



DSI-7

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October 31, 1996



John C. Hoyle  
Secretary of the Commission  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

Attn: Chief of Docketing and Services Branch

Dear Mr. Hoyle:

This letter is regarding the recent request for comments on NRC's strategic assessment and rebaselining of its regulatory activities. Florida, as an Agreement State, would like to provide comments on two of the direction setting issue (DSI) papers that were recently issued as a part of Phase II of this initiative.

Attached are comments on DSI #4, "NRC's Relationship with Agreement States," and DSI #7, "Material/Medical Oversight."

Thank you for the opportunity to comment on these issue papers.

Sincerely,

William A. Passetti  
Health Physicist Manager  
Radioactive Materials Section  
Office of Radiation Control

WAP/ngh  
Attachments

US NUCLEAR REGULATORY COMMISSION  
DOCKETING & SERVICE SECTION  
OFFICE OF THE SECRETARY  
OF THE COMMISSION

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**Comments on USNRC'S Strategic Assessment and Rebaselining Initiative  
by Florida's Office of Radiation Control**

Direction Setting Issue Paper #4  
"NRC's Relationship with Agreement States"

**Summary**

This Direction Setting Issue was presented as the question--"What should be NRC's strategy regarding states becoming and remaining Agreement States?"

The NRC should not change its current strategy regarding states becoming or remaining Agreement States. However, the NRC should recognize the many benefits received by the NRC and its licensees from the states and should return to the funding of training, travel and technical assistance. The use of intangible incentives to encourage more states to become Agreement States should be used. The NRC should recognize the fact that the Agreement States are co-regulators with the NRC and seek appropriations for any part of the Agreement State program that the NRC feels is not equitable to their licensees.

**Discussion**

Option 4 of this paper, "Treat Agreement States as Co-Regulators" states that under this option, NRC would treat Agreement States as co-regulators and would have them share the authority and financial responsibility for the program. We can not understand how this can be listed as a possible option when this in fact is what should be currently taking place.

The states regulate the majority of the licensees and radioactive material in the nation as well as the non-AEA material and the machine-produced radiation. The states have done a competent job for decades regulating the source of the majority of man-made radiation exposure to which the nation's people are exposed.

The NRC's recognition of the Agreements States' firm desire to be recognized as co-regulators, and the apparent rejection of this to date, sends a strong message to Agreement States that NRC considers them to be less than co-regulators. We recognize that the NRC has a role under the AEA that is not provided to Agreement States. This difference in roles should not result in NRC's failure to recognize that in most all respects, the Agreement States have equal authority and responsibility, including financially, and an even larger scope of radioactive materials and other sources of radiation to regulate in order to protect the health and safety of the public and workers.

If states were recognized by the NRC to be the co-regulators they are, it would not mean that the states should pay all of the costs alluded to in this document. This issue paper fails to mention the many ways that the states support NRC's program. Some of these benefits are outlined in the attached Organization of Agreement States resolution pertaining to training and funding, passed at the September 1996 All Agreement States meeting.

We believe that the NRC should chose a modified Option 3 and Option 4 combination until such time that actions can be taken for an orderly transfer of all authority to the Agreement States through selection of Option 5.

Attachment



Organization of Agreement States

Robert Quillin, Chair  
Richard A. Ratliff, P.E., Past Chair

Roland Fletcher, Chair-Elect  
Thomas Hill, Secretary

## RESOLUTION ON TRAINING

**WHEREAS**, the Agreement States are in the process of licensing or have licensed all low-level radioactive waste disposal sites which will operate through the end of this century; and

**WHEREAS**, NRC licensees will be using these sites; and

**WHEREAS**, NRC is charging a supplemental fee for waste disposal, and these fees are not being provided to the Agreement States and therefore are not distributed equitably; and

**WHEREAS**, Agreement States respond to incidents involving transportation of NRC licensed material within their jurisdictions; and

**WHEREAS**, Agreement States have conducted surveys and assisted in the removal of byproduct material in defective devices at the request of NRC; and

**WHEREAS**, states monitor the environs of nuclear power plants and other nuclear fuel facilities licensed by NRC with only partial compensation; and

**WHEREAS**, Section 274i of the Atomic Energy Act of 1954, as amended, authorized the NRC to provide training for states; and

**WHEREAS**, many Agreement States provide salaries for staff to participate in NRC IMPEP reviews of Agreement States and NRC Regional Offices; and

**WHEREAS**, for an Agreement State to maintain an adequate staff, the staff must meet minimum training requirements which include training by NRC or training that is consistent with NRC standards; and

**WHEREAS**, international students are being accepted for training by NRC and such training costs are paid by the NRC licensees; and

**WHEREAS**, Agreement States develop many rules that benefit the NRC such as well logging and industrial radiographer certification.

**NOW THEREFORE, BE IT RESOLVED**, in order to be more equitable, the NRC should reconsider its decision to stop funding the training of Agreement State representatives as may be required for demonstration of adequacy of an Agreement State program.

**BE IT FURTHER RESOLVED**, that copies of this resolution be provided to each of the NRC Commissioners and the National Governors Association.

Adopted this 19th day of September, 1996.

Chair, Organization of Agreement States

**Comments on USNRC'S Strategic Assessment and Rebaselining Initiative  
by Florida's Office of Radiation Control**

Direction Setting Issue Paper #7  
"Material/Medical Oversight"

**Summary**

We support the NRC's initiatives to streamline the licensing process, eliminate duplicative or contradictory regulations, and update regulatory guidance for all categories of licensees. However, in the long run, we support the idea that the regulatory authority of not only medical byproduct material but of all agreement materials be turned over to the states with the consolidation of federal radiation leadership and guidance functions into one agency.

We realize that this could have a significant adverse impact on other states that do not have an effective program or a strong base upon which they could quickly build an effective program. Therefore, in the short term, we would support an interim strategy that would reform the existing NRC program until such time that a consolidated approach can be taken on all radiation regulatory functions.

**Discussion**

Option 1

As stated above, we support the idea of one federal agency providing leadership and guidance concerning all radiation issues. It may be appropriate for the NRC to consider changing its program to become that federal agency.

Option 2

We support the NRC's efforts to identify regulations that are obsolete, unnecessarily burdensome, duplicative or too prescriptive and to modify or delete these regulations. We also support the NRC's efforts to streamline the licensing process. These initiatives should proceed until such time that the states obtain the authority for all agreement materials and a consolidated approach can be taken on all radiation regulatory functions.

### Option 3

Decreased oversight of low-risk activities may be appropriate in some instances. However, this would need to be done carefully with a risk-based evaluation of all materials and uses.

### Option 4

We agree with the National Academy of Sciences recommendation with the exceptions that it should apply to all agreement materials and we do not support the automatic selection of HHS as the lead federal agency. In addition, this should not be done without an orderly transition while working on improvements as discussed in Option 2.

### Option 5

See option 4 above.