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Radiation and Regulation

Presented by  
G. Wayne Kerr, Director  
Office of State Programs  
U. S. Nuclear Regulatory Commission  
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### INTRODUCTION

It is a pleasure to be here today to speak to you, primarily about the recommendations of the National Governors' Association (NGA) report on the Agreement State Program. The Agreement State Program is provided for by the Atomic Energy Act of 1954, as amended, whereby the NRC discontinues regulatory authority and the State asserts its authority in regulating most uses of radioactive materials within the State. Twenty-six States have entered into such agreements with NRC and there is renewed interest in some other States. The NGA study was contracted for by NRC to provide a broad review of the program and an outside perspective on its operation. We distributed the report widely, including to each State Health Officer and Radiation Control Program Director.

Before addressing the NGA report I think it would be appropriate to highlight the importance of State management involvement - your involvement - in the radiation program in your State. You may wonder why it deserves a fair amount of your attention when it may be a very small fraction of your budget and personnel resources. Radiation is still a buzz word that triggers lots of public reaction when some event happens. For those who have been involved in emergency preparedness, 'cloisonne' jewelry, gold rings, low-level waste disposal, etc., you are well aware of the sensitivity of the subject and the need to be well informed and well prepared to cope with these issues. Thus, it is a subject which deserves your attention and involvement.

Turning to the NGA study, although it was directed towards a review of the Agreement State Program, some of the issues discussed in the report are also applicable to non-Agreement States or to other areas of a State's radiation control program. In 1980, Congress adopted the Low-Level Waste Policy Act (P.L. 96-573) stating that it is the policy of the Federal Government that each State has the responsibility for disposing of the low-level waste commercially generated within its borders and endorsed regional compacts of the States for this purpose. In the interest of assisting the negotiation of regional compacts, the NGA proposed that NRC fund a review of the Agreement State Program. The study began in October 1981 and focused principally on the history, structure, funding mechanisms, training programs, and NRC review guidelines for the Agreement State Program.

An NGA task force composed of the NGA Subcommittee on Nuclear Energy and additional State representatives provided oversight. Two advisory committees met in public meetings to permit persons affected by the program to contribute their views.

The NGA study represented the first comprehensive outside review of the Agreement State Program. We are grateful for the cooperation extended by everyone, particularly State officials, and to Holmes Brown who conducted the study for NGA.

#### NGA FINDINGS

I will not attempt today to review all of the findings of the NGA study. The first three, however, are worth repeating because they do provide the basis for many of the NGA recommendations.

- o The Agreement State Program is one of the most successful state/federal partnerships yet established in terms of 1) the flexibility provided States in assuming regulatory responsibility, 2) successful State performance of regulatory duties and 3) consultation with States in the preparation of new regulations.
- o The decline in the rate at which States have joined the Agreement State Program is largely a result of the costs associated with assuming and maintaining membership.
- o Passage of the Low Level Waste Policy Act has engendered renewed interest in Agreement State Program membership.

#### NGA RECOMMENDATIONS AND NRC RESPONSES

The NGA report offered a baker's dozen of recommendations. I would like to briefly review today the NRC staff's proposed actions in response to these recommendations.

1. The Agreement State Program should be continued and expanded to include more States.

We agree with this recommendation but we do not actively promote new Agreement States. Rather, the staff responds with information and assistance when a State expresses interest in an Agreement.

We're currently working with Utah, Oklahoma and Iowa who are interested in becoming Agreement States. Pennsylvania has informed us they will seek an Agreement when legislation authorizing State licensing fees is passed. Massachusetts is studying the possibility of seeking an Agreement.

2. The present NRC guidelines for evaluating Agreement State programs are considered adequate and offer the proper degree of flexibility in reviewing State programs for adequacy and compatibility. Any proposed changes in the present system should be thoroughly discussed with States.

We have specifically informed our Commission of this comment and requested guidance from them on whether they desire the staff to continue using the present guidelines or

work towards development of additional performance indicators. Any proposed changes will be discussed with the States.

3. Authority for NRC to provide federal assistance in the form of seed money to help States cover the initial costs of assuming Agreement States status should be provided by Congress.

The seed money concept was proposed in a 1977 NRC staff study of the Agreement State program. The NGA reported that half of the non-Agreement States indicated money was a factor in not seeking an agreement.

We plan to develop a report to the Commission by the end of the year on non-Agreement State interest in seed money, with particular focus on the need for legislation, how significant such money would be in influencing State decisions to opt for an agreement, the projected impact on NRC workloads and estimated cost.

4. The Atomic Energy Act should be amended to authorize the regulation of radioactive materials not presently affected by the Act, that is, naturally occurring and accelerator-produced radioactive material (NARM).

In the past, the existence of old radium sources has presented significant radiation safety problems because of leakage, improper controls, inadequate disposal, etc. Similarly, abandoned radium sites created significant problems for the State of Colorado.

The matter of NARM regulation was brought to the Commission's attention in 1979 and was referred to the Radiation Policy Council (RPC) which has now gone out of existence. The RPC did not fully address the issue before its demise.

Congressional action would be needed to implement this action. We plan to update our 1977 report on NARM (NUREG-0301) so that current data will be available and make a recommendation to the Commission again. We expect to contact the States for information to update our report.

5. Additional training courses for the Agreement States are needed to help states effectively manage new and changing regulatory programs. The NRC training program for Agreement States should receive additional funding to keep pace with those needs.

We have accommodated changing and expanded State training needs by internal reallocation of existing funds. For example, in calendar year 1982, we sponsored 21 training courses which 289 State and 22 NRC students attended. This effort included funding training costs for 33 State personnel to attend 4 new courses. A fifth new course has been scheduled for 1983 in response to Agreement State requests.



We are reviewing our budget needs to assure sufficient funds remain available to meet State needs.

6. The current system of requiring that Agreement State regulations be compatible with NRC standards should be continued. Insistence that state regulations be identical to federal standards might cause some states to leave the ASP.

We agree that the present system has worked quite well. The Agreement States are permitted flexibility in adopting the safety concepts of NRC regulations. In some areas, such as Part 20 dose limits and technical definitions, we believe that Agreement State provisions should be highly uniform with those of NRC. Administrative matters are not usually made a matter of compatibility unless mandated by statute (e.g., UMTRCA).

7. Radiation protection programs should be at least comparable in level to other state health and environmental protection programs within the state organization structure.

No new staff actions are contemplated since we believe that this is primarily within the control of State executive agencies. This comment is intended to address the problem of competition for personnel, equipment and funds among various State programs.

8. In instances of licensing complex or large licensees where a state may lack the necessary expertise or requisite number of personnel, NRC should continue to make staff and technical assistance available on a temporary, supplemental basis.

Such assistance has been available and utilized by the States and will be continued.

9. NRC should revise its licensing and inspection fees frequently enough to keep pace with rising costs and thus help avoid apparent disparities developing between state and federal fee schedules. State user fees are encouraged as a means for improving the fiscal base for state radiation control programs.

We realize that this is a sensitive issue for those States which have proposed fees that are higher than NRC's for the same licensed activity. NRC published a proposed revision for license fee scheduled on December 17, 1982 (47 FR 56505). The notice also indicated NRC staff would review the schedule annually. Final adoption of the revisions and periodic review should help alleviate concerns over apparent disparities. We agree with the comment encouraging States to adopt user fees and prepared to support such States with testimony or through other appropriate measures.

10. The States strongly endorse implementing a procedure whereby the NRC's materials regulatory program will be subjected to a

systematic performance review using guidelines similar to those used for review.

This has been a continuing issue with the States. Notwithstanding the statutory requirements for reviews of State programs by NRC [Section 274j(1) of the Act], the NGA report noted that "few issues posed by the NGA questionnaire engendered such unanimity on the part of respondents."

Plans are being developed by the Office of Nuclear Material Safety and Safeguards and Office of Inspection and Enforcement for auditing regional radioactive materials regulatory functions and these should, to a large extent, satisfy the NGA recommendation provided that State participation is included in their development. The review guidelines and related material developed by Office of State Programs for use in its reviews of the Agreement State programs will be considered closely in developing the NRC audit program.

11. The frequency of emergency response exercises at nuclear power plants should be reduced. States that establish satisfactory performance records should be given a longer time between exercises.

The Commission is considering a staff proposal which addresses the current requirement for annual frequency of emergency exercises. This matter was brought before the Commission about a year ago and it was indicated to the States at that time of our intention to reevaluate the matter this year.

12. While the ten-week health physics training course sponsored by NRC should be retained, a five-week course should be developed in consultation with state personnel.

This recommendation arose from some States which find it difficult to allow staff to be gone for a ten-week period. On April 11, 1983, a proposed curriculum for a five-week course was circulated to Agreement States for comment. We will be offering two five-week courses in 1984.

13. The last NGA comment endorsed establishment of a certification or testing program to examine the competence of industrial radiographers in radiation safety. The program should assure that each individual radiographer has received prescribed training in radiation safety principles and procedures.

Industrial radiography is a segment of the regulated community which has traditionally experienced higher levels of exposure than other segments and some very significant overexposures.

NRC staff is currently preparing a paper to update the Commission on its overall program to improve radiation safety in industrial radiography operations and it will include staff recommendations on the matter of testing or certifying radiographers on radiation safety.

The public meetings that we held on this matter and the written comments we received did not lend support to the certification procedure. The common thread of concern is over the development of another layer of government bureaucracy. Other options need to be examined. We will pursue these options together with the State representatives on the NRC task force on radiography safety.

The NGA study was, in our view, a valuable exercise. It seems to have reaffirmed the general basis for the program while providing us with guidance for future direction.

There was one area of concern identified in the NGA study which did not result in a specific recommendation. This was the impact of the numerous NRC programs on State and local governments. I have established a Task Force, chaired by Don Nussbaumer, Assistant Director for State Agreements, to assess the collective impact of these activities and to develop recommendations on how they might be minimized. Mr. Charles Hardin, Executive Secretary of the Conference of Radiation Control Program Directors, is serving as a resource person on this Task Force.

I urge you to be fully involved in maintaining direction and oversight of your State's radiation control program. Maintaining an effective preventive regulatory program is far preferable than being in a reactive mode. I would like to briefly relate our experience with four Agreement State programs which have involved State management to a significant degree. The first State experienced a significant problem in staffing and management of the program. Although the Governor was not directly contacted by us, the Governor's office was kept informed of the situation and took prompt action. The Governor personally supported these actions with dramatic improvement in results. The second State experienced a significant radiological environmental problem at a licensee's facility. The attendant publicity and public pressure resulted in personal attention by the Governor and the Legislature to correct the situation both technically and organizationally. The third State was one which experienced a rapidly expanding program to cope with new responsibilities in the areas of low-level radioactive waste and uranium mill regulation. There was significant involvement of the State Health Officer in obtaining the necessary legislation to address these matters and in providing the organization to handle them. The fourth involved a State which did not have a high level of management attention for several years. We kept bringing the chronic nature of their problems to the State's attention. Finally, when all levels of State management applied efforts to the problem it resulted in significant improvement in the operation of the radiation control program as evidenced by our most recent review.

Management attention is not the only thing required to have an effective program but it is an element that cannot be omitted. I believe such attention will benefit you personally as well as performance of the State's radiation control program.