

DSI-23 (20)



Conference of Radiation Control Program Directors, Inc.

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November 27, 1996

Mr. 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:

Enclosed are the comments from the Conference of Radiation Control Program Directors, Inc. (CRCPD) Board of Directors on the U.S. Nuclear Regulatory Commission's (NRC) Strategic Assessment and Rebaselining issues papers. The CRCPD is a national organization dedicated to radiation protection and whose membership is made up of personnel from state, territorial, and local radiation control programs throughout the country.

The activities of the NRC, especially in the radioactive materials area, have a significant impact on state and local radiation control programs. We have concentrated our comments on those issues papers that most directly impact the future of the programs represented in CRCPD. Comments are enclosed on the following Direction Setting Issues Papers:

- DSI 2 Oversight of the Department of Energy
- DSI 4 NRC's Relationship with Agreement States
- DSI 5 Low Level Waste
- DSI 6 High Level Radioactive Waste
- DSI 7 Materials/Medical Oversight
- DSI 9 Decommissioning - Non-Reactor
- DSI 12 Risk-Informed, Performance-Based Regulation
- DSI 13 Role of Industry
- DSI 14 Public Communication Initiatives
- DSI 21 Fees
- DSI 22 Research
- DSI 23 Enhancing Regulatory Excellence
- DSI 24 Power Reactor Decommissioning

We appreciate the opportunity to comment on these issues and your consideration of our concerns.

Sincerely,

William P. Dornsife

William P. Dornsife
Chairman, CRCPD

Enclosures

U.S. NUCLEAR REGULATORY COMMISSION
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**CRCPD Board of Directors
Comments on**

**NRC DIRECTION SETTING ISSUE PAPER 23
ENHANCING REGULATORY EXCELLENCE**

Reading this DSI struck a chord with those of us on the Board. Many of the same principles which the NRC used to describe their aspirations are ones which the states strive for. Terms such as "regulatory effectiveness, regulatory efficiency, technically sound regulations, flexibility, consistency in the enforcement of areas of non-compliance, credibility, avoidance of overregulation" are concepts for all regulators to try to use when writing regulations. This total quality management approach should be used in reviewing regulations, eliminating or changing those that are too restrictive, exempting those sources that pose no significant risk to the general public, and concentrating efforts in radioactive material uses of higher risk. The discussion of regulatory excellence should lend itself to more explicit application of risk assessment so as to determine whether a degree of risk is acceptable without further regulatory action.

The paper discusses the importance of self-assessment in ensuring that regulations meet current technology. One phrase that we liked in the description of the NRC is that the NRC is a "learning organization." It appears that this self-assessment has resulted in improvement in the effectiveness of NRC's regulatory framework.

For a self-assessment to be effective, the people doing the assessing must be able to be critical of their own operations, and not be afraid that they will lose their jobs as a result of eliminating non-productive activities. In Option 2, the use of a senior management review group seems to be able to take a step back from the day-to-day operations and attempt to critically appraise the elements of regulation. However, when you recommend cutting programs you are still telling people that what they did in the past is no longer necessary and by inference, never was necessary. The effect on morale cannot be dismissed. And when the message is delivered by their own senior management, it is even more distressing. If the staff is involved in the decision making and the conclusion was reached amicably, staff may feel they still have some control over the regulatory process, as well as their own careers. It would be even better if they could identify a new role for themselves that would enhance regulatory excellence and preserve their own contribution to public health and safety.

The current system of review and assessment used by the NRC is reactive. The NRC revises procedures and practices as deficiencies in the process become apparent through a sequence of events at some facility within the regulated industry. The proposition of a comprehensive review and strategic analysis of their entire regulatory process would most likely result in a more effective regulatory body. One deterrent to such a proactive program is clearly identified - it would be costly, particularly if the NRC undertakes it alone.

Neither option includes a significant role for the regulated community, even though the external economic environment is a driving force to improve regulatory effectiveness. Licensees would like to reduce their direct and indirect costs, and lessen the need for NRC inspections. It would seem that they may have some ideas for demonstration of voluntary compliance, perhaps through demonstrated compliance with industry established standards such as ISO standards that the same health and safety goals could be realized. We strongly advise that NRC include some representatives of the regulated community on their assessment groups, as well as members of consumer groups and other advocates for the public. Including stakeholders in the assessments may increase the time to get consensus, but will increase the commitment to whatever solution is forthcoming. Feedback on inspector performance, timeliness of licensing actions, clarity and appropriateness of rules and regulatory guides are examples of areas where communication with stakeholders could help to improve the program. Many states have already started these processes, with their "Performance Partnerships," and you could learn from them.

As an example, NRC adopted the NUMARC methodology for developing Emergency Action Levels. The net result of this regulatory action was a decrease in report ability of events from nuclear facilities and a relaxation of the regulatory requirements placed on nuclear facilities. The NRC believed that the changes that resulted from the adoption of their methodology did not compromise the ability of the plant to protect the health and safety of the public. In fact, it could enhance public health and safety by allowing licensees as well as governmental agencies to focus on only highly significant events. However, a comprehensive review by New Jersey of draft EALs submitted by PSE&G raised some significant safety concerns and revisions were made to the EAL document. This example points out the need for some sort of external review group. Internal audits of the regulatory process may miss important issues. All of the NRC's customers should be represented on a review group to provide oversight for the protection of the public's interests.

We in the states struggle to have our regs reflect current technology but as a result of shortfalls in staffing, regulations can't be revised quickly enough to meet accelerated changes particularly in the medical field. One alternative to ensure public and worker safety in the face of technological change could be to use mutually agreeable standards. A partnership could be formed to have staff learn from industry about anticipated advances in the technology, so that they could work together on the most effective ways to ensure that the new technology functions appropriately without any degradation to public health and safety. Old methods of regulating are not always appropriate for new technology, and it takes so long to change regulations, that even newer technology is available before the regs are changed. Let's acknowledge this dilemma, and work together to address it.