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ORIGINAL

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

PUBLIC MEETING

WITH REPRESENTATIVES OF THE CONFERENCE OF RADIATION CONTROL
PROGRAM DIRECTORS REGARDING THE ASSESSMENT STATES PROGRAM

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Nuclear Regulatory Commission
Room 1130
1717 H Street, N.W.
Washington, D. C.

Thursday, June 26, 1980

The Commission met, pursuant to notice, at 9:40 a.m.

BEFORE:

JOHN F. AHEARNE, Chairman of the Commission

RICHARD T. KENNEDY, Commissioner

VICTOR GILINSKY, Commissioner

JOSEPH HENDRIE, Commissioner

NRC STAFF PRESENT:

LEONARD BICKWIT

BILL REAMER

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CHAIRMAN AHEARNE: All right. The next meeting -- Mr. Parrott? We meet this morning in response, basically, to a letter received on May 22 from Dr. Parrott in his role as Chairman of the Conference of Radiation Control Program Directors. He provided at that time a resolution of the Conference and said that he and some members of the executive board would like to meet with the Commission at the earliest possible moment.

We replied to Dr. Parrott that we would be pleased to meet with him and that is what brings us here this morning. Dr. Parrott.

DR. PARROTT: Thank you very much, Chairman Ahearne. It is a real privilege to be able to be here on behalf of the Conference whom I represent at this point in time. And Commissioner Kennedy, it's nice to see you again.

COMMISSIONER KENNEDY: It is always nice to see you gentlemen.

DR. PARROTT: And Commissioner Gilinsky and counsel. You don't mind if you make me nervous. You have two attorneys you get three opinions.

COMMISSIONER KENNEDY: At least.

MR. BICKWIT: They're very sympathetic.

COMMISSIONER KENNEDY: That's on one day.

DR. PARROTT: I'm aware of that. On my immediate



1 right is Mr. John Stanton, who is chairman-elect of the Confer-
2 ence and will be Chairman next year. To my far left, Mr.
3 David Laker, who is the past Chairman and of the Conference
4 of Radiation Control Program Directors, and both on the board
5 -- the executive board. And to my immediate left is Mr.
6 Charles Tedford, who is the program director for the State of
7 Arizona.

8 Mr. Tedford wears three hats, as a matter of fact,
9 which is one of the reasons we have invited him. Mr. Tedford
10 has been named by his Governor as liaison to the Nuclear
11 Regulatory Commission and he also is the Chairman of the
12 Agreement States Programs that we represent, also, curiously
13 enough. There are twenty-six agreement states now, as you
14 know -- New Hampshire, Oregon, Arizona and Texas are among
15 those twenty-six agreement states. So we do have, if you
16 please, an axe to grind in a sense. But most of all I would
17 like to say the Conference of Radiation Program Directors
18 represents all fifty states, the territories, and major cities
19 and major counties that have radiation control programs.

20 Now it is imperative that you understand that those
21 are the people who agreed to this petition. They do represent
22 state radiation controls. Period.

23 As you are aware, the Conference, as members of the
24 Conference at the request of the Congress have testified on
25 numerous occasions and have most recently been named in a bill

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1 called the Glenn bill that requires that the Conference be
2 consulted in the event that the Radiation Policy Council,
3 which will be established under that bill, goes into effect.
4 And that any changes that occurred the consultation of the
5 states will be sought.

6 Our concern today has to do with the fact that the
7 twenty-six agreement states control more than 12,000 of the
8 20,000 licensees in the United States. Over the last seven
9 years, the NRC has not substantially increased the number of
10 licensees it has. They have roughly 8,000 and that has stayed
11 steady for the last seven years. All the major increases in
12 licensees have been absorbed by the agreement states.

13 Mr. Tedford, from Arizona, as a representative of
14 the agreement states and at the request of the agreement
15 states has written a letter requesting the affirmation of the
16 agreement states program. I believe you all have a copy of
17 that. Is that correct?

18 MR. TEDFORD: Yes, I believe they do. This also
19 was forwarded to several other committees as well -- to
20 Senator Hart's committee, the Udall committee and two other
21 congressional committees in addition. And subsequent to that
22 time, Commissioner Kennedy did come out to Arizona and met
23 with Governor Babbitt on other business and he and I did
24 enjoy a conversation to elaborate some of the points that were
25 put forth in this paper. In case you do not have a copy of it,



1 I have some extra ones burned and you might want to refresh
2 your memories on some points. I will take the opportunity to
3 also place this on the table at the back of the room at the
4 termination of the meeting.

5 DR. PARROTT: Just as a matter of trivia I realized
6 last night that the four of us represent 101 years in the
7 radiation field, so we are familiar with the area. I believe
8 that the resolution that was passed regarding the fact that
9 the states regulate better than ninety percent of all of the
10 sources of ionizing radiation in the United States and the
11 state radiation programs combine certain functions of the
12 NRC and that state radiation programs must interact with the
13 federal government. There are approximately nineteen such
14 agencies in the federal government that have radiation
15 regulations. We have a problem with the concepts of compati-
16 bility and equivalency.

17 We're particularly concerned about that area because
18 the states have chosen on many occasions to regulate in such
19 a way that the NRC does not regulate.

20 COMMISSIONER GILINSKY: Could you go back over that
21 ninety percent?

22 DR. PARROTT: Yes. The states effectively regulate
23 over ninety percent of the sources of ionizing radiation in
24 the United States. There are over 400,000 registered x-ray
25 machines, for example. Then there is naturally occurring

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1 radioactive material and non-agreement radioactive material,
2 including cyclotron-produced isotopes, which virtually all go
3 unregulated by the federal agency.

4 There are certain regulations that are imposed, of
5 course, on x-ray machines that have to do with the manufacture
6 but not the use. And, of course, we all know that the
7 inspection of any radiation source beats the idea of a piece
8 of paper.

9 I think the fact that we have learned initially
10 about this by rumor the fact that there is a reorganization
11 has been suggested.

12 COMMISSIONER KENNEDY: Let me note to you, Marshall,
13 that that is true of some of the Commissioners as well. We
14 appreciated your letting us know about it because staff
15 didn't seem to wish to bring us into their full confidence on
16 the matter. And so we are appreciative of your calling it to
17 our attention so we may address the question now.

18 DR. PARROTT: Maybe we're all in the same boat.

19 COMMISSIONER KENNEDY: Right. You have said it.

20 CHAIRMAN AHEARNE: Well, I guess I should at least
21 answer that a little bit. Any organization -- major organi-
22 zation -- has a fairly continuous review of its functions.
23 Clearly, as a result of the Three Mile Island accident, there
24 has been a major review of the way the NRC functions across
25 the board and I guess I don't find it upsetting that in the

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1 process of that review each of the functional organizations
2 of the agency is being looked at to find out how can it best
3 fulfill the mission it is set up to fulfill.

4 The Commissioners have not addressed a reorganiza-
5 tion of the way we deal with states. All of the words that I
6 have even seen and the actions I've seen coming out of the
7 Commission are to reaffirm the necessity of strong inter-
8 action with the states.

9 DR. PARROTT: This is what we sought.

10 COMMISSIONER KENNEDY: If indeed that is the way it
11 turns, I certainly endorse that.

12 DR. PARROTT: I am particularly sympathetic with it
13 also, of course. The thing is, in that document following
14 the Three Mile Island, one of the things that I recalled was
15 the fact that the Office of State Programs was recommended to
16 be strengthened and from the rumors that we've heard and the
17 trade papers that we get --

18 CHAIRMAN AHEARNE: In fact, I would suggest that that
19 may be a very poor source of information.

20 DR. PARROTT: Well, you know.

21 COMMISSIONER KENNEDY: It is something that we need
22 to take account of, because when I read that I tried to
23 ascertain just what the source was. So I finally was able to
24 obtain a copy of the staff document to which it refers, and
25 it's a fairly accurate representation of what the staff docu-



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1 ment says.

2 COMMISSIONER GILINSKY: What are we talking about?

3 COMMISSIONER KENNEDY: That confirms my earlier
4 statement, I think.

5 MR. TEDFORD: It is a document that just recently
6 some of us in the states received. It's entitled "Inside
7 NRC" and the gist of the document is that the state agreement
8 program is to be regionalized. The central office is to be
9 abolished and the functions are to be transferred to NMSS.

10 COMMISSIONER KENNEDY: That is the proposal that's
11 laid out in the staff document to which that refers.

12 COMMISSIONER GILINSKY: Well, we certainly have
13 talked about regionalization.

14 COMMISSIONER KENNEDY: That's right.

15 COMMISSIONER GILINSKY: The strongest partisan of
16 that is Kennedy.

17 COMMISSIONER KENNEDY: Right here. That is correct.

18 MR. LAKER: If I might interject, I don't think we
19 as state people have any problem with the regionalization
20 concept. There are a couple of things, I think, that deserve
21 some comment on the regionalization concept, one of which is
22 that some of us in the states do have our programs regional-
23 ized from the compliance standpoint. We have not, in Texas,
24 regionalized our licensing and review functions. We keep
25 those central for consistency, so that all licensees get the



1 same treatment, effectively, in compliance and in their
2 licensing actions.

3 We feel that if you regionalize without strong
4 centralized control of the region you lose uniformity of
5 interpretation and activity and this is a concern. We don't
6 have a real problem with the regionalization concept, if it
7 is appropriately done. I guess this is really all we're
8 saying with respect to the regionalization is that we believe
9 that the Commission, if they do adopt this approach, maintain
10 a good central headquarters control of those activities, so
11 that those of us in the various regions of the country who
12 deal with the various regional offices have a consistent
13 source of information.

14 CHAIRMAN AHEARNE: I would have to comment. I think
15 what we're talking about. I am very interested in discussing
16 the concept you have about how we appropriately are to measure
17 the states. But as far as a draft staff paper that, as far as
18 I know, Commissioner Kennedy is the only Commissioner who has
19 seen that paper --

20 COMMISSIONER KENNEDY: I know because I read the
21 "Inside the NRC" and wondered what it was like.

22 CHAIRMAN AHEARNE: But because it's a paper being
23 worked on in the staff. We as a Commission gave direction to
24 our staff -- to the Executive Director -- to propose increased
25 regionalization activities. And so far we have not yet seen

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1 the staff's proposal.

2 MR. TEDFORD: Well, this is probably a very oppor-
3 tune time, then, for us to talk to you about, so I will concur
4 with what Mr. Laker says. That, number one, the strong sense
5 of coordination is a very vital element and ingredient to the
6 program. And we feel quite strongly that the Office of State
7 Programs should coordinate that area for the states. We are
8 of the opinion --

9 COMMISSIONER GILINSKY: When you said of that area--

10 MR. TEDFORD: The agreement states should be coordin-
11 ated by the agreement states and we feel further that it
12 should be done at the highest level within the Nuclear
13 Regulatory Commission that is possible. We would not like to
14 see it split off and placed in a more confined area of
15 responsibility. That is the general consensus of all of the
16 agreement states, without question.

17 CHAIRMAN AHEARNE: Do you have much interaction with
18 the Environmental Protection Administration?

19 MR. TEDFORD: Yes, sir, we do.

20 CHAIRMAN AHEARNE: Could you comment a little bit
21 about the relative role there that you see from the regional
22 director of EPA versus the Washington central office of EPA.

23 MR. TEDFORD: Well, I think really what you will
24 come down to in the final analysis is the policy is set
25 from the central EPA offices in Washington, as it should be.

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1 And that individual services, and inspections, and technical
2 expertise are provided by the regional offices. When the
3 state programs, and if they're placed in the regional areas,
4 I would hope that that strong central direction would contin-
5 ue to be provided by the state agreement program in Washington.
6 And I think it is particularly interesting to note that there
7 are people who are interested in abolishing, obliterating,
8 doing away with areas of NRC and we are here supporting an
9 area for you and telling you we need it, that we have enjoyed
10 a good rapport with them. They've been highly instrumental
11 in aiding us and we hope you would give that consideration
12 to the program.

13 DR. PARROTT: I think that in addition to that, if
14 I may, gentlemen, I gather from the fact that there has been
15 tremendous response from the liaison officers and governors
16 of various states. I have in front of me --

17 CHAIRMAN AHEARNE: Yes, substantial.

18 DR. PARROTT: a pile of letters, one of which came
19 from Governor Dixie Lee Ray, a former Chairman of the
20 Commission. And I mean this would certainly bring your
21 attention to the fact that something is going on that may be
22 amiss within the states.

23 COMMISSIONER GILINSKY: Well, there may be some
24 misconceptions about what is happening to --

25 DR. PARROTT: The states sincerely hope so. We are

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1 really very disturbed about it, especially some of the comments
2 that you've made and made by Chairman Ahearne in H.R. 6390.
3 We are worried about an area regarding compatability and
4 equivalency, you know, that is more comfortably -- if I may
5 use the expression -- felt by the states when these things
6 are gone through by the Office of State Programs, because we
7 feel that that office has very effective -- given us what
8 we have to have to do our job right. And it is imperative
9 that we do our job right.

10 MR. TEDFORD: And it's been a breath of fresh air
11 in comparison to what was contrasted previously.

12 COMMISSIONER GILINSKY: Well, let me say something
13 on the other side. On the one hand, there's an office
14 deals with states, so you say well let's put all the state
15 things together. The other hand deals with health and
16 safety matters. There's an argument for putting all the
17 health and safety matters together. You can do it one way
18 or you can do it the other way.

19 I think there are arguments on this thing for doing
20 it both ways. And if you strengthen certain kinds of ties
21 you weaken others. This is a standard problem when you re-
22 organize or organize anything. You organize it along
23 reactors, or you organize it according to functions, or how-
24 ever.

25 But you are dealing with health and safety functions

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1 here. And I, for one, think that there are strong arguments
2 for putting comparable health and safety activities together
3 in one place. For one thing, it means that these activities
4 get handled more or less comparably across the board through-
5 out the country.

6 For others it means that if people run into a pro-
7 blem they're closer to technical help with that problem and
8 also is that it -- you can use the word confine -- but I
9 think that one of the major line offices -- technical offices
10 -- is more likely to get good technical supervision in that
11 area for more senior -- you talk about being as high in the
12 organization as possible. I think there's something to be
13 said for having as high as possible technical supervision
14 within the agency.

15 MR. TEDFORD: Could I speak to that point?

16 COMMISSIONER GILINSKY: Sure.

17 MR. TEDFORD: Why is technical supervision the
18 strict parameter of one office within the NRC if the states
19 need this help or assistance? In other words, why can't the
20 Office of State Programs call upon this technical assistance.
21 It's very interesting in the State of Arizona, the technical
22 assistance that we really requested in the case of American
23 Atomics came principally from DOE -- Department of Energy --
24 in a tridium situation, principally. We did receive some
25 very good help from NRC, but the principal technical assistance

1 came from DOE in that particular area. So the question is
2 why does it have to be in a particular office to provide that
3 technical assistance when we need it?

4 COMMISSIONER GILINSKY: Well, it doesn't have to be.

5 COMMISSIONER KENNEDY: It doesn't need to be.

6 COMMISSIONER GILINSKY: There are various ways of
7 doing things. As I said, there are arguments for dealing
8 with these things in both ways. I think, to be frank with
9 you, if I had to choose I would find the argument for having
10 the comparable technical activities in health and safety
11 together a more compelling one and feel that a state programs
12 office could -- One would of course keep the agreements
13 activity distinct, but within such an office, and this doesn't
14 affect the fundamental liaison functions of state programs.
15 I see this as another kind of activity. It's really a health
16 and safety activity.

17 DR. PARROTT: Regarding health and safety, that is
18 our business and you realize the majority of us are really in
19 the health department. And I think that in making your point
20 is the fact that we have responsibilities in all the areas
21 that you are describing, and certainly emergency response is
22 one that we get involved in and have for a considerable per-
23 iod of time before NRC had begun its push, so to speak, to
24 have that done in state programs. We already had a function-
25 ing unit.

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1 We have been particularly helped by the Office of
2 State Programs in all areas -- and I mean in all areas.

3 MR. STANTON: In addition to health and safety --

4 DR. PARROTT: In addition to health and safety, but
5 related to health and safety specifically. They have the
6 workshops in siting of nuclear power plants. They have work-
7 shops in uranium mills, in uranium mines, calling in all the
8 states now, which is one of the reasons for this letter from
9 Dixie Lee Ray, dated May 21, 1980, and several other of the
10 states, certainly in the west. And the three of us represent
11 that area. Simply because those are where most of the uranium
12 mills are. And they called together the group and we had a
13 number of workshops in the area and this was the result of a
14 small group of about eleven people that they have in the
15 Office.

16 COMMISSIONER GILINSKY: Well, I don't see why these
17 sorts of functions would be affected by the change that we're
18 talking about, you know, if it were to take place. I don't
19 see that that, you know, the ability to continue these kinds
20 of activities --

21 MR. TEDFORD: Mr. Laker might speak a little bit to
22 that area.

23 MR. LAKER: Commissioner Gilinsky, having been
24 involved with the agreement states program since 1963 and
25 having seen the Commissioners' programs to through several

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1 reorganizations, when the original agreements states program
2 was set up it was set up administratively within AEC at that
3 time, with one administrative position between the director
4 of that division and the Commission itself. Reorganization
5 placed it under the equivalent of the NMSS group that you
6 have now under your present organization, which reduced the
7 agreement states activity in the Commission to a program
8 status with a chief of that program during that period. There
9 were multiple layers of administrative authority between the
10 agreement states program and the Commission.

11 During that period the agreement states objected
12 and some of the Executive Board of the Conference of Radiation
13 Control Programs met with some of the Commissioners at that
14 time expressing our concerns about the administrative location
15 of the agreement states program in the Commission. Subsequent
16 reorganization, I guess in '76, placed the Office of State
17 Programs in its current position. We feel that we have a
18 better voice in all areas of Commission activities through
19 this mechanism. And we feel that we are getting responsive
20 information, the information we need, crosses many areas of
21 Commission staff areas of function. The agreement states or
22 Office of States Programs has the capability to cross all of
23 the state lines and obtain the information we need. And so
24 we feel that it is helpful to us as states to have it put to
25 you as Commissioners and to have the program that deals with

1 this at a level in the organization in which it has ready
2 access to the Commission, without having to go through layers
3 and layers of management to get there.

4 COMMISSIONER GILINSKY: Well, I don't think we're
5 talking about -- First of all, we're talking about a proposal
6 that may be in a paper we have not seen.

7 MR. LAKER: Well, I understand.

8 COMMISSIONER GILINSKY: But at any rate I have
9 certainly expressed my views on this subject and suggested
10 certain changes. But they don't involve moving the Office of
11 State Programs. We're talking about a subunit of the Office
12 of State Programs. In other words, I think that liaison
13 function is terribly important. I agree with you. I think
14 it ought to be permanently located. There's no question about
15 that. But there is the question in my mind of where the
16 activity dealing specifically with the agreement states'
17 regulatory programs ought to be lodged. In my view, it
18 ought to be next to the comparable activities -- regulatory
19 activities -- administered by the NRC.

20 In my view, that is the organization that is going
21 to end up protecting the public best.

22 MR. LAKER: Well, I understand your position,
23 Commissioner Gilinsky.

24 COMMISSIONER GILINSKY: But I do want to make clear
25 there's a difference between talking about the Office of

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1 State Programs and that particular sub-unit that --

2 MR. LAKER: I understand. We are aware that this
3 is an internal paper that we are dealing with in terms of
4 this situation. That is the reason that we are here.

5 COMMISSIONER GILINSKY: And I don't even know
6 whether that's in the paper. But it's certainly something
7 that I had talked about.

8 MR. LAKER: We get implications of these things.
9 We also have read the Udall bill, which will change our
10 agreements, if you will, to an equivalency rather than
11 compatability.

12 COMMISSIONER GILINSKY: Does that trouble you?

13 MR. LAKER: It troubles me a great deal because I
14 think the equivalency rule -- or law -- as expressed in other
15 areas such as the OSHA bill. The traditional interpretation
16 of that is identity and I think we saw a lot of states
17 get into the OSHA program early. And a lot of states got out
18 shortly thereafter simply because they found that the state was
19 contributing a great deal of money to run a federal program.

20 Our state legislatures -- and I get this from a lot
21 of other states, not just mine -- are very reluctant to have
22 their state employees being an arm of the federal agency with
23 total dictatorial, if you will, -- I don't mean that -- but
24 saying this is the way you will do things or else. I think --

25 COMMISSIONER GILINSKY: Does the idea of minimum

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1 federal standards disturb you as expressed in the Mill
2 Tailings Act?

3 MR. LAKER: No, I don't think we have a great deal
4 of problem with minimum federal standards. As long as we
5 have the flexibility to use a little bit of our own ingenuity
6 and capability and the ability to innovate, if you will, in
7 our regulatory program, which the states have done over the
8 years quite successfully.

9 In a number of states there has been, or was in the
10 AEC and then NRC regulations -- this is just an example -- a
11 permissive provision for any licensee of very small quantities
12 of radioactive material on his property, under certain
13 specified regulatory conditions. A number of the states
14 removed that because they found people were not following the
15 written word. They were just burying what they wanted to
16 without any way of locating that material and we were turning
17 these things up in our states in bad situations.

18 The agreement states as a group approached the --
19 at our annual meeting with the Commission staff -- approached
20 this problem and suggested that that portion be removed.
21 Subsequently a number of the states -- Texas being one of them
22 -- removed it and now it's been removed -- that permissive
23 regulation's been removed from the NRC regulations. We think
24 that's just a small sample.

25 Another area that Texas has been able to be innova-

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1 tive in through the compatability rule as opposed to an
2 identicality, if you will, or equivalency rule, is in the
3 area of in situ uranium mining. Up until a few years ago,
4 Texas ranked about ninth or tenth in the country in the
5 production of uranium. During the last ten years the in situ
6 leach process has been developed, pioneered and licensed in
7 Texas and now Texas is third in the nation in the production
8 of uranium. We're able, with that technique, to get lower
9 grade ores out economically. It's -- the in situ leaching
10 process is not all that new, but in uranium it is.

11 We probably -- in fact I could say that Texas has
12 more licenses for this type activity than any other state or
13 the NRC. These are areas where we feel that the removal of
14 the compatability capability will limit our potential and
15 we don't think that that is bad to have that innovative
16 ability. We think that it's good because we regulate a lot
17 more than just the things the NRC regulates, and if it allows
18 us to use a smaller set of regulations rather than having to
19 have a regulation for every entity, and when you get a facility
20 using by-product and accelerator produced materials, how do
21 you differentiate?

22 DR. PARROTT: And x-ray machines.



23 MR. LAKER: And x-ray machines. The same princi-
24 ples apply. The ionizing radiation is harmful. And it's
25 our job to protect the public health and safety.

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1 CHAIRMAN AHEARNE: Is the concern about the compa-
2 tability language sort of uniformly shared?

3 DR. PARROTT: It certainly is, yes, sir.

4 MR. TEDFORD: I'd like to add a thought, if I might,
5 to Mr. Laker's concepts. I think really what we're saying is
6 we would like to continue to enjoy this mechanism where the
7 12,000 licensees that are represented out in the field -- a
8 majority of the licensees -- can speak in an open forum to the
9 agreement states mechanism. And I might add that that
10 mechanism is a free-wheeling, swinging mechanism and that I
11 will be involved next year and the points are brought up and
12 I'd like to reiterate that the dual licensing regulation was
13 brought forth by those twenty-six agreement states and very
14 shortly thereafter the dual-licensing mechanism was removed.

15 But I'm certain that the Office of State Programs
16 can cite to you the areas of concern that we have in working
17 back and forth with the NRC in an open arrangement and each
18 of these questions are answered and they are coordinated and
19 we feel that they've been basically responsive. We don't
20 feel the program's perfect, obviously, from reading that
21 paper. There are some improvements that could come about in
22 it. But --

23 COMMISSIONER GILINSKY: Which program are you talk-
24 ing about? This one?

25 MR. TEDFORD: The one in front of you, sir. The

1 improvements are mentioned there that we would like to see.

2 CHAIRMAN AHEARNE: This one?

3 MR. TEDFORD: Yes, sir. But the bottom line is
4 that this is a mechanism whereby the states and the NRC do
5 interrelate and, if you will, if NRC is ever audited by any-
6 body this is probably a mechanism of accomplishing this. And
7 one of the points I didn't put in this paper which the states
8 came through loud and clear on is who audits the NRC programs?
9 And I would suggest that GAO audit is not an audit by peer
10 review or by people who are technically qualified and perhaps
11 some thought should be --

12 CHAIRMAN AHEARNE: I hope that the record is clear
13 that when the charge is made that GAO is not technically
14 qualified that it was a speaker on that side who said that.
15 I'm not about to take exception.

16 MR. TEDFORD: I would like to clarify that. That
17 is the opinion of the people within the agreement program
18 states who spoke in writing to this particular concept.

19 DR. PARROTT: This was the agreement states -- not
20 the agreement states programs.

21 MR. TEDFORD: That's right. The agreement states.

22 CHAIRMAN AHEARNE: Mr. Stanton?

23 DR. PARROTT: These people are peers and what we're
24 trying to say is that the people who review us are peers.
25 They are qualified and any criticism that we get is construc-



1 tive criticism. There's no reason to destroy the program.
2 We look forward to a review. Because when you are up to here
3 in alligators you want to make sure that you get the swamp
4 drained. So, you know, it's an important feature.

5 MR. TEDFORD: And we have not enjoyed that openness
6 with other sectors of NRC and that's one reason we're coming
7 from where we are.

8 DR. PARROTT: One example recently is the one that
9 -- on therapy was that NMSS that sent that out? Yeah, I got
10 a call from a newspaper telling me what's this about you're
11 going to install certain monitoring devices in teletherapy.
12 And I said, what? And he says I've got a news release from
13 NRC. I didn't even have a news release. I didn't know I was
14 going to do that. And this circumvents -- this idea --
15 because we are in the front lines.

16 CHAIRMAN AHEARNE: But on that that was a rule that
17 had been put out for proposal that had over year ago. And
18 it had been in the Federal Register and I assumed that the
19 -- I mean, I would have assumed, I guess -- maybe I'm mis-
20 taken -- that either through the Federal Register or perhaps
21 the States Programs office -- but that wasn't a sudden thing.

22 MR. LAKER: The reaction I got -- and this occurred
23 while I was in Kentucky at the annual meeting of the Conference
24 of Radiation Control Program Directors -- I talked to my
25 office and one of the hospitals in my state had gotten a letter

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1 directly from NMSS saying you will do these things. And
2 wanted to know if they were now regulating that hospital --
3 they being the NRC.

4 I personally, and no one on my staff, was aware
5 that this letter was going. In the past, when the NRC wanted
6 to send out information like this when changes were made,
7 they wrote to the state programs and said okay, this is the
8 program we've instituted. Would you inform all your licensees
9 and even have sent sample letters for us to use. This is
10 done by the Office of State Programs and it works very
11 smoothly. And we have cooperated in this way. I guess one of
12 the problems with this particular incident was it came directly
13 from NRC to state licensees.

14 CHAIRMAN AHEARNE: Oh, really? That I didn't know.

15 MR. LAKER: Yes, sir.

16 MR. TEDFORD: And also the reasons in my case were
17 justified after the order was issued.

18 CHAIRMAN AHEARNE: Let me make sure I understand.
19 I knew that we had put out the order because we did the rule.
20 And I also knew that we were sending it to our licensees.
21 But you're saying we also sent letters to the state licensees.

22 MR. TEDFORD: It was immediately implemented for
23 all state licensee programs. Period. On an immediate basis.

24 DR. PARROTT: Incidentally, we don't necessarily
25 object to the idea.

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1 CHAIRMAN AHEARNE: Now I recognize that.

2 DR. PARROTT: It was just how it was done.

3 CHAIRMAN AHEARNE: I understand.

4 MR. LAKER: I think really what we're saying --
5 all of these things have occurred and I realize you started
6 out saying, you know, these are things that are in staff
7 level and the Commission hasn't really looked at them, but
8 all of the events that have been occurring in recent months
9 have disturbed us to the point that we feel something is
10 going on and we felt that we needed to talk to you people be-
11 fore it got to the point we couldn't talk to you.

12 MR. TEDFGRD: And we would like for you to take this
13 is in a constructive vein. as I conveyed to Commissioner
14 Kennedy. But we are highly concerned.

15 CHAIRMAN AHEARNE: Mr. Stanton, you have been trying
16 --

17 MR. STANTON: I just had two items. In your
18 testimony before Congressman Udall's bill back in March. One
19 of them a point that reaffirms what Dave Laker said about
20 removal of flexibility and another one is a question.
21 Specifically, your words were equivalency as used in the bill
22 apparently would require each principal component of the
23 state program to be equivalent to the corresponding component
24 of the Commission's program.

25 That's the question. I'm not too sure exactly what



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1 you meant by the components of the state programs versus the
2 components in the Commission's program. And then the second
3 portion of your statement was that would remove some of the
4 flexibility which is implicit in the present compatability
5 requirement. And I agree with Mr. Laker that it would
6 probably remove most of the flexibility.

7 COMMISSIONER GILINSKY: How do you feel about
8 minimum federal standards?

9 MR. STANTON: I have no quarrel with minimum
10 federal standards at all.

11 MR. TEDFORD: We have no quarrel with those at all.
12 In fact, we feel a certain central guidance and direction
13 is necessary. And this does come out of the Office of State
14 Programs.

15 DR. PARROTT: I think we have had minimum federal
16 standards for a long time. If you look at part 20 and in
17 many cases we like to go below that simply because we recognize
18 the burden of radioactivity in a large number of facilities.

19 COMMISSIONER GILINSKY: But for example, suppose
20 there are federal standards on waste disposal sites. These
21 would be developed for all facilities and therefore it would
22 get developed presumably in NMSS rather than the Office of
23 State Programs, even if the present arrangement continues.
24 It's just unrealistic to expect that Office to develop a
25 sort of across-the-board rules that involve a good deal of

1 technical backup than I think that office has at the present
2 time.

3 MR. LAKER: I guess I have a problem, Commissioner
4 Gilinsky, with why all the technical expertise apparently
5 lies in NMSS. The thing we have seen in the agreement states
6 in dealing with the Office of State Programs is that they
7 cross all the technical areas and all the activities of the
8 Commission and provide us information. An example -- the
9 staff is beginning work on some activity in regulation of
10 industrial radiographers. And there is a task force, if you
11 will, in-house that is being set up. The Office of State
12 Programs contacted me as then-Chairman of the Conference of
13 Radiation Control Program Directors and Mr. Tedford as
14 Chairman of the twenty-six agreement states at the annual
15 meeting with the NRC staff and said we would like to get some
16 state input into the proposed NRC activities in these areas.

17 We immediately got people from states who are
18 heavily involved, have many ventures in the states, and have
19 large programs in industrial radiography and that first
20 meeting will be held next month. And I see this as a beauti-
21 ful example of how the Office of State Programs can cross
22 over into any area of the Commission where states need
23 information and the Commission, perhaps, needs information.

24 COMMISSIONER GILINSKY: I don't argue with that at
25 all. I think putting together these sorts of programs and

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1 seminars is a very useful function and that will be continued.

2 MR. LAKER: As opposed to that, if I might cite one
3 more example, from my personal experience back in 1972 when
4 the FDA began to reassert its authority over radiopharmaceu-
5 ticals. The agreement states, through their agreements with
6 the Commission and the Commission's agreement with FDA, found
7 themselves in the position of evaluating and regulating
8 radiopharmaceuticals in the production and studies phases,
9 in clinical trials and all that.

10 When that memorandum of understanding between the
11 two agencies was withdrawn and it was published that the FDA
12 would reassert its authority over regulating the development
13 and labeling and so forth of radiopharmaceuticals, the
14 Conference and the states felt that this was a significant
15 thing and that there was a hiatus there in the interim when
16 the state people didn't really understand or know what was
17 going on. We had not been in communications mode with the
18 FDA. The FDA at that point was having problems internally
19 with developing its procedures. So at the annual meeting of
20 the Conference of Radiation Control Programs in New Orleans
21 as task force was set up.

22 I happened to be appointed by the Chairman of the
23 Conference at that time to chair that task force to look at
24 the communication mechanisms and how this transfer of things
25 would occur. All the appropriate state agency members of

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1 the task force and all of the other federal agency FDA members
2 of the task force were quickly on board. I was not able to
3 get an AEC representative to participate with that task force,
4 which left a tremendous gap in the information chain that
5 we were trying to establish. This just an example of -- to
6 my knowledge that sort of thing hasn't occurred since the
7 Office of State Programs has been established. And these are
8 the kinds of things that concern us -- the states -- and
9 we like the way it is operating and has operated since '76.
10 We think it's been beneficial to both state agencies and to
11 the Commission.

12 CHAIRMAN AHEARNE: Mr. Stanton, let me get back to
13 the question you asked. I can't really immediately recall all
14 of the specifics from that testimony several months ago. But
15 I believe the point that the Commission was trying to make --
16 I speak in that testimony on behalf of the Commission -- that's
17 not personal testimony, that's Commission testimony. We were
18 trying to make is that it appeared to us that the language
19 of the bill was fairly broad and would require a comparison,
20 not across the whole program, but getting down to sub-sets of
21 individual programs. That was the point I was trying to make.

22 When you say what does component mean, we didn't
23 write the bill, so we're not sure how far it would go, but it
24 was trying to raise the point that it could not just look
25 across-the-board. The program, it would appear to us, would

1 require going into much greater detail on the comparison.

2 MR. STANTON: My concern with it was the fact that
3 several state -- the several state programs vary considerably
4 in size, and what may very well be a component in one state
5 could be the entire show in another state. And I hesitate to
6 put any blessing on something that might tend to gobble up
7 another state's program.

8 CHAIRMAN AHEARNE: Well, I think -- let me see if I
9 have correctly some of the -- I could say the overall points
10 you're making.

11 First you believe it is essential to maintain a
12 link with an office at a high level in the Commission in order
13 to have a mechanism to get your information in directly at an
14 upper level in the management system.

15 DR. PARROTT: And, we think, receive information
16 also. The reverse is also true, both in putting up -- we
17 would like an open, swinging door, so to speak.

18 CHAIRMAN AHEARNE: Yes, but I'm trying to draw a
19 distinction though because material going out -- for example,
20 the issue raised that you started out with. If you were to
21 utilize information out from -- at least from the Commission
22 level. That paper hasn't arrived here yet so it would be
23 impossible for it to go out, so I'm trying to draw a distinc-
24 tion that -- to make sure I understand the point you're making.

25 So I think the point was that you want to have access

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1 for input at a senior level. You want to ensure that you get
2 information out. That that's --

3 The second point would be that you don't have a
4 fundamental objection to some regionalization, but you would
5 not want that to be associated with the regionalization of
6 policy formation.

7 DR. PARROTT: That is correct.

8 CHAIRMAN AHEARNE: You believe that it would be
9 correct to have a regionalization if that meant a greater
10 link with people out in the field, closer to the states, but
11 the policy should be set from a central. Is that also
12 accurate?

13 DR. PARROTT: That is also accurate.

14 CHAIRMAN AHEARNE: Vic?

15 COMMISSIONER GILINSKY: Yes. I have a question on
16 your paper. On consideration 3, the adequacy of the criteria,
17 you say, and the consensus of the agreement states is that
18 the present criteria are adequate. Now we committed ourselves
19 to upgrading these criteria and we sort of seem to be in the
20 middle of doing that. Are you referring to the old criteria
21 or to the new criteria?

22 MR. TEDFORD: We would accept either one of them.
23 I think the new criteria have upgraded it, and Commissioner,
24 if you would read in consideration 2, I think there are also
25 some areas we addressed that need to be corrected as well.

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1 For example, there are no soil level contamination
2 levels and this became particularly apparent in the American
3 Atomics case in Tucson.

4 COMMISSIONER GILINSKY: Which point is that?

5 MR. TEDFORD: Under consideration number 1, point
6 4, page 2. And that is the last item, that the NRC should
7 provide additional benchmarks and guides which provide
8 regulatory program consistency. For example, except for
9 soil contamination levels. Also, I'd like to point out the
10 point above that is agreements the program can offer --
11 improved protection for the public's health and safety as
12 a focal point to cope with radiation incidents and accidents
13 and emergencies. And that the staff and equipment are
14 immediately available to respond to the particular instances
15 and also put forth a more frequent inspection program.

16 Mr. Parrott, are you -- could I give my -- high-
17 lights and summarize remarks then at this point, or would
18 you rather --

19 DR. PARROTT: Please do.

20 MR. TEDFORD: The highlight point in this whole
21 paper --and I want to reiterate that this is 26 agreement
22 states speaking, of which nineteen provided remarks in writing
23 and it is a consensus that has been put forth also, I believe,
24 from the non-agreement state viewpoint and was endorsed in
25 the executive committee. Am I correct on that?

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1 MR. LAKER: Yes.

2 MR. TEDFORD: The crucial point is in consideration
3 5, and that is the level and organizational location of the
4 NRC administration of the agreement states program. Item 1,
5 the Office of State Programs should remain an NRC operational
6 unit, since it has been performing efficiently in this posi-
7 tion. The Office effectively coordinates the programs of the
8 NRC regulatory inspection and licensing activities with the
9 agreement states. It is contraindicated that the Office of
10 State Programs should be moved to another organizational unit
11 of NRC which has more narrowly defined functions and respon-
12 sibilities.

13 The second item is listed there as well. In an
14 agreement state the administrative location of the program
15 should be structured so that it can have direct input to
16 the Governor and Legislature on the technical aspects of
17 radiation protection.

18 CHAIRMAN AHEARNE: Can you make an estimate of how
19 many agreement states currently meet number two?

20 MR. TEDFORD: That is a very good question. I can
21 speak for Arizona. It's certainly occurs in Arizona. I can
22 also indicate to you, Commissioner Ahearne, that several
23 people have contacted me individually in rather major states
24 and are also interested in the lineology that we enjoy in the
25 State of Arizona. And I believe -- I'm rather new to the

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1 program, but I believe that the state program directors have
2 spoken to this point in the past. Have they not, Mr. Laker?

3 MR. LAKER: Yes, I believe that's right. I could
4 not give you a number of the states that enjoy that, but
5 there are a number of the agreement states who do have ade-
6 quate -- at least in the state's view -- input.

7 CHAIRMAN AHEARNE: What this asks is for it to be
8 structured so that it can have direct input to the Governor.
9 Is that the case in Texas?

10 MR. LAKER: No, it is not.

11 CHAIRMAN AHEARNE: Mr. Parrott?

12 DR. PARROTT: No, it is not.

13 MR. STANTON: Yes, it is. Through our Radiat. on
14 Advisory Committee.

15 CHAIRMAN AHEARNE: Well, two for two.

16 MR. TEDFORD: Of course, these are recommendations.

17 CHAIRMAN AHEARNE: Yes, I understand.

18 MR. TEDFORD: The summarize point, again, is it's
19 -- that the program -- the Office of State Program -- is not
20 perfect. With sadness, I'm sure the state programs are not
21 perfect. There are a number of improvements we can enjoy
22 and we're trying to come up with, but that the state agreement
23 program has proved to be a highly valued resource to the
24 states' radiation health and safety program.

25 DR. PARROTT: I can add in there my comment that

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1 no I don't have direct input to the Governor, but I can get
2 to the Governor if it's necessary, very quickly. My former
3 administrator is the Governor's right arm. And he asked me
4 to call him any time I had a problem that needed immediate
5 attention by the Governor. I do this in all instances.

6 For that matter, the liaison officer that was
7 appointed by the Governor has direct access. Now I have
8 direct access to him. Interestingly enough, as a result of
9 the location of the Office of State Programs a model was
10 developed under -- well, under Shelly Schwartz, as a matter
11 of fact, with your agreements program, that allowed Oregon
12 to have an on-site inspector.

13 CHAIRMAN AHEARNE: Yes, I'm familiar with that.

14 DR. PARROTT: And Oregon is particularly pleased
15 with that. Oregon is an environmentally-oriented state.
16 We have also had an NIPA there. And this is another agency
17 that we overlap -- or actually we do a lot of work for them
18 in a sense. We do all the environmental monitoring and we'll
19 do the licensing of the uranium mill that is coming on-line
20 where they do the siting of the mill. So it's one of those
21 situations that we can get along very comfortably in our
22 state, if we don't get too riled.

23 CHAIRMAN AHEARNE: Vic, do you have a point or a
24 question?

25 COMMISSIONER GILINSKY: No.

1 CHAIRMAN AHEARNE: Dave, do you have a point or a
2 question?

3 COMMISSIONER KENNEDY: No. I appreciate the candor
4 with which you put forward your views.

5 CHAIRMAN AHEARNE: Joe?

6 COMMISSIONER HENDRIE: No, I would only remark
7 that I'm sorry I was unable to get here for the full discus-
8 sion. But I understand the points you were making and have
9 sympathy with them.

10 DR. PARROTT: Well, we certainly appreciate the
11 opportunity. Did you have any more points?

12 MR. LAKER: No, I have no more points. I just want
13 to say what you just said. We do appreciate your hearing us
14 and our concerns. They are real concerns and I think the
15 resolution passed by the conference which was forwarded to
16 you is indicative of the importance states place on these
17 matters.

18 DR. PARROTT: And certainly right across all of
19 the states, whether they be agreement states or non-agreement
20 states, because nuclear power impacts all the states, or
21 certainly will at one time or another.

22 MR. TEDFORD: I would like to add that Commissioner
23 Ahearne did respond to the correspondence. He indicated that
24 he had an open mind and that we would be contacted at the
25 appropriate time. And he's kept his word. In addition to that

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1 Commissioner Kennedy did come out and listen very carefully
2 to the points and assured me at the end of the conversation
3 he would come back and convey these thoughts to the rest of
4 the Commissioners. You have met this point and we appreciate
5 the time that you have given to us.

6 COMMISSIONER GILINSKY: Well I certainly appreciate
7 the opportunity to talk these things over with you. And I
8 share Commissioner Kennedy's view that I appreciate your
9 coming and sharing with us.

10 CHAIRMAN AHEARNE: And I can say for myself that
11 when an organization proposal does come to the Commission that
12 I will look at it carefully in light of your comments and
13 perhaps it might be appropriate to then ask you to think of
14 it at that time.

15 DR. PARROTT: Well, I think this entire situation
16 in a sense, if you back way off and look at it, is really
17 quite humorous, because normally any federal agency decides
18 to change something everybody says wonderful. And here's
19 one that's hiding way back in the corner somewhere that may
20 be at some time proposed and all of the states come charging
21 in and say wait a minute, you did something right, leave it
22 alone.

23 MR. TEDFORD: So we want to change, but we want to
24 make it better.

25 COMMISSIONER GILINSKY: I think we all agree with



1 that.

2 CHAIRMAN AHEARNE: Thank you very much.

3 (Thereupon, at 10:36 a.m., the hearing was adjourned.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the

in the matter of: Public Meeting with Representatives of the Conference of
Radiation Control Program Directors Regarding the Assessment States Program

Date of Proceeding: June 26, 1980

Docket Number: _____

Place of Proceeding: Washington, D. C.

were held as herein appears, and that this is the original transcript
thereof for the file of the Commission.

Alfred H. Ward

Official Reporter (Typed)



Official Reporter (Signature)



CONFERENCE OF RADIATION CONTROL PROGRAM DIRECTORS, INC.
State Health Division, P.O. Box 231, Portland, Oregon 9720

May 22, 1980

The Honorable John F. Ahearne
Chairman
Nuclear Regulatory Commission
Washington, DC 20555

Dear Chairman Ahearne:

On Wednesday, May 21, the entire membership of the Conference of Radiation Control Program Directors passed an unanimous Resolution imploring the Commission to proceed with great caution in its deliberation and actions as it considers the reorganization of the NRC. Until 1976, the Commission, for all practical purposes, was unresponsive and incapable of providing any assistance to the Agreement States or any other state. The NRC reorganization in 1976 formed the Office of State Programs which provided the Agreement States with access to information absolutely vital to their programs and initiated a period of marked improvement in NRC and state relations.

This timely, accurate, and highly beneficial information has done much to improve the ability of the Radiation Control Programs in the Agreement States to cope with the rapidly expanding usage of radioactive material. I and some of the members of the Executive Board would like to meet with you and the other members of the Commission at the earliest possible moment. The purpose of this meeting is to express our deep concern over the possibility of severe curtailment of and direct access to highly valuable technical information and staff to deal with the problems that we encounter on a daily basis.

Your early reply would be most appreciated.

Sincerely,

Marshall W. Parrott, Sc.D.
Chairman, Conference of
Radiation Control Program
Directors, Inc.

Enclosure

RESOLUTION

With regard to the organization of the U.S. Nuclear Regulatory Commission (NRC) and its Office of State Programs, the following resolution was passed by the Conference of Radiation Control Program Directors, Inc., at its annual meeting in Louisville, Kentucky, on May 21, 1980.

- WHEREAS: The States effectively regulate better than 90% of all of the sources of ionizing radiation in the nation, including NRC agreement materials, naturally occurring and artificially produced radioactive materials, and machine produced radiation;
- WHEREAS: State radiation programs combine certain functions of the NRC offices of the Nuclear Materials Safety and Safeguards (NMSS), Inspection and Enforcement (I&E), Standards Development (SD), etc.;
- WHEREAS: State radiation programs must interact with other Federal and State agencies in areas of mutual interest and responsibility in emergency response, transportation, disposal, remedial programs, etc.;
- WHEREAS: The concept of compatibility and equivalency appear to the Conference to frequently be a one-way street from the Federal to the State and we believe the concept should be one of partnership serving our mutual interest;
- WHEREAS: It is our understanding the NRC plans to reorganize the Office of State Programs, the liaison group between the States and the NRC, either into another form, or place it under the jurisdiction of another office;
- WHEREAS: Recent testimony by members of the Commission and the NMSS staff before Congressional committees indicate an intention of the NRC to impose its will on the States at its discretion;
- WHEREAS: The intent of Congress, as stipulated in Section 274 of the Atomic Energy Act of 1954, as amended, is to encourage State regulatory programs in this area;
- WHEREAS: The Office of State Programs since 1976 has provided a viable focal point for multi-NRC program concerns;

NOW THEREFORE BE IT RESOLVED:

That the Conference of Radiation Control Program Directors, Inc. expresses its concern for the NRC anticipated reorganization of the Office of State Programs and that further we voice support for the continued operation and status of the Office of State Programs as the focal point for the Commission's principal State relations function in a coordinating role to the betterment of both NRC's and the States' programs and mutual interest; and

that further, a copy of this resolution be directed to John F. Ahearne, Chairman of the Nuclear Regulatory Commission and to the four Commissioners of the Nuclear Regulatory Commission.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

June 19, 1980

Marshall W. Parrott, Sc.D.
Chairman, Conference of Radiation
Control Program Directors, Inc.
State Health Division
P.O. Box 231
Portland, Oregon 97207

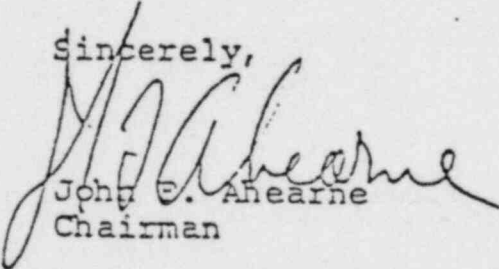
Dear Dr. Parrott:

I appreciate your concern about the future role of the Office of State Programs expressed in your letter of May 22, 1980.

The Commission would be pleased to meet with you as soon as a mutually agreeable time can be chosen. I have asked Mr. Ryan to call you and make the necessary arrangements.

I want to assure you that your views will be considered in any reorganization which may affect the Office of State Programs. The Nuclear Regulatory Commission remains committed to the idea of preserving close working relations with the States and the Conference.

Sincerely,


John E. Ahearne
Chairman

A NEED TO REAFFIRM
THE AGREEMENT STATE PROGRAM

In 1959, the Atomic Energy Act was amended by adding Section 274, entitled "Cooperation with the States". This change was made by Congress to allow states to regulate users of radionuclides within their borders under an Agreement with the U. S. Atomic Energy Commission (AEC). Persons in many states using radium, accelerator-produced radionuclides and reactor-produced radionuclides were subject to regulation by both the state and the AEC. A primary purpose of Section 274 was to prevent dual regulation with its resultant conflicts and confusion to the user by inspection from two agencies.

Since Section 274 was passed, there have been many instances where dual regulation has occurred or has been attempted and resolved by negotiation. The first challenge occurred in 1964 when the Department of Labor (DOL) sponsored a bill that passed Congress and provided DOL with the authority to regulate the occupational exposure to radiation of persons engaged in industry. The Agreement States led by the Attorney General of the state of Texas, as a result of formal hearings, negotiated with DOL and AEC until DOL agreed to accept AEC's regulation of its licensees and AEC's periodic certification of the Agreement State programs as adequate in meeting DOL regulatory requirements.

Since 1964, there have been many new federal agencies formed and many have developed regulations concerned with radiation. The Occupational Safety and Health Administration, the National Institute of Occupational Safety and Health, and the Environmental Protection Agency all have regulations concerned with radiation control or standards.

Dual regulation has been particularly prevalent concerning uranium mills. The Uranium Mill Tailings Radiation Control Act of 1978 was interpreted by the Nuclear Regulatory Commission (NRC) to mean that NRC would have to license tailings in Agreement States even though the state also licensed the tailings. This act was later amended by Congress, and the principal authors stated that dual regulation was not their intention. The Federal Mine Safety and Health Act of 1977 states that uranium mills are subject to regulation by the Mine Safety and Health Administration. NRC is seeking to mitigate that situation by developing a memorandum of understanding to perform joint inspections. The future role of the Agreement States in this program is not clear.

During the last twenty years, the Agreement States have increased in number until there are now 26. They regulate about 11,800 radioactive material licenses, while NRC regulates about 8,000 licenses. The Agreement States have done a good job in radiation control as evidenced by annual determinations of program adequacy by NRC on-site inspections.

It is time to broadcast the lessons learned from the Agreement State program:

1. State programs can competently administer regulatory authority transferred to them from the Federal Government.

2. Dual regulation of radiation can be resolved when the Congress and federal agencies are aware of the presence of existing radiation control programs in the states.
3. Special attention by NRC to the Agreement State program by establishment of the Office of State Programs in 1976 has been instrumental in the success of the program.
4. The principles of the Agreement State program should be applied to other federal authority which can be transferred to a state both in radiation control and in other areas.

There is a need to reaffirm the states belief in the Agreement State program and to make Congress, Governors and citizens aware of its values. At the NRC Agreement States meeting in Washington, D.C. on October 3-5, 1979, there were lengthy discussions held relative to the future of the NRC/State Agreements program. An Ad Hoc Committee was appointed consisting of Mr. John Vaden (Nevada), Mr. Aubrey Godwin (Alabama), Mr. Charles Hardin (Kentucky), and Mr. Charles Tedford (Arizona) to develop an affirmative position paper on this subject. Mr. Charles Hardin, the initial Chairman of the Committee, resigned from the State Agreement program and the Chairmanship was delegated to Mr. Charles Tedford.

Based on the aforementioned Ad Hoc Committee's evaluation of the Agreement State program directors submissions by the majority (18) of the 26 Agreement States, the following comments, concepts and recommendations are forwarded as germane considerations:

Consideration I - The advantages of an Agreement State administering a radiation health and safety program rather than the NRC:

- (1) An Agreement State program provides readily accessible response and answers to the licensees and the public for a broad spectrum of matters relating to the protection of the health and safety from ionizing radiation.
- (2) The Agreement State program is considered more cost effective when compared to similar services offered and provided by the Federal Government.
- (3) An Agreement State program can offer improved protection to the public's health and safety by serving as a focal point to cope with radiation incidents, accidents and emergencies. The staff and equipment are immediately available to respond to the state licensee's requirements. In addition, the state personnel are familiar with the specific sites due to a more frequent inspection program.
- (4) Finally, an Agreement State program possesses the capability to express an independent opinion regarding radiation control issues, e.g., waste disposal. It also allows for adjusting procedures and policies to more closely fit the local need. The NRC should provide additional benchmarks and guides which provide regulatory program consistency, e.g., acceptable soil contamination levels.

Consideration II - The Agreement State program areas requiring improvement:

- (1) The Agreement States indicate funding as a vital area of need. Licensing and inspection fees should be considered as a viable alternative and implemented in all Agreement States as the initial method of improving program funding. In special cases where an Agreement State licensee provides unique regional and national services and the licensing and inspection costs for such a licensee are unusual, the NRC should provide special funding. Additional funding beyond the license fee should be considered by NRC when their fee schedule is not keeping up with inflation. Each Agreement State should annually review its fee schedule to consider inflation.
- (2) Relative salary scales for the highly technical staff of the state radiation control programs is felt by many program directors to have a significant effect on the ability of the state to conduct an effective radiation control program. The field of health physics is very competitive and those state administrative organizations responsible for approving salary levels should be made aware of this problem. Salary levels which are not competitive with other employment alternatives, both government and nongovernment, may result in excessive turnover of staff with the resultant loss of trained staff, increased training costs (for both the state and the NRC), and a general reduction in efficiency and effectiveness. The NRC should determine and report the salary structures of Agreement States and compare the findings with similar NRC, industrial and national laboratory positions.
- (3) Through the further issuance of inspection memoranda, guides, continuing training in inspection, licensing, health physics and special subjects, the NRC and Agreement States should achieve uniformity of regulatory programs. It should be noted that NRC training programs are singularly outstanding in the federal arena.
- (4) The NRC Agreement State program should provide clear procedures for obtaining specialized technical assistance and equipment in a prompt manner. Further, when the NRC proposes to an Agreement State that unusual actions be taken, such proposals should indicate the specific health and safety considerations involved.
- (5) In reviewing an Agreement State program, more emphasis should be placed on accompaniment of field inspectors addressing the protection of the public health and safety, without undue emphasis on the adequacy of the paperwork.
- (6) When significant problems are apparent in an Agreement State, the NRC should not hesitate to bring this to the attention of top state officials and strongly support adequate corrective measures.

Consideration III - The adequacy of the criteria used by the NRC to evaluate the Agreement State program.

- (1) The consensus of the Agreement States is that the present criteria are adequate. We would suggest as in the improvement considerations above, the Governor be advised of significant findings which place the state program in jeopardy.

Consideration IV - The manner and frequency of the NRC review of the Agreement State program:

- (1) The Agreement States believe that an annual review is adequate. We all recognize and accept that if an Agreement State is experiencing significant problems, the NRC should not wait a year to assure corrections. Most Agreement States find the present review process helpful and improves their program.

Consideration V - The level and organizational location of the NRC administration of the Agreement States program:

- (1) The Office of State Programs should remain an NRC operational unit since it has been performing efficiently in this position. The office effectively coordinates the programs of the NRC regulatory, inspection and licensing activities with the Agreement States. It is contraindicated that the Office of State Programs should be moved to another organizational unit of NRC which has more narrowly defined functions and responsibilities.
- (2) In an Agreement State the administrative location of the program should be structured so that it can have direct input to the Governor and Legislature on the technical aspects of radiation protection.

The aforementioned comments indicate that specific areas exist where improvements could be made in the State Agreement program. However, to quote one state radiation program director, "The NRC's manner in conducting periodic reviews of state programs has from our point of view been both professional and constructive. It might be argued that a specific point or detail may have been overemphasized or underemphasized by an individual NRC staff member, but the overall conduct of the review has been balanced and correct."

In closing, the NRC's State Agreement program has proven to be a highly valued resource to the states' radiation health and safety program.

January 10, 1980