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December 2, 1996

VIA FACSIMILE

Mr. John C. Hoyle
Secretary of the Commission
U.S. Nuclear Regulatory Commission
ATTN: Chief of Docketing and Services Branch
Washington DC 20555-0001



Dear Secretary Hoyle:

Enclosed are the Maryland Radiological Health Program's comments on the Nuclear Regulatory Commission Strategic Assessment and Rebaselining Initiative. Thank you for the opportunity to comment on this subject.

If you should have any questions, please feel free to contact me at (410) 631-3300. You may also reach my office toll-free by dialing 1-800-633-6101 and requesting extension 3300.

Sincerely,

Roland G. Fletcher, Manager
Radiological Health Program

RGF:dpn

Enclosure

CC: Robert Quillin

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State of Maryland

Comments on

U.S. NRC Strategic Assessment and Rebaselining Initiative

Direction Setting Issue Paper # 4

"NRC's Relationship with Agreement States"

Option 1: Turn the Agreement States Program Over to the Environmental Protection Agency

This option should not be considered seriously. It would create more problems than it would solve. Perhaps it would be more appropriate for the EPA to turn over its environmental radiation regulatory program to the NRC. The costs associated with this option have not been addressed, but can be expected to be very high. NRC should address the health and safety impact for each option.

Option 2: Strongly Encourage States to Become Agreement States

Maryland generally supports the concept of all states becoming Agreement States however to "strongly encourage" may be going too far. Currently, the NRC has abdicated its commitment to provide training, travel and technical assistance to the Agreement States. Under this option, the number of Agreement States would increase and so would the demand for training, travel and technical assistance. Since the NRC claims that their financial resources are limited, providing seed money and grants to interested states may be extravagant. The NRC would claim not to have the resources to successfully manage and review 40 or 50 Agreement State Programs. Because of NRC's apparent inability to properly support the Agreement States Program currently, perhaps the best situation involves a healthy mixture of both Agreement States and NRC Regulated States. This would allow the NRC to maintain a viable materials program.

Option 3: Continue the Current Agreement States Program, including Adopting Current Initiatives

Maryland supports the continuation of the Current Agreement States Program, the Adequacy and Compatibility Statement and IMPEP. The current system works well but there is plenty of room for improvement. The NRC should modify its policy and seek Agreement States' concurrence on all rules, practices and procedures where compatibility is expected. The NRC needs to assume financial responsibility for training, travel and technical assistance. The NRC should recognize the many benefits the it receives from the Agreement States, without reimbursement.

Option 4: Treat Agreement States as Co-Regulators

A substantial part of Article V, Section 274 of the Atomic Energy Act of 1954 uses the language "The Commission [the State] will use its best efforts... to insure programs against the hazards of radiation [are] coordinated and compatible." This

defines co-regulation and makes us co-regulators. The Agreement States do more for radiation regulation without reimbursement than those same states do under EPA's Clean Air, Clean Water, and CERCLA requirements with far less reimbursement.

The Annual All Agreement States Meetings, the Agreement States Technical Meetings, and regulatory workshops designed to obtain the views of Agreement States must continue to be held and the NRC should reimburse Agreement State personnel for their expenses. Invitational travel does not need to be curtailed. NRC should not relinquish their financial responsibility for training, travel and technical assistance. This option does not need to include full fee recovery from Agreement States. The NRC should expand the role of the Agreement States in rulemaking regardless of the option chosen.

Option 5: Devolve Regulation of Atomic Energy Act Section 274 Materials to States

The NRC and the states should consider this option for the future. The NRC and the CRCPD should develop and implement a plan where the States would be given full responsibility for the regulation of Section 274 materials in 10 or fifteen years.

Funding:

NRC should return to the prior policy of fully funding Agreement States Programs' training, travel and technical assistance. The NRC sponsored training program is an important part of the relationship between NRC and the Agreement States. This training program helps ensure that radioactive materials are regulated in a uniform manner throughout the country. The NRC should establish the Agreement States Program as a priority for funding.

Independent Radiation Monitoring Program:

This program needs to be funded by the NRC and implemented by the State Programs. The public should not have to trust the utilities to monitor the environment and disclose any problems. In the event of an accident, the public should have access to the monitoring results. Currently, states are only reimbursed for about one third of the cost of this program.

Additional Comments:

It appears that as currently described, there is no one acceptable option as expressed by the NRC. Another option should be generated indicating that NRC should evaluate their monetary input to Agreement States along similar lines to that of the EPA. As long as sufficient NRC financial support is supplied to already existing Agreement States, the NRC should encourage Agreement State status and supply financial and technical support incentives to prospective states. Those specific programs which have been developed in close cooperation between NRC and Agreement States should be maintained and their implementation used as bench marks for future similar projects. The NRC may wish to delete subjective terms such as "co-regulator" in any proposed options. The Agreement State/NRC relationship should be clearly defined by established interactive policies.