

DSI-21

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Organization of Agreement States



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

Roland Fletcher, Chair-Elect
Thomas Hill, Secretary

October 21, 1996

Shirley Jackson, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555



Dear Chairman Jackson:

As you know, there are currently 29 states that have entered agreements with the NRC under Section 274 of the Atomic Energy Act of 1954. The agreement state program is an excellent example of the ability of states to conduct regulatory programs in an effective and efficient manner. The Organization of Agreement States (OAS) provides a vehicle for Agreement States to interact on common issues that affect individual states or all 29 Agreement States.

The OAS has received comments from individual Agreement States on the Direction Setting Issue Papers issued as part of the NRC's Strategic Assessment of Regulatory Activities. These comments have been summarized for each of the Direction Setting Issue Papers and are attached for consideration in this matter. Many of the individual Agreement States will provide state specific comments as well.

If you have any questions, please contact me.

Sincerely,

Richard A. Ratliff for

Robert Quillin, Chair
Organization of Agreement States
Radiation Control Division
Department of Health
4300 Cherry Creek Drive South
Denver, Colorado 80222-1530

cc: Greta J. Dicus
cc: Kenneth C. Rogers
cc: Nils J. Diaz
cc: Edward McGaffigan, Jr.
cc: Richard L. Bangart
bcc: Thomas Hill, Robert Quillin, Roland Fletcher, Richard Ratliff

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Organization of Agreement States

Comments on

U.S.NRC Strategic Assessment and Rebaselining Initiative

Direction Setting Issue Paper # 21 "Fees"

The Agreement States face the same problems as NRC does with fee collection in that we have been directed by the Legislative Budget Board to collect 100% of our budget in order to reimburse the General Revenue Fund. Fees are assessed to our licensees/registrants for regulatory costs, but we must also recover the costs for many regulatory activities not directly attributable to licensees/registrants.

We support Option 2 because payment of fees should not be considered in deciding whether or not to perform mandated activities. Mandated activities are what the General Revenue funds were allocated for in the first place. Therefore, recouping the costs of performing those activities should not be a determining factor. As stated in the discussion of this option, training for Agreement States is a mandated activity. NRC should not consider charging the Agreement States for training or for other "services" it claims to provide to the Agreement States, such as technical assistance. Doing so would only force the Agreement States to adopt the same philosophy and charge NRC for services provided. While Texas has technical competence and adequate resources such that no request for technical assistance from NRC is ever anticipated, such a request is not inconceivable. However, we would have to charge NRC for any technical assistance we provide them. An example of this is the assistance in the survey and coordination work done by the Bureau during the Mexican steel contamination incident and during the polonium air ionizer incident (3-M). Further, states would need to charge NRC for rule development done on the well logging and industrial radiography rules that were used as models for NRC rule promulgation.

The funding mechanism for fee recovery should remain as it is currently. However, it seems that the NRC should be charging fellow federal agencies for regulatory costs incurred. This should be done either as contract work for special projects or if the fellow federal agency functions the same as a license (DOE facilities), the applicable license fee should be charged. For example, the Texas Department of Health contracts work with the Texas Natural Resource Conservation Commission, for which funds are transferred to the agency performing the work. Fellow state agencies that function as licensees/registrants are charged the applicable license/registration fee, i.e., Texas Department of Transportation with moisture/density gauges and most large state universities with broad, medical, academic, or research/development licenses. Even though at times, payment involves simply of movement of state funds, it represents an accurate accounting of costs for all agencies.