

STATE OF ILLINOIS  
DEPARTMENT OF NUCLEAR SAFETY

1035 OUTER PARK DRIVE  
SPRINGFIELD, ILLINOIS 62704

Jim Edgar  
Governor

217-785-9900  
217-782-6133 (TDD)

Thomas W. Ortclger  
Director

March 31, 1994

Mr. Richard Bangart, Director  
Office of State Programs  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555-0001

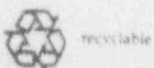
Dear Mr. Bangart:

We have received your letter of March 18, 1994 (SP-94-045) regarding SECY 94-011, "Management Directive on Use of Common Performance Indicators in Review of the Agreement State and Regional Materials Programs." Notwithstanding your statement that you (the NRC) are coordinating the states' comments through Dr. Kulikowski, we feel it is more appropriate to submit our comments directly to NRC. We are furnishing a copy of our comments to Dr. Kulikowski for his information.

While our comments are based primarily on the written material submitted with your letter, our staff has also reviewed the tape of the February 8, 1994 Commission meeting when Dr. Kulikowski briefed the Commission. Let me say at the outset that the current document, SECY 94-011, with attachments, is a dramatic improvement over the previous versions we have reviewed. Pages 3-5 of that paper, in particular, reflect the major concerns expressed by the Agreement States at the October meeting in Tempe, Arizona and in other fora. Further, the paper indicates that modifications were made based on comments of the States. This is a giant step forward in improving communication between NRC and the Agreement States, either individually or collectively. The purpose and method of implementation of the IMPEP program were also expressed in an articulate fashion by Chairman Selin at the February 8, 1994 Commission meeting. As Dr. Kulikowski indicated at that meeting, that position is quite encouraging. Likewise, Commissioner Remick's remark that the term 'operational indicators' could be better classified as data is quite appropriate. We note that on page 4 of SECY 94-011, Region I seemed to agree with the Agreement States' position.

We hope that when the IMPEP program is finally implemented after consideration of the current round of comments, it will be a process that is workable and acceptable to all concerned. Our detailed comments are attached.

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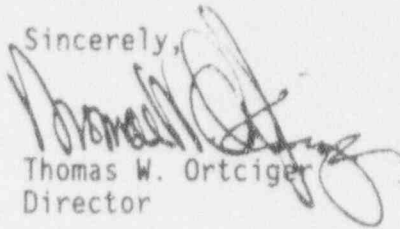


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Richard Bangart  
March 31, 1994  
Page 2

As Mr. Appel recently discussed with you, we will volunteer to participate in the pilot program subject to the limitations he discussed. The Illinois review is scheduled for June 6-10, 1994.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Thomas W. Ortziger', written in a cursive style.

Thomas W. Ortziger  
Director

TWO:gas

Attachment:

Comments on SECY 94-011

cc: Dr. Robert Kulikowski, w/att.

ILLINOIS DEPARTMENT OF NUCLEAR SAFETY

COMMENTS ON NRC PAPER SECY-94-011

1. Regarding the memo of March 16, 1994 from Chilk to Taylor. The second paragraph of this memo states that staff should collect operational data in terms of numbers (not rates). However, in Handbook 5.6, Part II(C) regarding operational indicators, numbers 6, 7, and 8 are expressed in terms of rates. After such base data is collected, we believe the Agreement States should be involved in determining the meaning of such data and what further steps, if any, should be taken.
2. Regarding the March 16, 1994 memo, we support the idea of having an Agreement State representative observe the MRB meetings.
3. Regarding the March 16, 1994 memo, we note it was assigned to NMSS for action rather than jointly with the Office of State Programs. This raises questions of equitable treatment of Agreement States and NRC regions. Involvement of Office of State Programs would be particularly appropriate, since the memo suggests applying some present Agreement State indicators to the regional reviews.
4. Regarding the last two paragraphs on page 3 of SECY 94-011. We suggest the NRC give consideration to a slightly different characterization of Agreement State or regional NRC programs, particularly for the overall evaluation which results from the review process. We believe that use of the following evaluation terms would be more accurate in describing the performance of either a state or region:

**Adequate** - means the regulatory entity is operating in a manner that protects public health and safety but does not necessarily mean it is identical to NRC or another NRC region. Recognizing that even adequate programs can improve, any comments made to the regulatory entity should be suggestions.

**Needs Improvement** - attention should be given to the affected areas which may lead to difficulty if not addressed.

**Needs Significant Improvement** - the regulatory entity should give prompt attention to these areas. In most cases, a documented plan for addressing these problems should be prepared.

**Inadequate** - Immediate action is needed by the regulatory entity and other state or federal officials to correct the problems.

5. Regarding paragraph two on page 4 of SECY 94-011. We do not believe it would be too difficult for NRC to develop an evaluation program for the SS & D reviews performed by headquarters or for LLW and uranium/thorium mill regulation, for that matter, although it may not be necessary for the pilot program.

6. Regarding paragraph one on page 5 of SECY 94-011. This paragraph reflects the inability of NRC to recognize the stature of Agreement States as independent co-regulators. It perpetuates the notion that Agreement States are just like "others", a term used in this paragraph. NRC should consider holding the MRB meetings in the city where the state or regional principal office is located.
7. Regarding the composition of the MRB, Page 6. We believe the phrase "or their designees" should be defined. It seems the purpose of the MRB is to provide senior management perspective to the Agreement State and regional program reviews. If the Director of the MRB offices can name a staff license reviewer (or even a Branch Chief) or staff attorney as their designee, this senior management perspective is lost.
8. Regarding the options for review by the MRB on Page 6. Both options have merit, but we tend to agree with the staff's preference. Both appear to be time-consuming, and the long delay time in providing written comments to the state has been of concern to us for some time. Submission of written comments to the state at a time significantly removed from the conclusion of the review are not terribly useful to the state. We suggest NRC furnish the draft report to the state or region 30 days after completion of the review, reply by the state or region in 30 days, and submission of the final report to the state or region 45 days later.
9. Regarding Directive 5.6, section 032. The preparation of annual reports serve little value except for historical purposes. We question whether their usefulness is outweighed by the time and resources necessary to prepare the report. Of particular concern to us is the possibility we will be requested to submit some new set of data that was not covered during the program review or in our normal submittals, in order for NRC to complete the annual report.
10. Regarding Directive 5.6, Part II(B)(2) and footnote to Part III(b)(e). We strongly object to holding Agreement States to the requirements established by NRC for determining qualifications of inspectors. We are sure you will find a wide variety of methods used by Agreement States for such determinations, but the adequacy of inspections is what matters. Further, states have administrative codes and practices as well as union contracts which impact these determinations, and we do not believe NRC should intrude into this area in the manner described. Our employees are not NRC employees.
11. Regarding the glossary attached to SECY 94-011. In the definition of Overdue Inspections, we interpret the sentence "The IMC 2800 frequencies will generally be used as the yardstick for determining if an inspection is overdue." to provide flexibility for an Agreement State to inspect at less frequent intervals. Inspection frequencies are not based on rigid objective criteria, and are at best resource planning tools. There may be, on occasion, good and sufficient reasons for Agreement States to inspect at less frequent intervals. The fact that NRC changes inspection frequencies itself illustrates that any such priority system needs room for flexible application, and should merely be used as guidance.