The Commission also agreed not to select this approach as a way to review Agreement State Programs. This comment did not result in changes to the policy statement.
82	Section V. ADEQUACY AND COMPATIBILITY	154- 167	Commenter found that while most of the statement is included in the consolidated document, less of the Statements of Principles and Policy document exists in the combined document. Commenter noted that a large section of the "Good Regulations Principles" is missing; however, the commenter agrees with the deletion of those items.	<b>Accept:</b> The commenter agrees with changes already made and is not proposing additional changes to this section of the policy statement.
83	Section V. ADEQUACY AND COMPATIBILITY	373- 375	Three commenters noted that language was changed from NRC "will" seek to "should" seek. Commenters recommended changing the sentence back to read as follows: "In identifying those program elements for adequate and compatible programs, or any changes thereto, the NRC staff <del>should</del> will seek the advice of the Agreement States. The Commission will consider such advice in its final decision." One commenter reasoned that the NRC should be required to involve Agreement States in all aspects of policy and regulation development to ensure that documents developed adequately address issues of the Agreement States as well as the NRC.	<b>Accept with modification:</b> The intent of the comment was captured by revising the sentence to read: "... the NRC staff <del>should seek the advice of</del> will coordinate with the Agreement ..."
84	Section V. ADEQUACY AND COMPATIBILITY	347	Commenter recommended adding a new sentence to the beginning of the section: "Section 274 requires that Agreement State programs be both "adequate to protect the public health and safety" and "compatible with the Commission's program."	<b>Accept with modification:</b> The Commission subsequently modified the policy statement so the text addresses the intent of the comment regarding Section E: Adequacy and Compatibility.
85	Section V.A. ADEQUACY AND COMPATIBILITY: ADEQUACY	379- 381	Commenter suggested the following edits: "An "adequate" program should include <b>implementation of</b> those program elements not required for compatibility but necessary to maintain an acceptable level of protection of public health and safety within an Agreement State."	<b>Reject:</b> Implementation of program elements is a compatibility issue and it is described in Section E.2: Compatibility. No changes were made to the policy statement.
86	Section V.A. ADEQUACY AND COMPATIBILITY: ADEQUACY	386- 388	Commenter believes the NRC has introduced the word "equivalent" in the policy to mean "adequate". Commenter further noted that a state can only be more restrictive for compatibility categories "B" and "C".	<b>Reject:</b> First, the word "equivalent" is not being used to mean "adequate." Second, Compatibility Category C allows Agreement States the flexibility to promulgate more restrictive regulations as long as they do not create a gap, duplication or conflict with the NRC requirements. However, Agreement States requirements must be essentially identical for compatibility B and A. No changes were made to the policy statement.
87	Section V.A. ADEQUACY AND COMPATIBILITY: ADEQUACY	394- 395	Commenter requested clarification for the following: "Such consideration will occur only if concerns arise."	<b>Reject:</b> Further clarification is not necessary since this sentence was subsequently deleted from the policy statement. No changes were made to the policy statement.
88	Section V.A. ADEQUACY AND COMPATIBILITY: ADEQUACY	381	Commenter recommended adding a sentence after the first sentence in the first paragraph that reads as follows: " <b>These program elements make up the category Health and Safety (H&amp;S).</b> "	<b>Accept with modification:</b> We agree that the policy statement should address the category Health and Safety (H&S). However, the proposed text was modified and the H&S discussion is in the "Adequacy" section of the policy statement.
89	Section V.A. ADEQUACY AND COMPATIBILITY: ADEQUACY	388- 391, 410- 411	Commenter recommended the following edits in the section: "To provide reasonable assurance of protection of public health and safety, an Agreement State program should contain the five essential program elements, identified in Sections 1 through 5, that the <del>NRC-Commission</del> will use to define the scope of its review of the program. The <del>Commission</del> <del>NRC</del> will also consider...In adopting such requirements, Agreement States shall adopt the essential objectives of those of the <del>NRC Commission</del> ."	<b>Reject:</b> The definition of "Commission" was included as a footnote to mean the five-member Commission or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974 (42 USC 5841). The "NRC" means the U.S. Nuclear Regulatory Commission as an agency. Consequently, the suggested edit was not accepted. No changes were made to the policy statement.



90	Section V.A. ADEQUACY AND COMPATIBILITY: ADEQUACY		Commenter stated that the policy statement should say directly that adequacy is based on identified risks to public health and safety.	<b>Reject:</b> The AEA requires the NRC to evaluate the Agreement State programs to ensure adequacy to protect public health and safety and compatibility with the NRC's NMP. The policy statement also uses this same standard to evaluate Agreement Programs instead of just using a standard solely based on identified risks. No changes were made to the policy statement.
91	Section V.A.1. ADEQUACY AND COMPATIBILITY: ADEQUACY - Legislation and Legal Authority	408-411	Five commenters disagreed with NRC's revision of the word "should" to "shall" and suggested changing the sentences back to read as follows: "Specifically, Agreement State <del>shall</del> <b>should</b> adopt a limited number of legally binding requirements based on those of the NRC because of their particular health and safety significance. In adopting such requirements, Agreement States <del>shall</del> <b>should</b> adopt the essential objectives of those of the NRC."	<b>Accept with modification:</b> The first edit was accepted but the second was not. For the second suggested edit, the word "shall" is preferred because once these legally-binding requirements are adopted, the States must implement these provisions to meet the essential objectives articulated in the NRC requirements.
92	Section V.A.1. ADEQUACY AND COMPATIBILITY: ADEQUACY - Legislation and Legal Authority		Commenter suggested retaining the original 1997 policy statement language because the proposed text 1) moves the attention [away] from having these legally binding requirements because of each one's particular health and safety significance; 2) constrains the NRC to have a limited number, while the original text limits the number based on the particular significant health and safety events; 3) moves the focus from a particular health and safety statement and makes NRC consider limiting the numbers because NRC may have already issued too many requirements; and 4) provides less flexibility in addressing particular health and safety events without limiting the number based on the number of "events" instead of requirements.	<b>Accept with modification:</b> The phrase "a limited number of" was removed, and the word "shall" was changed to "should" in Section E.1.i. of the policy statement. This provides the Agreement States with flexibility in adopting the essential objectives using the appropriate form of legally binding requirements that have particular H&S significance.
93	Section V.A.1. ADEQUACY AND COMPATIBILITY: ADEQUACY - Legislation and Legal Authority	408-410	Commenter recommended the following edits: "Specifically, Agreement States shall adopt a limited number of legally binding requirements based on those of the NRC because of their <del>particular</del> <b>significant and direct</b> health and safety significance."	<b>Reject:</b> This edit was not accepted due to the redundant use of the word "significant." The existing language is preferred to allow for more flexibility. No changes were made to the policy statement.
94	Section V.A.1. ADEQUACY AND COMPATIBILITY: ADEQUACY - Legislation and Legal Authority		Commenter stated that the original text of the 1997 policy should be retained. If it is expanded or revised, the policy should be limited to saying, "significant and direct" and include examples and the disclaimer that the examples are not all-inclusive.	<b>Accept with modification:</b> The first edit to add the conditional language of "significant and direct" is not applicable because the original text of the 1997 was retained. See resolution to comment #114 regarding retaining examples for the second part of this comment.
95	Section V.A.1. ADEQUACY AND COMPATIBILITY: ADEQUACY - Legislation and Legal Authority		Commenter recommended that the original 1997 text be retained with regard to the Commission minimizing the number of NRC regulatory requirements that the Agreement States will be requested to adopt to maintain compatibility because the changes proposed will tend to make Agreement States become "NRC Clones" in how they run their programs. Due to different organizational structures, funding sources, business processes, rulemaking processes, and many other factors, the Agreement States must have the flexibility to run their programs dictated by their state governments and not NRC.	<b>Accept with modification:</b> This comment was accepted in part for the reasons stated in the response to comment #92.
96	Section V.A.1. ADEQUACY AND COMPATIBILITY: ADEQUACY - Legislation and Legal Authority	399-403	Commenter suggested the following edits: "b) authorize the State to promulgate <del>regulatory</del> <b>legally binding</b> requirements necessary to provide reasonable assurance of protection of public health and safety; c) authorize the State to license, inspect, and enforce legally binding requirements such as regulations and licenses; and d) be otherwise <del>consistent</del> <b>compatible</b> with applicable Federal statutes.	<b>Accept with modification:</b> The first edit is not accepted because legally binding requirements are not appropriate to include in the discussion of statutory authority to promulgate regulations. Other legally enforceable measures such as orders, license conditions, or other appropriate measures necessary to implement to program are mentioned later in the paragraph. However, the second edit is accepted.



97	Section V.A.1. ADEQUACY AND COMPATIBILITY: ADEQUACY - Legislation and Legal Authority	408-410	Commenter questioned what was meant by "limited number" and why the number of legally binding requirements would be limited.	<b>Accept:</b> The original 1997 text was removed from the proposed consolidated policy statement before it was published in a <i>Federal Register</i> Notice (FRN) for public comment on June 2, 2016 "Policy Statement for the Agreement State Program" (81 FR 35388).
98	Section V.A.4. ADEQUACY AND COMPATIBILITY - Personnel	431-432	Commenter asked for clarification on what constitutes a 'sufficient' number of personnel.	<b>Reject:</b> The meaning of the word "sufficient" is based on an analysis by each Agreement State to determine the number of staff needed to perform the workload for the State's program. NMSS State Agreements procedure SA-103 and Appendix A to SA-700 contain more details on how to perform the appropriate analysis. No changes were made to the policy statement.
99	Section V.B. ADEQUACY AND COMPATIBILITY: COMPATIBILITY	text not found	Commenter suggested the following: "Those program elements are generally should be limited to areas of regulation involving radiation protection standards and activities with significant transboundary implications, "because the word "generally" made the sentence vague and capricious.	<b>Reject:</b> This comment is no longer relevant since the consolidated policy statement no longer contains this original 1997 text in which the new language is proposed. No changes were made to the policy statement.
100	Section V.B. ADEQUACY AND COMPATIBILITY: COMPATIBILITY		Commenter recommended that the original 1997 text be retained and suggested appropriate changes be addressed in the Management Directives. Commenter agreed with the concept of alternative methodologies to compatibility than relying on a 3-year time frame to adopt rules and suggested consideration of changes to the Management Directive to have "important" rules vs. minor rules. Commenter noted that the rules are currently weighted the same and that the Management Directive allows alternative approaches to rules such as license conditions and orders. Commenter noted this approach would be consistent with NRC "Cumulative Effects of Regulation (CER)" where rules are prioritized.	<b>Beyond the scope of the policy statement:</b> The original 1997 text was removed from the consolidated policy statement by the NRC/Agreement State working group before it was published for public comment in the June, 2, 2016 FRN (81 FR 35388).  The Commission directed staff to make improvements to the existing program which will be implemented in subsequent revisions to NRC Management Directives.
101	Section V.B. ADEQUACY AND COMPATIBILITY: COMPATIBILITY		Commenter noted that the "H&S" category for regulations is missing from this section but should be included for clarification. Commenter understood the "H&S" category to be equivalent to compatibility "C" in NRC's estimation.	<b>Accept with modification:</b> We agree that the policy statement should address the category H&S. However, the H&S category is discussed in the "Adequacy" section of the policy statement. The commenter stated that the "H&S" category is equivalent to compatibility "C." However, H&S and Compatibility Category C are not equivalent. Unlike the compatibility consideration for Category C requirements, Agreement States only have to address H&S requirements by adopting program elements that are adequate to protect public health and safety.
102	Section V.B. ADEQUACY AND COMPATIBILITY: COMPATIBILITY		Commenter stated support for deletion of the H&S Category.	<b>Reject:</b> The H&S category was not part of the 1997 policy statement and it is also not included in this policy statement under the "compatibility category." However, the H&S category is in the "Adequacy" section of the policy statement. No changes were made to the policy statement.
103	Section V.B. ADEQUACY AND COMPATIBILITY: COMPATIBILITY	443-446	Commenter stated that the following sentence is not accurate and cited two examples related to the practice of medicine/training and experience and global positioning tracking of vehicles used for industrial radiography at temporary job sites: "An Agreement State has the flexibility to adopt and implement program elements within the State's jurisdiction that are not addressed by the NRC, or program elements not required for compatibility (i.e., those NRC program elements not assigned a Compatibility A, B, or C)."	<b>Reject:</b> It is not clear how the examples provided relate to the comment. The policy statement is accurate as written. For example, the NRC does not require registration of nuclear medicine technologists, but an Agreement State could implement such a program if desired. No changes were made to the policy statement.
104	Section V.B. ADEQUACY AND COMPATIBILITY: COMPATIBILITY	451-454	Commenter questioned how a state can preclude the NRC's ability to evaluate the effectiveness of a program: "3) Not effectively preclude, the ability of the NRC to evaluate the effectiveness of the NRC and Agreement State programs for agreement material with respect to protection of public health and safety."	<b>Accept:</b> "NRC" was removed from listed item #3. The policy statement now reads as follows: "3) not preclude the ability of the NRC to evaluate the effectiveness of Agreement State programs for agreement material with respect to protection of public health and safety."

105	Section V.B. ADEQUACY AND COMPATIBILITY: COMPATIBILITY	454-455	Commenter suggested moving this sentence to the beginning of Section V.B. ADEQUACY AND COMPATIBILITY: COMPATIBILITY: "For purposes of compatibility, the State should address program elements assigned Categories A, B, and C."	<b>Reject:</b> This sentence will remain in its current location because it introduces the descriptions of individual compatibility categories following the sentence. No changes were made to the policy statement.
106	Section V.B. ADEQUACY AND COMPATIBILITY: COMPATIBILITY	447-454	Commenter recommended the following edits in the section: "1) Be compatible with those of the Commission NRC (i.e., should not create conflicts, duplications, gaps, or other conditions that would jeopardize an orderly pattern in the regulation of agreement material on a nationwide basis); 2) Not preclude or effectively preclude, a practice in the national interest without an adequate public health and safety or environmental basis related to radiation protection; and 3) Not preclude or effectively preclude, the ability of the Commission NRC to evaluate the effectiveness..."	<b>Accept with modification:</b> The word "NRC" will remain, but the comments related to "preclude" are accepted with minor modifications. The definition of "Commission" was included as a footnote to mean the five-member Commission or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974 (42 USC 5841). The "NRC" means the U.S. Nuclear Regulatory Commission as an agency. In context for this section the term "NRC" is appropriate instead of "Commission."
107	Section V.B.1. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category A	457-469	Commenter stated the proposed changes clarify the meaning.	<b>Accept:</b> The commenter agrees with changes already made and is not proposing additional changes to this section of the policy statement.
108	Section V.B.1. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category A	458-462	Commenter suggested edits as follows: "1. Category A - Basic Radiation Protection Standards: For purposes of this policy statement, this category includes basic radiation protection standards..."	<b>Reject:</b> Calling Compatibility Category A "Radiation Protection Standards" would imply that all radiation protection standards must be designated as Compatibility Category A. An example of a radiation protection standard that is not Compatibility Category A is contained in the License Termination Rule in Part 20. (See, 10 CFR 20.1402). No changes were made to the policy statement.
109	Section V.B.1. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category A	464-466	Commenter suggested NRC provide an example where a federal statute gives the State authority to adopt a different standard or consider deleting this text, if none exist: "Such State standards should be essentially identical to those of the NRC, unless Federal statutes provide the State authority to adopt different standards."	<b>Reject:</b> The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund, (42 U.S.C. §9601 <i>et seq.</i> (1980)), is an example of a federal statute in which a State may need to be more restrictive (or different) on a compatibility A requirement than the NRC requirements. No changes were made to the policy statement.
110	Section V.B.1. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category A	465	Commenter recommended replacing "NRC" with "Commission" in this section. (1 instance)	<b>Reject:</b> The definition of "Commission" was included as a footnote to mean the five-member Commission or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974 (42 USC 5841). The "NRC" means the U.S. Nuclear Regulatory Commission as an agency. Consequently, the suggested edit was not accepted. No changes were made to the policy statement.
111	Section V.B.1. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category A	462, Footnote #3	Commenter suggested removing the footnote and instead including the sentence as part of the main paragraph text.	<b>Reject:</b> The information is contained in the footnote because it contains information related to the implementation of Compatibility Category A, not the definition of Compatibility Category A. No changes were made to the policy statement.
112	Section V.B.2. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category B	474-476	Three commenters suggested the following: "This category will be limited to a small number of program elements that have <del>an</del> a [serious/considerable/substantial] impact on public health..."	<b>Reject:</b> This sentence was subsequently revised to define Compatibility Category B in terms of program elements that cross jurisdictional boundaries to ensure uniformity rather than use the terms suggested by the commenter to define the category.
113	Section V.B.2. ADEQUACY AND COMPATIBILITY: COMPATIBILITY	446-447	Four commenters disagreed with NRC's revision of the word "should" to "shall" and suggested changing the sentences back to read as follows: "However, such program elements of an Agreement State relating to agreement material shall should..."	<b>Reject:</b> The list following the word "shall" provides an underlying set of criteria that are required for Agreement State program elements. The States have flexibility in how to implement the set of criteria in the compatibility section. No changes were made to the policy statement.

114	Section V.B.2. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category B	477-478	Commenter recommended that examples be maintained in the policy statement and that NRC should consider adding a disclaimer that the examples are not all-inclusive to avoid misinterpretations.	<b>Accept with modification:</b> The current policy statement language captures the commenter's concerns.
115	Section V.B.2. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category B	479-481, Footnote #4	Commenter stated that the NRC should absolutely not consider economic factors in making a compatibility B designation, or any compatibility designation because this is not part of the AEA agreement and States must have the flexibility to fund their programs according to their needs. Furthermore, States go through unique cost/impact economic analysis as a part of the rule making process. If economic factors were part of the compatibility determination and it conflicted with state statutes, the state would not be compatible with NRC.	<b>Accept:</b> The commenter agrees with the policy statement being silent on the issue of economic factors. The commenter is not proposing additional changes to this section of the policy statement.
116	Section V.B.2. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category B		Commenter strongly recommended retaining the original 1997 text because changing the wording deemphasizes that the Agreement States should be given the flexibility when addressing the majority of program elements necessary for a compatible program and is contradictory to the closing paragraph. Commenter further stated that NRC should not think that by keeping the original text in any way limits their authority to make necessary rules to protect public health and safety, which is clearly authorized by the AEA and any "statement of policy" cannot be considered to change the Commission's authority.	<b>Reject:</b> The 1997 text describing Compatibility Category B indicated that the Commission would limit this category to a small number of program elements. Category B now pertains to a limited number of program elements that cross jurisdictional boundaries. No changes were made to the policy statement.
117	Section V.B.2. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category B	472-481	Commenter supports the proposed language and believes the use of examples provides sufficient clarification to the definition. Similarly, another commenter stated the proposed changes clarify the meaning.	<b>Accept:</b> The commenter agrees with changes already made and is not proposing additional changes to this section of the policy statement.
118	Section V.B.2. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category B	477-478	Commenter stated that the wording of this indicator could be applied to any regulations listed in Category C or the current Health and Safety Category because all regulations have an impact on public health and safety. Commenter recommended either a) maintaining the wording as proposed but removing the phrase, "Examples include...radiography certification." and replacing the text with, "This category is limited to SSDRs, transportation regulations, and radiography certification; or b) maintain the original 1997 text, "The Commission will limit this category to a small number of program elements (e.g., transportation regulations and sealed source and device registration certificates) that have significant transboundary implications."	<b>Reject:</b> This comment was based on the consolidated policy statement, which reflects and preserves the content revisions that were developed by the two NRC/Agreement State working groups during their work on the two separate policy statements. The current policy statement language captures the commenter's concerns by describing Compatibility Category B in terms of program elements that cross jurisdictional boundaries. No changes were made to the policy statement.
119	Section V.B.2. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category B		Commenter noted that elsewhere in the document "national interest and national significance" were used in place of "cross jurisdictional": "Cross Jurisdictional Program Elements: For purposes of this policy statement, this category pertains to program elements that cross jurisdictional boundaries."	<b>Reject:</b> The terms "national interest and national significance" and "cross jurisdictional" are not synonyms and they are used separately in the policy statement according to their individual meanings. No changes were made to the policy statement.

120	Section V.B.2. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category B	474- 476	Commenter questioned what was meant by a "small number" and requested data, if a review of relevant regulations and compatibility had been performed: "This category will be limited to a small number of program elements that have an impact on public health and safety and should be addressed to ensure uniformity of regulation on a nationwide basis."	<b>Accept with modification:</b> The phrase "small number" was initially used to indicate that the number of program elements that are assigned to Compatibility Category B are limited judiciously (because these program elements must be adopted as essentially identical by the Agreement State). The term "small number" was changed to the word "limited" to clarify the meaning. Documents that are used to determine adequacy and compatibility can be found on the NMSS-State Communication Portal at <a href="https://pki.nrc.gov/ecs/apps/scp/dcc-scp.html">https://pki.nrc.gov/ecs/apps/scp/dcc-scp.html</a> and the NRC/NMSS Procedures website at <a href="https://scp.nrc.gov/procedures.html">https://scp.nrc.gov/procedures.html</a> .
121	Section V.B.2. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category B	477- 478	Commenter requested training and experience for authorized individuals in 10 CFR Part 35 be listed as an example: "Examples include, but are not limited to: sealed source and device registration certificates, transportation regulations, and radiography certification."	<b>Reject:</b> One of the principle objectives for revising the policy statement was to incorporate source security determinations into the policy statement. Consequently, the additional examples used to describe Compatibility Category B are security related. No changes were made to the policy statement.
122	Section V.B.2. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category B	472	Commenter noted that title was changed from "Program Elements with Significant Transboundary Impacts" to "Cross Jurisdictional Program Elements" and suggested revising the title as follows: " <b>Significant</b> Cross Jurisdictional Program Elements" to maintain the concept that Category B elements are limited to a small number of elements that have significant impact.	<b>Reject:</b> The NRC/Agreement State working group for the revision of the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" carefully considered the use of the term "significant" and concluded that it should not be included as part of the description of Compatibility Category B. The term "cross jurisdictional program elements" was chosen to make the description of Category B concise and well-defined. No changes were made to the policy statement.
123	Section V.B.2. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category B	479	Commenter recommended replacing "NRC" with "Commission" in this section. (1 instance)	<b>Reject:</b> The definition of "Commission" was included as a footnote to mean the five-member Commission or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974 (42 USC 5841). The "NRC" means the U.S. Nuclear Regulatory Commission as an agency. Consequently, the suggested edit was not accepted. No changes were made to the policy statement.
124	Section V.B.3. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category C	488- 491	Commenter suggested revising the following: "Agreement State program elements may be more restrictive than Commission program elements; <del>however, they should not be so restrictive as to prohibit a licensed activity.</del> " And stated that if an Agreement States wants to prohibit a licensed activity because of health and safety or physical protection reasons then they should be able to do so under Category C. Commenter reasoned that including the disclaimer blurs the line between Category B and C and that Agreement States must have the flexibility to tailor regulations based on their business process and the state's health and safety considerations under Category C. Commenter provided examples for areas of their program that would not be compatible with NRC if the disclaimer is retained.	<b>Accept with modification:</b> The sentence was modified and the modification appears to meet the intent of the comment.
125	Section V.B.3. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category C	484, 488, 489	Commenter recommended replacing "NRC" with "Commission" in this section. (2 instances)	<b>Reject:</b> The definition of "Commission" was included as a footnote to mean the five-member Commission or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974 (42 USC 5841). The "NRC" means the U.S. Nuclear Regulatory Commission as an agency. Consequently, the suggested edit was not accepted. No changes were made to the policy statement.
126	Section V.B.4. ADEQUACY AND COMPATIBILITY: COMPATIBILITY - Category D	493	Commenter suggested renaming "Category D" to "Category NA" or "Category NR" for not applicable or not required, respectively.	<b>Reject:</b> The commenter provided no justification for this change. Category D describes program elements that are not required for compatibility. However, these program elements may have some administrative importance and an Agreement State could adopt these program elements if they are applicable to a State's radiation control program. No changes were made to the policy statement.

127	Section VI. SUMMARY AND CONCLUSIONS	506	Commenter recommended including the following sentence in the last paragraph of the section noting that the briefings of the Commission by CRCPD and OAS representatives are of great benefit to all parties: "The NMP should also include the formal sharing of information and views such as briefings of the Commission by state personnel." Another commenter supported this addition.	<b>Reject:</b> The policy statement was revised to remove the last paragraph of the Conclusion section where this edit would have been made. However, the comment's general themes are discussed in the "Program Implementation" section of the policy statement. No changes were made to the policy statement.
128	Section VI. SUMMARY AND CONCLUSIONS	529- 533	Commenter recommended that the last paragraph be returned to its original text as in the 1997 policy statement.	<b>Reject:</b> The last paragraph of the 1997 policy statement is included in this new policy statement in Section E: Adequacy and Compatibility, and not in the section proposed by the commenter. The 1997 policy statement language was further modified to incorporate the NMP. No changes were made to the policy statement.
129	Section V.A. ADEQUACY AND COMPATIBILITY: ADEQUACY		Commenter noted that although proposed changes to ADEQUACY section are subtle, they are significant and should not be made for reasons previously stated.	<b>Reject:</b> Without more detail and examples we cannot address the commenter's concerns. No changes were made to the policy statement.
130	Section VI. SUMMARY AND CONCLUSIONS	507, 511, 512 (4 instan ces)	Commenter recommended replacing "NRC" with "Commission" in this section. (5 instances)	<b>Reject:</b> The definition of "Commission" was included as a footnote to mean the five-member Commission or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974 (42 USC 5841). The "NRC" means the U.S. Nuclear Regulatory Commission as an agency. Consequently, the suggested edit was not accepted. No changes were made to the policy statement.
131	Section VI. SUMMARY AND CONCLUSIONS	511- 516	Commenter recommended the following edits in this section: "a coherent and consistent nationwide program for the regulation of agreement material. <del>the</del> By adopting the criteria...this approach achieves a proper balance between the need for Agreement State flexibility and the need for a <del>NMP that is</del> coordinated..."	<b>Accept with modification:</b> The section was modified by deleting the entire sentence starting with "By adopting the criteria ..."
132	Section E.2.ii	472	The commenter supports retention of the word "Significant" in the heading for Compatibility B Program Elements. This emphasizes that a Compatibility B designation pertains to a small number of program elements, not any cross jurisdictional program element.	<b>Reject:</b> The NRC/Agreement State working group for the revision of the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" carefully considered the use of the term "significant" and concluded that it should not be included as part of the description of Compatibility Category B. The term "cross jurisdictional program elements" was chosen to make the description of Category B concise and well-defined. No changes were made to the policy statement.
133	Section E.2		The commenter recommends using more discretion when designating regulations as "Compatibility B" or "Compatibility C". The NRC should default to "Compatibility C" to offer Agreement States the flexibility to implement more restrictive requirements. Compatibility B should be reserved strictly for regulations that present a direct health and safety risk if not implemented exactly as the NRC intended.	<b>Reject:</b> While all regulations address health and safety, Compatibility Category B pertains to a limited number of program elements that cross jurisdictional boundaries. Category B requires essentially identical program elements between States and the NRC to ensure uniformity of regulation on a nationwide basis. No changes were made to the policy statement.
134	Section C	125- 127	The commenter urges a careful analysis when using the terms "adequacy" and "compatibility" in this document. 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. A program could be found compatible and yet not be adequately protecting public health and safety. The commenter suggests 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." The current	<b>Accept with modification:</b> The order in the sentence will change to be consistent with the AEA. However, compatibility does not take a secondary role to adequacy. The AEA requires the Agreement States to meet both standards.



			order of the sentence appears to place the emphasis on compatibility and not on public health and safety.	
135	Section E.1.i	408-411	There remain examples in the document where the terms "shall" are used and should be replaced with "should." 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>Reject:</b> The word "shall" is preferred because once these legally-binding requirements are adopted, the States must implement these provisions to meet the essential objectives articulated in the NRC requirements. No changes were made to the policy statement.
136	Sections E.2 and E.2.iii	454-455, 487-491	There remain examples in the document where the terms "shall" are used and should be replaced with "should." 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." Mixed usage of the words "shall" and "should" create conflicts in the language.	<b>Accept with modification:</b> the first example, "shall" is preferred because Agreement States must adopt these program elements. For the second example, "should" is changed to a "shall" because Agreement States program elements must implement the essential objectives in Compatibility Category C requirements.
137	81 FR 35389, Section III.1		The commenter suggests replacing "a particular" with the word "an" in the following text: "significant transboundary implication," the NRC is proposing to define a significant transboundary implication as "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." "Seems to me if the regulation or impacts health, safety, or security, it" [sic]	<b>Accept:</b> The phrase "particular impact on public health and safety" was removed and replaced with "cross jurisdictional boundaries" in the proposed consolidated policy statement before it was published for public comment in the June 2, 2016 FRN (81 FR 35388)
138	81 FR 35389, Section III.2		The 1997 version uses the term "significant trans boundary implications," only once. The only examples are transportation regulations and SSDs. These are only a small portion of the items affected. Either expand the list [sic]. Sealed Sources and Device Registry as an example as generally licensed material is NOT consistently licensed, tracked, or regulated the same nationally yet has greater significant transboundary implication, and impact on safety and security. Reciprocity licensing and inspection is a much more useful example. Listing only two examples is really inadequate.	<b>Accept with modification:</b> It is not practical to include a comprehensive list of Compatibility Category B regulations in the policy statement because the regulations and categories can change over time. For example, the recent adoption of 10 CFR Part 37 added a whole new set of Compatibility Category B requirements. Some additional examples of Compatibility Category B regulations will be included in the policy statement and in NRC Management Directive 5.9 "Adequacy and Compatibility of Agreement State Programs."

139	81 FR 35389, Section III.3		Perhaps if not to the movement of goods, but to maintain a level playing field of consistency of health, safety, and security regulation for similar devices and work/use, such as in radiography, portable gauges, and well-logging and health physics providers, which are common reciprocity licenses and work across state and federal boundaries. Consistent regulation concerning radioactive materials and devices, then is a secondary outcome, which in fact assists commerce.	<b>Beyond the scope of the policy statement:</b> The commenter is responding to a question that was asked in proposed revisions to the two policy statements published in the June 3, 2013 "Policy Statement on Adequacy and Compatibility of Agreement State Programs; Statement of Principles and Policy for the Agreement State Program" (78 FR 33122) regarding the description of Compatibility Category B in the proposed policy statement. NRC staff published the proposed consolidated policy statement for comment on the June, 2, 2016 FRN (81 FR 35388) which also included a resolution of the comments received in response to the June 3, 2013 FRN (78 FR 33122).
140	81 FR 35389, Section III.4		After public health and safety, and security, the next consideration is national consistency because of commerce. Without the commerce there would be no need for compatibility or reciprocity. Compatibility and consistency does not necessarily mean identical wording, although it helps.	<b>Beyond the scope of the policy statement:</b> The commenter is responding to a question that was asked in proposed revisions to the two policy statements published in the June 3, 2013 FRN (78 FR 33122) regarding the description of Compatibility Category B in the proposed policy statement. NRC staff published the proposed consolidated policy statement for comment in the June, 2, 2016 FRN (81 FR 35388) which also included a resolution of the comments received in response to the June 3, 2013 FRN (78 FR 33122).
141	Sections D.4 and D.1.ii		Section D.4 is a bit redundant about IMPEP to Section D.1.ii, Performance Assessment.	<b>Reject:</b> Although these sections do contain some redundant information, this information is pertinent to each individual section and necessary to effectively describe these topics. No changes were made to the policy statement.
142	Section E.2		You don't mention the other category, Health and Safety, in Section E.2.	<b>Accept with modification:</b> We agree that the policy statement should address the category H&S. However, the H&S category is discussed in the "Adequacy" section of the policy statement rather than under the "Compatibility" section.
143	General		D basically says you don't need to include that rule, and C allows for slightly different wording, but is essentially the same. Nuclear Regulatory Commission consider one additional category, for example E, - that is like C, where the basic concepts must be adopted, but can be applied more conservatively, such as in financial surety plans & requirements and the monetary amounts. Also, when Nuclear Regulatory Commission removes a rule and marks it a D - the state could miss that rule removal because it is a Cat D compatibility.	<b>Beyond the scope of the policy statement:</b> Since this document is a high-level policy statement, it uses appropriately broad language to describe compatibility categories.
144	General		The commenter reiterates its concern from its letter dated September 24, 2014, regarding the process under which this proposed revision was developed. Nuclear Regulatory Commission (NRC) management made the decision to combine the policy documents and developed the "Consolidated Policy Statement" unilaterally, without input from the Agreement State working group members who had worked on the individual policy statements. This has caused significant concern among the Agreement State working group members and the [OAS] Board. The [OAS] Board expects the NRC to involve Agreement State working group members in all aspects of working group projects to ensure that documents developed adequately address issues of the Agreement States as well as the NRC. Additionally, unilateral action by the NRC such as this damages trust and the relationship between the NRC and the Agreement States.	<b>Reject:</b> The Commission approved the merger of the two policy statements in SRM-COMSECY-14-0028. One of the factors leading to the recommendation for a single policy statement was the identification, by an NRC/Agreement State working group, of redundant language between the two policy statements. The working group further concluded that one of the policy statements contained detailed information on IMPEP that is not typically included in a high-level policy statement. The consolidated policy statement reflected the work and differing opinions of the NRC/Agreement State working group members, which were considered by the Commission before consolidating the policy statements. No changes were made to the policy statement.
145	General		The agreement state radiation control program is referred to as "agreement state program" and "state program" throughout the policy statement. The commenter recommends these all be updated to "agreement state radiation control program".	<b>Reject:</b> The policy statement references the NRC and Agreement State radiation control programs in several different ways depending on context, and to improve readability. For a majority of the instances, the term "agreement state radiation control program" is used when referencing only the Agreement State. No changes were made to the policy statement.
146	Section B	45-53	The commenter recommends that the first paragraph in Section B "Background" be moved to Section A "Purpose". This paragraph states that this policy statement is guidance and does not impose legally binding requirements which	<b>Reject:</b> The Section A. Purpose focuses on rules and relationships. Moving this sentence from Section B Background to Section A Purpose would be inconsistent with the structure of the policy statement. No changes were made to the policy statement.

			seems to be more a purpose statement than a background statement.	
147	Section B	71-75	In the third paragraph of Section B, the commenter requests removing "and secure" from the first sentence. Security is discussed in the second sentence.	<b>Reject:</b> These sentences describe two different aspects of agreement material security. No changes were made to the policy statement.
148	Section C	118	In the third paragraph of Section C, the commenter recommends updating "Commission deems appropriate" to "NRC deems appropriate".	<b>Reject:</b> The definition of "Commission" was included as a footnote to mean the five-member Commission or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974 (42 USC 5841). The "NRC" means the U.S. Nuclear Regulatory Commission as an agency. Consequently, the suggested edit was not accepted in the context of the sentence. No changes were made to the policy statement.
149	Section C	125-127	In the fourth paragraph of Section C, the commenter recommends reversing the order of compatibility and adequacy. Adequacy is listed first throughout the policy statement.	<b>Accept:</b> In the fourth paragraph of Section C, the order was revised to have "adequate" before "compatible" consistent with the rest of the document.
150	Section D.1.i	154-167	The commenter recommends the deletion of Section D.1.i "Principles of Good Regulation." Section D.6 is titled "Regulatory Development" which includes NRC reviews of agreement state regulations. Also agreement state radiation control programs do not have authority over its states' regulatory process. It is controlled by the state legislature.	<b>Reject:</b> "The Principles of Good Regulation" were initially adopted by the Commission in 1991 to serve as a guide to NRC decision-making and employee conduct. Then in 1997, the principles were included in the "Statement of Principles and Policy for the Agreement State Program" and were recognized as part of a common culture that the NRC and Agreement States share as co-regulators. These principles have served as a foundation for good regulation in the NMP and are included in the policy statement to indicate their importance. The principles should continue to form the basic building blocks for good regulation in the NMP into the future. No changes were made to the policy statement.
151	Section D.4	299-304	In the last paragraph of Section D.4 "Performance Evaluation", the commenter recommends the second and third sentence regarding the steps of Integrated Materials Performance Evaluation Program (IMPEP) findings be deleted. The IMPEP process is fully addressed in States Agreement (SA) procedures.	<b>Reject:</b> These sentences describe the well-established oversight tools that the NRC can use in the performance evaluation process and they belong in this high-level policy statement. The details of these tools contained in the 1997 policy statement were removed from the current policy statement. No changes were made to the policy statement.
152	Section E.1	381-384	In Section E.1. "Adequacy", the commenter recommends updating "regulating the use of agreement material" to "regulating the safe handling, use and storage of agreement material".	<b>Reject:</b> The inclusion of only "safe handling, use, and storage" may imply a limitation on what constitutes use of material. For example, the phrase could incorrectly imply that physical protection is not included. No changes were made to the policy statement.
153	Section E.1.ii	416-419	In Section E.1.ii, the commenter recommends updating "issuing a license to authorize such use" to "issuing a license to authorize the safe handling, use and storage".	<b>Reject:</b> inclusion of only "safe handling, use, and storage" may imply a limitation on what constitutes use of material. For example, the phrase could incorrectly imply that physical protection is not included. No changes were made to the policy statement.
154	Section E.2.ii	474-476	The commenter reiterates its recommendation from its letter dated September 24, 2014 that, in the description of Category B, the word "significant" be added before the term "cross jurisdictional". The commenter recommends the sentence read "This category pertains to a small number of program elements that cross jurisdictional boundaries, have significant implications and should be addressed..." To maintain the concept that Category B elements are a limited to a small number of elements that have a significant impact.	<b>Reject:</b> The NRC/Agreement State working group for the revision of the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" carefully considered the use of the term "significant" and concluded that it should not be included as part of the description of Compatibility Category B. The term "cross jurisdictional program elements" was chosen to make the description of Category B concise and well-defined. No changes were made to the policy statement.
155	Section E.2.ii	479-481, Foot-note #4	In the last sentence of Section E.2.ii, the commenter recommends updating "should not be considered" to "shall not be considered." Economic factors should never be a consideration for public health and safety.	<b>Accept:</b> "Should" was changed to "shall." The commenter agrees with the policy statement being silent on the issue of economic factors.

156	Section A	40-42	Delete the last sentence from the final paragraph of Section A, "Two national organizations—the Organization of Agreement States (OAS) and Conference of Radiation Control Program Directors, Inc. (CRCPD)—which are composed of State radiation protection programs, also play important roles within the NMP." Neither the OAS nor CRCPD actually speaks on behalf of the Agreement States, or has been empowered to speak on behalf of the Agreement States. There are other organizations besides those two which also have a fundamental necessity in the rulemaking process, and so why are only OAS and CRCPD mentioned without including the others. This is not to discount the importance of OAS or the CRCPD in any way. As a high-level document, the policy statement should not get into the individual groups.	<b>Accept:</b> The sentence was deleted from the policy statement
157	Section E, lines 265-267	349-351	Change the word "must," to "should" in the beginning of Subsection E under "Adequacy and Compatibility" the sentence that says, "The Agreement States must also ensure that its program serves an overall nationwide interest in radiation protection." The enabling legislation that made AL an Agreement State signed by the Governor indicates that the AL radiation program is responsible for health and safety of the people of Alabama for ionizing radiation. It doesn't say that we must follow what other states or the feds say we need to do.	<b>Reject:</b> While the Alabama enabling legislation may not specifically "say that [Alabama] must follow what other States and the feds say [it needs] to," the Alabama 274b. Agreement Article V states that Alabama will use its best efforts to coordinate and cooperate with the Commission and other Agreement States in the formulation of standards for protection against of radiation, and assuring that State is compatible with the NRC's program. No changes were made to the policy statement.
158	Section E.2.ii	478-479	Change the word "shall" to "should" in Section E.2.ii where it says, "Agreement State Program elements shall be essentially identical to those of the NRC." If we're not going to make it a "should," then we might as well make them a "may."	<b>Reject:</b> Program elements that are assigned Compatibility Category B are required to be essentially identical to those of the NRC. The use of the word "shall" in this case is appropriate. No changes were made to the policy statement.
159	Section D.1.iv	207-214	The commenter recommends deleting the word "strong." What is a strong program versus just maintaining the NMP?	<b>Accept:</b> "Strong" was deleted from the policy statement.
160	Section D.1	155-167	The commenter questions why the "principles of good regulation" is included in Section D.1, "Program Implementation" with other well-known Agreement State program topics such as adequacy, compatibility, and IMPEP. Expanding on that sentiment, the commenter questions why the principles of good regulation are called out as part of an Agreement State program in Section D.	<b>Reject:</b> "The Principles of Good Regulation" were initially adopted by the Commission in 1991 to serve as a guide to NRC decision-making and employee conduct. Then in 1997, they were included in the Statement of Principles and Policy for the Agreement State Program and were recognized as part of a common culture that the NRC and Agreement States share as co-regulators. These principles have served as a foundation for good regulation, the NMP, and are included in the policy statement to indicate their importance. The principles should continue to form the basic building blocks for good regulation in the NMP into the future. No changes were made to the policy statement.
161	Section E.2.ii	Lines 474-476	The commenter suggests that the word significant should be added back to "Cross Jurisdictional Program Elements" making it "Significant Cross Jurisdictional Program Elements." The word "significant" has a major impact on how Compatibility Category B is implemented.	<b>Reject:</b> The NRC/Agreement State working group for the revision of the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" carefully considered the use of the term "significant" and concluded that it should not be included as part of the description of Compatibility Category B. The term "cross jurisdictional program elements" was chosen to make the description of Category B concise and well-defined. No changes were made to the policy statement.
162			The commenter requested a summary or indication of all of the comments that were received and whether or not they were put in or not put in this policy statement.	<b>Accept:</b> This information will be available in the final policy statement's publication in the <i>Federal Register</i> .