



CHAIRMAN

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

September 8, 1994

The Honorable Mike Synar, Chairman
Subcommittee on Environment, Energy
and Natural Resources
Committee on Government Operations
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

As a result of the hearing your Subcommittee held on August 2, 1993, the Commission moved to improve a number of areas in the Agreement States program. While these improvements are underway, the normal program reviews of Agreement States have continued. The current status of each Agreement State's regulatory program is shown in Enclosure 1.

The most important change is the increased time that NRC managers have devoted to overseeing the Agreement States program during the past year, including the Commission's review and approval of all policy initiatives for the Agreement States program. Shortly after the hearing, the Commission initiated a number of improvements to the program (Enclosure 2). In one initiative, the Commission approved publication of a draft Agreement States program "umbrella" policy statement for comment (Enclosure 3). The draft policy statement, among its other recommendations, proposes a phased approach for any new agreements. Using this approach, a new Agreement State would first regulate licensees with less complex programs and only after successfully demonstrating its effectiveness during this first phase would the new Agreement State regulate licensees with more complex programs. The draft policy statement also would establish a probationary status category for Agreement State programs which develop significant problems.

In another initiative, NRC has developed proposed procedures for suspending or terminating an Agreement State program. The staff further developed draft guidance to involve top agency managers and the Commission in Agreement States program issues which will be considered along with the pilot program described in Enclosure 6, and guidance to provide technical assistance to Agreement States (Enclosure 4). Additionally, the Commission published for comment a draft policy statement on Agreement State adequacy and compatibility (Enclosure 5). The comment periods for both draft policy statements have not yet closed. In response to other GAO recommendations, the Commission approved a pilot program that uses common performance indicators to assess materials programs in both NRC's Regional Offices and Agreement States (Enclosure 6). Moreover, during the past year, the Commission received four briefings on Agreement State issues or related matters and now routinely reviews all reports that propose to withhold from an Agreement State a finding of either adequacy or compatibility.

190003

9/20/94

LF02
11

940920025 XA

The Commission has strengthened management of the Agreement States program, as well, by reassigning resources within the Office of State Programs (OSP). Staff from the State liaison program have been reassigned to the Agreement State program to complete Agreement State improvements. The Commission obtained additional resources for the Agreement States program through a technical assistance contract with Oak Ridge National Laboratory. The budget for Fiscal Years 1995 through 1999 includes provisions for an increase in OSP staffing by two full-time employees beginning in Fiscal Year 1996. OSP managerial overhead was reduced by eliminating one Senior Executive Service position, and thus one level of supervision. Finally, OSP is managed by a new Director and Deputy Director.

A central policy theme guiding the evolution of the Agreement States program is the need to regulate materials licensees more consistently across the nation in Agreement States and in non-Agreement States. Although the Commission has yet to evaluate the pilot program, the use of common performance indicators to assess materials programs both in NRC Regional Offices and in Agreement States, if adopted by the Commission, should improve consistency. Training of both NRC and Agreement State inspectors and license reviewers will now be a centralized responsibility of the NRC's Technical Training Center. An agency electronic data base will be operational this fall that describes all materials events (misadministrations, overexposures, lost sources, contamination events, and contaminated sites, for example) that occur in the United States. Agreement States will have shared access to the electronic data base. In addition, the Commission has increased resources applied to an independent evaluation of materials-related operating experience in order to improve the likelihood that safety-significant lessons will be communicated promptly to regulatory and industry organizations. During the past year, a growing number of technical specialists from NRC's Office of Nuclear Material Safety and Safeguards participated in program reviews of the Agreement States. For example, the evaluation of Agreement State reviews of the design of radioactive sealed sources and devices containing radioactive material by these technical specialists revealed a number of findings that will lead to greater consistency in the way that the NRC and the Agreement States conduct these reviews. These in-depth reviews have increased the level of assurance for the protection of public health and safety in the use of these devices.

The Commission's ongoing evaluation of existing Agreement State policies and procedures has already resulted in some changes to existing practices. For example, we no longer find an Agreement State "compatible" based solely on its commitment to promulgate a regulation; the compatibility finding is made only after the Agreement State actually promulgates the rule. As the result of another change, each Agreement State program review report now contains the basis for the assessment for each of the 30 program indicators. Finally, we have reaffirmed our position that an Agreement State can be suspended or terminated not only for reasons of inadequacy but also for reasons of incompatibility.

Changes to the Agreement States program of this scope and magnitude necessarily involve active participation and buy-in on the part of the Agreement States. NRC has substantially increased its outreach activities to the Agreement States and is requesting their comments on proposed substantive changes to the Agreement States program and on the development of new or revised NRC regulations in the materials program area. NRC has developed an electronic bulletin board to receive comments about the need for a rulemaking and alternative rulemaking options before the agency drafts a proposed rule. Since your Committee's hearing, the need for strengthening the Agreement States program and the proposed changes themselves were discussed at two Agreement State Managers' workshops, at the annual Agreement States meeting, at two Electronic Event Data Base workshops, at a general meeting with officials of the Organization of Agreement States (OAS), and at a meeting that I held with OAS officials.

In addition to the changes in the overall Agreement State program, NRC staff have been working actively with the State of Maryland to follow-up on 33 misadministrations that occurred at Sacred Heart Hospital (SHH) in Cumberland, Maryland, in 1987-1988. In the fall of 1993, NRC's General Counsel and the Executive Director for Operations met with the State's Deputy Attorney General and the Secretary of the Department of the Environment to discuss the misadministrations and the need for additional review activities. NRC then established a Task Force, consisting of members of the NRC staff and an NRC medical consultant, to review all available information in NRC and State of Maryland files. The State of Maryland is cooperating in a joint effort with the NRC to obtain additional information from SHH. The purpose of the NRC's review is to determine whether required actions, notifications, and follow-up were completed and to ascertain the generic lessons that should be learned from review of this incident. In addition, the broader scope of the NRC review also includes a review of the State's and NRC's handling of the misadministrations and subsequent reporting of them to management, the public, and Congress. The lessons learned from this review may result in additional changes to NRC's Agreement State program.

I would like to close by outlining the Commission's general expectations for the Agreement States program for the next five years and perhaps beyond. Although we firmly believe that the current program adequately protects public health and safety, we believe as firmly that the NRC must continue to improve our management of the Agreement States program. After making the necessary changes described in this letter, the program must be allowed to mature and stabilize around the new policies, procedures, and guidelines if it is to function effectively. We will continue efforts to improve the Agreement States program and to establish higher standards of performance, both for the NRC and the Agreement States. However, program changes over the longer term should be more incremental in nature. For the very long term, we are considering developing strategies to address long-range options for the Agreement States program that will provide guidance for continued management of the materials programs in Agreement States, and to some extent, in the non-Agreement States.

Much has been accomplished to date; more work remains. I trust that you will find the Commission's actions responsive to the Committee's concerns. I will be pleased to respond to any questions that you may have.

Sincerely,



Ivan Selin

Enclosures:

1. Agreement States Status
2. COMIS-93-013, August 25, 1993; SECY-93-272, October 1, 1993
3. Draft Statement of Principles and Policy for the Agreement State Program and Four Additional Attachments
4. Programmatic Assessment Group (PAG) Recommendations Addressing COMIS-93-013 Area 2, June 29, 1994
5. Adequacy and Compatibility for NRC and Agreement State Radiation Control Programs Necessary to Protect Public Health and Safety, Draft Statement of Policy, July 15, 1994; SECY-93-349, April 20, 1994
6. SECY-94-011, January 19, 1994 and Staff Requirements Memorandum, March 16, 1994

cc: Rep. J. Dennis Hastert

JOHN CONYERS JR. MICHIGAN
CHAIRMAN

CARDIFF LOVELL ILLINOIS
HENRY A. WAXMAN CALIFORNIA
MIKE SYNAR OKLAHOMA
STEPHEN L. NEAL NORTH CAROLINA
TOM LANTOS CALIFORNIA
MAJOR R. DWENES NEW YORK
EDC. PHUS TOWNS NEW YORK
JOHN M. SPRATT JR. SOUTH CAROLINA
GARY A. CONNIT CALIFORNIA
COLLIN C. PETERSON MINNESOTA
KAREN L. THURMAN FLORIDA
BOBBY L. RUSH ILLINOIS
CAROLYN B. MALONEY NEW YORK
THOMAS M. BARRETT WISCONSIN
DONALD M. PAYNE NEW JERSEY
FLOYD H. FLAKE NEW YORK
JAMES A. HAYES LOUISIANA
CRAIG A. WASHINGTON TEXAS
BARBARA ROSE COLLINS MICHIGAN
CORRINE BROWN FLORIDA
MARJORIE MARGOLIES-MEZVINSKY PENNSYLVANIA
LYNN C. WOOLSEY CALIFORNIA
GENE GREEN TEXAS
BART STUPAK MICHIGAN

ONE HUNDRED THIRD CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON GOVERNMENT OPERATIONS

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

WILLIAM F. CLINGER JR. PENNSYLVANIA
RANKING MINORITY MEMBER
AL McCANDLESS CALIFORNIA
J. DENNIS HASTERT ILLINOIS
JON L. KYL ARIZONA
CHRISTOPHER SHAYS CONNECTICUT
STEVEN SCHIFF NEW MEXICO
C. CHRISTOPHER COX CALIFORNIA
CRAIG THOMAS WYOMING
ILEANA ROS-LENTINEN FLORIDA
DICK ZIMMER NEW JERSEY
WILLIAM H. ZELIFF JR. NEW HAMPSHIRE
JOHN M. McHUGH NEW YORK
STEPHEN HORN CALIFORNIA
DEBORAH PRYCE OHIO
JOHN L. MICA FLORIDA
ROB PORTMAN OHIO

BERNARD SANDERS VERMONT
INDEPENDENT

MAJORITY--(202) 225-5051
MINORITY--(202) 225-5074

August 10, 1994

The Honorable Ivan Selin
Chairman
J.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Chairman:

As you know, the Subcommittee on Environment, Energy, and Natural Resources held an August 2, 1993 oversight hearing, pursuant to its authorities under Rules X and XI of the U.S. House of Representatives, on the U.S. Nuclear Regulatory Commission's (NRC) Agreement State Program under Section 274 of the Atomic Energy Act.

Following the hearing, the Commission began several initiatives to review and reform its Agreement State activities. I respectfully request that you provide to the Subcommittee a detailed report on the reforms, personnel changes and other actions taken in the past year by the Commission with regard to this program and the current status of each Agreement State's regulatory program. If you or your staff have any questions concerning this request, please contact David Berick of the Subcommittee staff at 202-225-6427.

Thank you for your continuing cooperation with the Subcommittee.

Sincerely,



MIKE SYNAR
Chairman
Subcommittee on Environment,
Energy, and Natural Resources

cc: Hon. J. Dennis Hastert
Ranking Minority Member

9409220019 - 1p

CURRENT STATUS - AGREEMENT STATES DATA
August 29, 1994

STATE	YEAR OF REVIEW	ADEQUATE	COMPATIBLE
Alabama	1993	x	FW ¹
Arizona	1992	x	FW
Arkansas	1993	x	x
California	1993	FW ²	FW
Colorado	1993	x	x
Florida	1993	x	x
Georgia	1993	x	FW
Illinois	1992	x ²	x
Iowa	1993	x	x
Kansas	1993	x	FW
Kentucky	1992	x ²	x
Louisiana	1993	FW	FW
Maine	1993	FW ²	FW
Maryland	1991	x ²	FW
Mississippi	1993	x	x
Nebraska	1992	FW ²	FW
Nevada	1993	x ²	FW
New Hampshire	1993	x ²	FW
New Mexico	1992	x ²	FW
New York	1992	x	FW
North Carolina	1993	x ²	FW
North Dakota	1993	x	FW
Oregon	1993	x	x
Rhode Island	1994	x	x

¹Please note that "FW" indicates that the finding was withheld.

²The findings identified are based on the specified year of the review. The 1994 routine review or follow-up review has been completed. However, the final report documenting the findings from the review has not been finalized.

STATE	YEAR OF REVIEW	ADEQUATE	COMPATIBLE
South Carolina	1993	x	x
Tennessee	1994	x	x
Texas	1993	x ²	x
Utah	1992	x ²	x
Washington	1992	x	x

ENCLOSURE 2

Enclosure 2 contains the following documents:

- COMIS-93-013, Improvements in NRC's Agreement States Program, August 25, 1993 (Attachment 1).
- SECY-93-272, Improvements in NRC's Agreement States Program, October 1, 1993 (Attachment 2).

COMIS-93-013 was, in part, the result of the August 2, 1993, hearings conducted to explore the NRC's Agreement States program. In it, the Commission requests that the staff review and prepare for Commission consideration recommendations to improve NRC's Agreement States program to assure adequate protection of public health and safety. The Commission requested that the staff focus its review in five areas.

SECY-93-272 was the staff response to COMIS-93-013. In this Commission paper the staff details its approach to achieving the comprehensive review the Commission requested and provides a schedule for completion of the actions directed by the Commission.



OFFICE OF THE
SECRETARY

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

August 25, 1993

MEMORANDUM TO: James M. Taylor
Executive Director for Operations

William C. Parler
General Counsel

FROM: Samuel J. Chilk, Secretary

SUBJECT: COMIS-93-013 - IMPROVEMENTS IN NRC'S
AGREEMENT STATES PROGRAM

As a result of the House Government Operations Committee Hearing of August 2, 1993, the General Accounting Office report, and other ongoing reviews of NRC's Agreement States Program, the Commission requests that you review and prepare for the Commission's consideration recommendations to improve NRC's Agreement States Program to assure adequate protection of the public health and safety. In this process the Commission suggests that you solicit the opinions of those with historical backgrounds in the Agreement State program and of representatives of the Agreement States. Taking into consideration the current initiatives in this area, such as the Compatibility Policy Development, and the development of common performance indicators, you should provide a realistic schedule for accomplishing the actions you recommend.

(BDG/OGC)
SP

(SECY Suspense: 10/1/93) 9300143

The Commission requests focussing on the following areas for this review:

1. Improvements in guidance and principles of operation:
 - Review of existing policy guidance from the Commission on the implementation of Section 274 contained in "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption thereof by States Through Agreement", dated 1/23/81, amended 7/16/81 and 7/23/83, and "Review of Agreement State Radiation Control Programs", dated May 28, 1992, to determine whether to revise or supplement. The review of performance indicators which is already under way, should be factored into this review.

9309150123 4PP

Some areas for particular consideration are:

- Whether two separate policies, one for entering into an agreement and one for evaluation of existing state programs, are needed.
- Evaluation of whether a formal transition period should be established during which new Agreement State programs could be phased in gradually.
- Reevaluation of the criteria and elements used for adequacy and compatibility reviews so that the less significant items are eliminated and the focus is on those things which must be complied with to provide reasonable assurance of adequate protection to the public health and safety.
- Identification of the information which the NRC needs from the Agreement States and establishment of a requirement for the reporting of such information. In addition, why this information is needed and how it benefits health and safety.
- Identification of the minimum administrative-type provisions the NRC will consider necessary in assessing the adequacy and compatibility of Agreement State programs. This covers such things as: hearing opportunities, rulemaking procedures, environmental assessments, the separation of regulatory and promotional responsibilities, investigative capabilities, enforcement policies, criminal sanctions, and other similar provisions.
- Evaluation of the present practice of placing Agreement State approved devices on the NRC registration list so that they can be used nationwide.
- Review and make appropriate recommendations on the adequacy of the documentation and document control procedures currently being used by the NRC for the Agreement State program.
- Until performance indicators are in place and provide beneficial regulatory insight, staff should (keeping in mind the importance of a short turnaround time) provide the Commission with the results of each Agreement State program evaluation for which a finding is withheld concerning adequacy or compatibility prior to issuing a letter to the state.

- Propose a method to accelerate the process of issuing letters to States which notify State management of the status of the State program following NRC's formal review.
 - Determine criteria for placing (or removing) a State program in a status category which would serve to put State officials and the public on notice that their program is failing to fully meet an acceptable norm for public health and safety protection or compatibility.
 - Evaluate and propose internal procedures/guidance on the NRC process to take over when a state agreement is suspended or terminated, in whole or in part, or is temporarily suspended.
2. Action levels for top management and Commission involvement
- Prepare directives on the Section 274 matters which must be brought to the Commission's attention and those which must be approved by the Commission, including appropriate action levels for adequacy or compatibility determinations concerning state programs and action levels for temporary suspensions.
 - Prepare guidance on when the NRC should consider getting involved in an Agreement State program in a technical assistance capacity.
 - Prepare guidance on briefings for the Commission by the staff and appropriate Agreement State officials on Agreement States experiencing difficulties.
3. Reciprocity matters:
- Review the effectiveness (including resource requirements and benefits) of current procedures for reciprocity and the NRC/Agreement State inspection program of the general licensees under reciprocity.
 - Clarify and promulgate more definitive requirements on how we handle reciprocity matters for Agreement State licensee activities in areas of exclusive federal jurisdiction and improve the system for determination of jurisdiction.
4. Consider the merits of codification of state agreement practices in a new part of the NRC Rules and Regulations to include appropriate matters in the areas identified above and any other appropriate matters pertinent to the program.
5. Reappraise the resources and staffing requirements for NRC to implement the proposed changes to be recommended to the Commission.

cc: The Chairman
Commissioner Rogers
Commissioner Remick
Commissioner de Planque
OGC
OCA
OIG



October 1, 1993

POLICY ISSUE
(Information)

SECY-93-272

FOR: The Commissioners

FROM: James M. Taylor
Executive Director for Operations

William C. Parler
General Counsel

SUBJECT: COMIS-93-013 - IMPROVEMENTS IN NRC'S AGREEMENT STATES PROGRAM

PURPOSE:

To inform the Commission of the Staff's planned approach to respond to COMIS-93-013. Staff is requested to prepare for Commission consideration recommendations to improve NRC's Agreement States Program to assure adequate protection of the public health and safety. The Commission further directed the Staff to provide a realistic schedule for accomplishing the recommended actions, taking into consideration the current initiatives in this area, such as the compatibility policy development, and the development of common performance indicators.

DISCUSSION:

In order to achieve the comprehensive review of NRC's Agreement States Program that the Commission requested, the Staff intends to establish a Programmatic Assessment Group (PAG) headed by the Director of the Office of State Programs (OSP). The membership of the PAG will consist of a representative from the following offices: the Office of General Counsel (OGC), the Office of Nuclear Regulatory Research (RES), and the Office of Nuclear Material Safety and Safeguards (NMSS). To represent both the Regional viewpoint, as well as to provide the NRC's historical perspective vis-a-vis the Agreement States Program, an NRC employee with experience as a State Agreements Officer will be a member of the PAG. In addition, the views of Agreement States will be solicited at appropriate stages in the PAG analysis and decision making.

Contact: Richard L. Bangart, OSP
504-3340

Maria Lopez-Otin, OSP
504-2598

NOTE: TO BE MADE PUBLICLY AVAILABLE
IN 10 WORKING DAYS FROM THE
DATE OF THIS PAPER

process. Requesting an Agreement States representative to be a member of the PAG was also considered. However, given the requirements established by the February 10, 1993 Executive Order 12838, "Termination and Limitation of Federal Advisory Committees," this approach was rejected. It was decided that, on balance, the time required to make the necessary findings under Executive Order 12838 to create a new committee under the Federal Advisory Committee Act, including approval by the Office of Management and Budget, would be better spent establishing the PAG and initiating the review.

Documenting the PAG scope of responsibility for the Office of the Executive Director (EDO) approval will be the first task for the PAG. None of the members of the PAG or its support staff, consisting of QSP personnel, will be full time. Other NRC offices, such as the Office of Enforcement, the Office of Investigations, and the Office for Analysis and Evaluation of Operational Data, will be requested to provide support to the PAG on specific issues. If appropriate, the PAG will make use of technical assistance contractor support.

The schedule for completion of the actions directed by the Commission in COMIS-93-013 follows:

1. Improvements in guidance and principles of operation. (4/1/94)

It should be noted that with the issuance of COMIS-93-013, staff has instituted the practice of providing the Commission with the results of each Agreement State program evaluation for which a finding is withheld concerning adequacy or compatibility prior to issuing a letter to the State.

2. Action levels for top management and Commission involvement. (6/1/94)

In advance of the promulgation of the requested directives, staff is currently reviewing with the EDO any Section 274 matters that surface in the review of Agreement State programs. As a result of those reviews, the Commission will be informed of important issues that are of interest, require Commission decision, or that involve a significant change in staff practice.

3. Reciprocity matters. (9/1/94)
4. Consider the merits of codification of State Agreement practices in a new part of the NRC rules and Regulations to include appropriate matters in the areas identified above and any other appropriate matters pertinent to the program. (10/1/94)

This item will address Agreement State practices. The due date of 10/1/94 is to recommend to the Commission those practices that should be codified. Rulemaking would follow that date.

5. Reappraisal of the resources and staffing requirements for NRC to implement the proposed changes to be recommended to the Commission. (4/1/95)

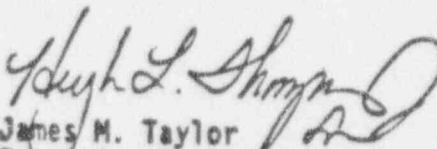
This scheduled completion date approximately coincides with the annual budget cycle for the year following next. Any resource and staffing requirements associated with recommendations completed before this date will be brought to the Commission's attention as part of the recommendations. OSP has recently initiated efforts to obtain 3.5 FTEs of technical assistance contractor support for each of FYs 94-96, which could be used in part for the PAG.

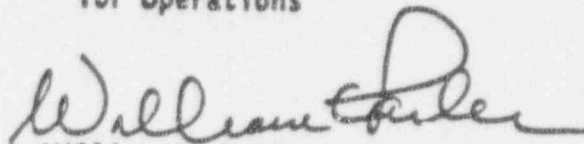
It should be noted that given the complexities of the issues to be addressed, the necessary interactions with the Agreement States, and the limited requisite staff resources, the dates provided in the above completion schedule may be difficult to meet. Management will make every effort to meet the schedule. If issues arise, however, that will preclude meeting these dates, staff will provide the Commission with a status report and proposed revision to the schedule in a timely manner.

The Director, OSP, plans to solicit ideas and recommendations for the PAG from the staff of OSP. The PAG will benefit from the staff experience and this approach will promote ownership of eventual program changes that result from this review.

In addition to the need for the PAG to consider the compatibility-policy development and common performance indicator initiatives, the PAG will consider commitments that were made by NRC in response to the GAO report entitled, "NUCLEAR REGULATION: BETTER CRITERIA AND DATA WOULD HELP ENSURE SAFETY OF NUCLEAR MATERIALS."

The PAG will be expected to identify and evaluate other Agreement State program policies and procedures that are candidates for needed revision, in addition to the specific areas noted in COMIS-93-013. A summary of the additional evaluations and resulting recommendations will be reported to the Commission for their consideration.


James M. Taylor
Executive Director
for Operations


William C. Parler
General Counsel

DISTRIBUTION:
Commissioners
OGC
OCAA
OIG
OPA
OPP
EDO
SECY

ENCLOSURE 3

Enclosure 3 contains the following documents:

- Statement of Principles and Policy for the Agreement State Program (Attachment 1)
- Specific Review Area Recommendations (Attachment 2)
- Post Agreement Activities, Guidelines for Suspension of a Section 274b Agreement (Attachment 3)
- Post Agreement Activities, Guidelines for Emergency Suspension of a Section 274b Agreement (Attachment 4)
- Post Agreement Activities, Guidelines for Termination of a Section 274b Agreement (Attachment 5)

All of the documents in Enclosure 3 were published in preliminary draft form in the Federal Register on August 5, 1994 (Attachment 6), for a 60-day public comment period. After review of comments received, a final draft will be published for a final round of comments.

STATEMENT OF PRINCIPLES AND POLICY
FOR THE AGREEMENT STATE PROGRAM

I. PURPOSE

The purpose of this Statement of Principles and Policy is to clearly describe the respective roles and responsibilities of the U.S. Nuclear Regulatory Commission (NRC) and States in the administration of programs carried out under Section 274 of the Atomic Energy Act of 1954, as amended. Section 274 provides broad authority for the NRC to establish Federal and State cooperation in the administration of regulatory programs for the protection of public health and safety in the industrial, medical, and research uses of nuclear materials.

This policy statement addresses the Federal-State interaction under the Atomic Energy Act to: (1) establish and maintain agreements with States under section 274(b) to provide for discontinuance by the NRC, and the assumption by the State, of responsibility for administration of a regulatory program for the use of byproduct, source, and small quantities of special nuclear material; and (2) guide post-agreement interactions to ensure that NRC and Agreement State radiation control programs are coordinated and compatible and that Agreement State programs continue to ensure adequate protection of the public health and safety.

This policy statement establishes principles, objectives, and goals that should be reflected in the implementing guidance and programs of the NRC and

Agreement States to meet their respective program responsibilities and which should be achieved in the administration of these programs.

II. STATEMENT OF LEGISLATIVE INTENT

The Atomic Energy Act of 1954 did not specify a role for the States in regulating the use of nuclear materials. Many States were concerned as to what their responsibilities in this area might be and expressed interest in seeing that the boundaries of Federal and State authority were clearly defined. This need for clarification was particularly important in view of the fact that although the Federal government retained sole responsibility for protecting the public health and safety from the radiation hazards of byproduct, source, and special nuclear material, the responsibility for protecting the public from the radiation hazards of other sources such as x-ray machines and radium had for many years been borne by the States.

Consequently, in 1959 Congress enacted Section 274 of the Atomic Energy Act to establish a statutory framework under which States could assume certain regulatory jurisdiction over byproduct, source, and special nuclear material in quantities less than a critical mass. The primary purpose of the legislation was to authorize the Commission to relinquish to the States its regulatory authority over the use of these materials. The Commission retained regulatory authority over the licensing of certain facilities and activities such as nuclear reactors, larger quantities of special nuclear material, and the export and import of nuclear materials.

In considering the legislation, Congress recognized that the Federal government would need to assist the States to ensure that they developed the capability to exercise their regulatory authority in a competent and effective manner. Accordingly, the legislation authorized the Commission to provide training and other services to State officials and employees. However, in rendering this assistance, the Congress did not intend that the Commission would provide any grants to a State for the administration of a State regulatory program. This was fully consistent with the objectives of Section 274 to qualify States to assume independent regulatory authority over certain defined areas of regulatory jurisdiction and to permit the Commission to discontinue its regulatory responsibilities in those areas.

In order to relinquish its authority to a particular State, the Commission must find that the program is compatible with the Commission's program for the regulation of radioactive materials and that the State program is adequate to protect the public health and safety. In addition, the Commission has an obligation to review existing Agreement State programs to ensure continued adequacy and compatibility. Section 274(j) of the Act provides that the NRC may terminate or suspend all or part of its agreement with a State if the Commission finds that such termination is necessary to protect the public health and safety or the State has not complied with the provisions of Section 274(j). In these cases, the Commission must offer the State reasonable notice and opportunity for hearing. In addition, the Commission may temporarily suspend all or part of an agreement in the case of an emergency situation.

III. PRINCIPLES OF PROGRAM IMPLEMENTATION

III.1. REGULATORY PROGRAM EXCELLENCE

The principles of excellence contained in this section provide a common philosophical basis on which Agreement States and NRC regulatory programs should be formulated and implemented. NRC and the Agreement States should strive for excellence in the administration of their programs and in their collective efforts to establish a credible, coherent, consistent program for the regulation of Atomic Energy Act materials throughout the United States. Both the NRC and the Agreement States should continually improve their regulatory program effectiveness and efficiency based on their respective and collective experience. Excellence in radiation safety regulation should include striving to improve assurance of the adequacy of public health and safety. In order to achieve excellence, the highest standards of public accountability, ethical conduct, and professionalism should be applied to individual and organizational performance.

Regulatory decisions and actions should be developed and implemented in an open and publicly credible manner and should be able to withstand scrutiny. Such scrutiny should be welcomed by the regulator. The regulator should be, and appear to be, independent and impartial in its actions and free from pressure and inappropriate influences from the regulated community. Regulations and regulatory decisions should be based on assessments of the best available information from affected and interested individuals and organizations, as well as on the best available knowledge from research and

operational experience. Significant decisions should be documented with the rationale for such decisions explained. The public should have an opportunity for early involvement in significant regulatory program decisions. Where several effective alternatives are available, the alternative that best assures safety while considering differing views should be adopted, considering the resources needed to implement that alternative. Regulations should be necessary, or appropriate, to assure safety, and should be clear, coherent, logical, and practical. Regulatory actions should be fully consistent with regulations and good public policy and should lead to stability and predictability in the planning and implementation of radiation control programs.

Failure to adhere to these principles of excellence in the conduct of operations should be a sufficient reason for a regulatory program to self-initiate program changes that will result in needed improvements. There is an obligation by all involved to identify and express concerns relating to a program that appears to be operating contrary to these principles of excellence.

It is not intended that these principles of excellence be established as formal criteria against which NRC and Agreement State programs would be assessed. Rather, the expectation is that these principles will be incorporated into the day-to-day operational fabric of NRC and Agreement State materials programs. These principles should be used in the formulation of policies and programs, implementation of those policies and programs, and assessments of program effectiveness. Application of these principles will

ensure that complacency will be minimized, that adequate levels of protection of public health and safety are being provided, and that government employees tasked with the responsibility for these Federal and State regulatory programs serve the public in an effective, efficient, and responsive manner. These principles are primarily for the use of materials program managers and staff in the self assessment of their programs and to use in the establishment of goals and objectives for the continual improvement of their respective programs. However, in the normal conduct of NRC Region and Agreement State formal program performance reviews, any deficiencies that indicate the program is not adhering to these principles of excellence should be noted.

III.2. COHERENT NATIONAL PROGRAM

NRC acknowledges its responsibility to ensure that there is a coherent national radiation control program and NRC through this program establishes national radiation protection standards. The basic elements of such a program include ability to ensure adequate protection of the public health and safety, compatibility in areas of national interest, sufficient flexibility to accommodate local needs and conditions, ability to assess program performance on a consistent and systematic basis, and excellence in program administration.

Each of these elements is reflected and addressed in specific sections of this policy statement.

III.3. ADEQUATE TO PROTECT THE PUBLIC HEALTH AND SAFETY

NRC and Agreement State radiation control programs share a responsibility to ensure adequate protection of the public health and safety in the administration of their respective regulatory programs controlling the uses of nuclear materials and facilities. Accordingly, NRC and Agreement State programs shall possess the requisite supporting legislative authority, implementing organization structure and procedures, and financial and human resources to effectively administer a radiation control program that ensures adequate protection of the public health and safety.

III.4. COMPATIBLE IN AREAS OF NATIONAL INTEREST

NRC and Agreement State radiation control programs share a responsibility to ensure that a consistent and compatible radiation control program is administered. Such a radiation protection program should be based on a common regulatory philosophy including use of common definitions and standards. It should not only be effective, and cooperatively implemented by NRC and the Agreement States, but also should provide uniformity and consistency in program areas having national significance.

Such areas include those affecting interstate commerce, movement of goods and provision of services. Also necessary is the ability to communicate using a nationally accepted set of terms with common understanding, the ability to ensure an adequate level of protection of public health and safety that is consistent and stable across the nation, and the ability of NRC and each

Agreement State to evaluate the effectiveness of the national radiation control program. States will not have the flexibility to deviate from the program elements that the Commission requires for compatibility.

III.5. FLEXIBILITY

With the exception of national radiation protection standards, to the extent possible, Agreement State radiation control programs should be provided with flexibility in program implementation to accommodate individual State preferences, State legislative direction, and local needs and conditions. However, the exercise of such flexibility should not bar or preclude, or effectively preclude, a practice authorized by the Atomic Energy Act, and in the national interest. That is, a State would have the flexibility to design its own program, including incorporating more stringent requirements provided that the requirements for adequacy are still met, and the more stringent requirements do not preclude or effectively preclude a practice within the national interest without an adequate public health and safety or environmental basis.

IV. NEW AGREEMENTS

IV.1. Overall Process of Becoming an Agreement State

Section 274 of the Atomic Energy Act requires that once a decision to seek Agreement State status is made by the State, the Governor of that State must certify to the NRC that the State desires to assume regulatory responsibility

and has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement and compatible with the Commission's program. This certification will be provided in a letter to the NRC which includes a number of documents in support of the certification. These documents include the State's enabling legislation, the radiation control regulations, a narrative description of the State program's policies, practices and procedures, and a proposed agreement.

The NRC has published criteria describing the necessary content these documents are required to cover. The NRC reviews the request and publishes notice of the proposed agreement in the Federal Register to provide an opportunity for public comment. After consideration of public comments, if the Commission determines that the State program is adequate and compatible, and approves the agreement, a formal agreement document is signed by the Governor and the Chairman of the NRC.

IV.2. Phased Implementation

The NRC believes that a formal phased implementation process, during which a State initially assumes authority over smaller, less complex licenses, would be advantageous to both NRC and the Agreement State. It would provide the NRC an opportunity to obtain important information on the State's program and validation of the State's capabilities before turning over a major portion of the program. At the end of the initial phase, the NRC would have greater confidence in the State's ability to protect the public health and safety and

to administratively manage the program. From the State perspective, it should provide new States an opportunity to work out start up problems with their program prior to having responsibility for more complex licenses.

Therefore, upon the effective date of a full agreement, a mandatory phased implementation process will be used. In the initial phase, the State will assume full regulatory authority over categories of licensees programs of lesser complexity. During this phase, the State will perform all regulatory functions for the transferred licenses. At the end of this phase, the NRC will evaluate the State program to determine that the State program continues to be adequate to protect public health and safety and compatible with the Commission's program. If, at the end of the initial implementation phase, the Agreement State program is adequate and compatible, and the State has demonstrated an ability to assume authority for more complex licensed activities, the remaining categories of licensees will be transferred to the State.

V. MUTUAL PROGRAM ASSISTANCE

NRC will provide training and other assistance to States, such as assistance in developing regulations and program descriptions to help individual States prepare for entrance into Agreements and to help them during transition periods of assumption of regulatory authority. Following assumption of regulatory authority, NRC will continue to provide training and other assistance such as review of proposed regulatory changes to help States administer their regulatory responsibilities. NRC would also use its best

efforts to provide specialized technical assistance to Agreement States to address unique or complex licensing, inspection, and enforcement issues. Similarly, Agreement States will assist the NRC and other Agreement States in addressing areas where Agreement States have particular expertise or are in the best position to provide immediate assistance. In addition, NRC and Agreement States shall use their best efforts to keep each other informed about relevant aspects of their programs. NRC will provide an opportunity for Agreement States to have early and substantive involvement in rulemaking, policy, and guidance development activities. Agreement States will provide a similar opportunity to the NRC to make it aware of, and to provide the opportunity to review and comment on, proposed changes in Agreement State programs, regulations, policies, and regulatory guidance.

Following assumption of regulatory authority by an Agreement State, if it experiences difficulty in program administration, NRC would use its best efforts to assist the State in maintaining the effectiveness of its radiation control program. Such assistance could address an immediate difficulty or a chronic difficulty affecting the State's ability to discharge its responsibility to continue to ensure adequate protection of the public health and safety.

VI. PERFORMANCE EVALUATION

Under Section 274 of the Atomic Energy Act of 1954, as amended, NRC retains authority for ensuring that Agreement State programs continue to provide adequate protection of the public health and safety. In fulfilling this

statutory responsibility, NRC will provide oversight of Agreement State radiation control programs to ensure that they are adequate and compatible prior to entrance into a Section 274(b) agreement and that they continue to be adequate and compatible after an Agreement is effective. NRC, in cooperation with the Agreement States, will establish and implement a performance evaluation program to provide NRC and Agreement State management with systematic, integrated, and reliable evaluations of the strengths and weaknesses of their respective radiation safety control programs and identification of areas needing improvement.

As a part of this performance evaluation process, NRC will take any necessary actions to ensure that Agreement State radiation control programs remain adequate and compatible. These actions include: (1) biennial assessments of Agreement State radiation control programs against established review criteria; (2) provision of assistance to help address weaknesses or areas within an Agreement State radiation control program requiring improvement; (3) placing a State on a probationary status for serious program deficiencies that require heightened oversight; (4) temporary suspension of an agreement and reassertion of regulatory authority in an emergency if an Agreement State program experiences any immediate program difficulties preventing the State from continuing to ensure adequate protection of the public health and safety; and (5) suspension or termination of an agreement and reassertion of NRC regulatory authority if the Agreement State program experiences difficulties which jeopardize the State's ability to continue to ensure adequate protection of the public health and safety. The basis for NRC's actions will be based on

a well defined and predictable process and a performance evaluation program which will be consistently and fairly applied.

VII. LEVELS OF AGREEMENT STATE PROGRAM REVIEW FINDINGS

The following discussion outlines the nature of NRC findings regarding the NRC's Agreement State review process.

FINDING 1 - ADEQUATE TO PROTECT PUBLIC HEALTH AND SAFETY AND COMPATIBLE

If the NRC finds that a State program has met all of the Agreement State program review criteria or that only minor deficiencies exist, the Commission would find that the State's program is adequate to protect the public health and safety. If the NRC determines that a State program contains all required NRC program elements for compatibility, or only minor discrepancies exist, the program would be found compatible.

FINDING 2 - marginally adequate¹

If the NRC finds that a State program protects public health and safety, but is deficient in meeting some of the review criteria, the NRC may find that the State's program is marginally adequate. The NRC would consider in its

¹ Since the compatibility finding is made on the basis of a State having program elements which are "identical", "essentially identical", or "essentially verbatim", there can be no intermediate finding between compatible and not compatible. In terms of the compatibility evaluation, and the need for possible NRC action, the significance of an individual element in a State program will be judged on the basis of its impact on the national radiation protection program.

determination plans that the State has to address any of the deficiencies noted during the review. In cases where less significant Agreement State deficiencies previously identified have been uncorrected for a significant period of time, NRC may also find that the program is marginally adequate.

FINDING 3 - INADEQUATE TO PROTECT PUBLIC HEALTH AND SAFETY AND/OR NOT COMPATIBLE

If the NRC finds that a State program is significantly deficient in some or all of the review criteria, the NRC would find that the State's program is not adequate to protect the public health and safety. If the NRC determines that a State, after a substantial period of time, has either failed to adopt a significant item(s) of compatibility or has failed to adopt several of the required compatibility items, or has refused to revise state regulations which are inconsistent with the required NRC compatibility elements, the program would be found not compatible.

VIII. NRC ACTIONS AS A RESULT OF THESE FINDINGS

The following discussion outlines the options available to the NRC as a result of making any of the above findings. None of these actions are automatic. The appropriate action will be determined on a case-by-case basis by NRC management.

LETTERS

In all cases, subsequent to an Agreement State program review, the findings would be recounted in a letter to senior level State management. In the event that the NRC finds that a State program is adequate and compatible, no further action would be required. In the case where minor deficiencies are noted, the State would be requested to describe their proposed corrective action. If the corrective action appears appropriate, no further NRC review is required. If additional clarification of the corrective actions is needed, additional correspondence may be necessary.

FOLLOW-UP REVIEWS

In the event that deficiencies are noted during the program review, NRC may increase the frequency of contacts with the State to keep abreast of developments and conduct onsite follow-up reviews to assure that progress is being made on correcting program deficiencies. If, during follow-up reviews, it is shown that the State has taken corrective actions, a letter finding the State adequate and compatible would be provided.

PROBATIONARY STATUS

There are three circumstances which can lead to a marginally adequate or incompatible State program being placed in a probationary status: (1) There are cases in which program deficiencies may be serious enough to require immediate heightened oversight; (2) In other cases, Agreement State program

deficiencies previously identified may have been uncorrected for a significant period of time; and (3) If the NRC determines that a State program has been late in adopting either a significant item(s) of compatibility or has not adopted several of the required compatibility elements. If the NRC was not confident that the State would address the program deficiencies in an expeditious and effective manner, the Commission would place the State program on probation.

As a result of placing a State program on probation, the NRC would communicate its findings to a higher level of State management. Notice of such probationary status would normally be addressed to the Governor of the State. Notice would also be published in the Federal Register. A copy of the letter to the Governor would be placed in the Public Document Room and a press release would be issued.

Once a State program is placed on probation, the NRC would heighten its oversight of the program. This would include obtaining commitments from the State in the form of a management plan to describe actions to be taken by the State to address the program deficiencies, including specific goals and milestones. The NRC would increase observation of State program activities under the Agreement to assure adequate protection of the public health and safety. In some cases, the NRC would consider providing technical support for the maintenance of the regulatory program. The probationary period would last for a specified period of time. This period would not normally be more than one year, but could be extended based on extenuating circumstances. At the

end of that time, if the State has not addressed the deficiencies, the NRC would institute suspension or termination proceedings.

SUSPENSION

Section 274j of the Atomic Energy Act gives the Commission authority to suspend all or part of its agreement with a State if the suspension is required to protect the public health and safety, or if the State has not complied with one or more of the requirements of the Act. In cases where the Commission finds that program deficiencies related to either adequacy or compatibility are such that the Commission must take action due to a lack of confidence in the State's ability to protect the public health and safety, the Commission would suspend all or part of its agreement with the State. If the situation is not resolved, termination will be considered.

Before reaching a final decision on suspension, the Commission will notify the State and provide the State an opportunity for a hearing on the proposed suspension. Notice of the proposed suspension will also be published in the Federal Register. Suspension, rather than termination, would be the preferred option in those cases where the State provides evidence that the program deficiencies are temporary and that the State is committed to correcting the deficiencies that led to the suspension.

In addition to the normal suspension authority, Section 274j.(2) of the Act also addresses emergency situations and gives the Commission authority to temporarily suspend all or part of its agreement with a State without notice

or hearing if, an emergency situation exists requiring immediate action to protect public health and safety, and the State has failed to take necessary action within a reasonable time.

TERMINATION

Section 274j of the Atomic Energy Act gives the Commission authority to terminate its agreement with a State if such termination is required to protect the public health and safety, or if the State program has not complied with one or more of the requirements of the Act (e.g., is found to be not compatible with the Commission's program). When the Commission finds such significant program deficiencies, the Commission would institute proceedings to terminate its agreement with the State.

In cases where a State has failed to respond in an acceptable manner during the probationary period and there is no prospect for improvement, termination will be considered. Before reaching a final decision on termination, the Commission will notify the State and provide the State an opportunity for a hearing on the proposed termination. Also, notice of the proposed termination will be published in the Federal Register. There may be cases where termination will be considered even though the State program has not been placed on probation.

IX. PROGRAM FUNDING

NRC will continue to provide training and other assistance to Agreement States to the extent permitted by statute and budgetary resources. Currently, Section 274 does not allow federal funding for the administration of Agreement State radiation control programs. Section 274 does authorize the NRC to offer training and other assistance to a State in anticipation of entering into an Agreement with NRC, however, it is NRC practice not to fund the establishment of new Agreement State programs.

Given the importance in terms of protection of the public health and safety to have a uniform national program of well trained radiation control program personnel, the NRC intends to continue funding training and travel for Agreement State staff. NRC staff would also provide technical assistance to Agreement States to address complex licensing and compliance issues and other specialized technical assistance.

X. REGULATORY DEVELOPMENT

NRC and Agreement States will cooperate in the development of new regulations and policy. Agreement States will have early and substantive involvement in the development of new regulations affecting protection of the public health and safety and of new policy affecting administration of the Agreement State program. Likewise, the NRC expects to have the States provide it with early and substantive involvement in the development of new Suggested State Regulations. NRC and Agreement States will keep each other informed about

their individual regulatory requirements (i.e., regulations or license conditions) and the effectiveness of those regulatory requirements so that each has the opportunity to make use of proven regulatory approaches to further the effective and efficient use of resources.

XI. PROGRAM EVOLUTION

The NRC-Agreement State program is dynamic and the NRC and Agreement States will continue to jointly assess the overall national program to identify specific changes which should be considered based on experience or to further improve overall performance and effectiveness of the national program. The changes considered should include possible legislative changes. The program should also include the formal sharing of information and views such as briefings of the Commission by the Agreement States.

SPECIFIC REVIEW AREA RECOMMENDATIONS

- Whether two separate policies, one for entering into an agreement and one for evaluation of existing state programs, are needed.

The PAG has considered this issue and recommends that a single "umbrella" policy covering the NRC and Agreement State Program be issued. The existing policy statements that address entering into an Agreement and the evaluation of State programs will be modified or converted to procedures.

- Evaluation of whether a formal transition period should be established during which new Agreement State programs could be phased gradually.

The PAG recommendation, which includes a formal transition period for new Agreement State programs, has been incorporated as section IV of the draft Policy Statement.

- Reevaluation of the criteria and elements used for adequacy and compatibility reviews so that the less significant items are eliminated and the focus is on those things which must be complied with to provide reasonable assurance of adequate protection of the public health and safety.

The new compatibility policy and criteria are being developed. The pilot program under the Integrated Materials Performance Evaluation

Program (IMPEP) will consist of gathering information on the common performance indicators in addition to the normal program reviews. Criteria for adequacy are contained in the IMPEP procedures. The PAG will maintain cognizance of these initiatives and serve as an integrative mechanism.

- Identification of the information which NRC needs from the Agreement States and establishment of a requirement for the reporting of such information. In addition, why this information is needed and how it benefits health and safety.

The PAG review of existing Agreements between the NRC and Agreement States found that the Agreements contain a commitment for the Agreement State and the NRC to use their best efforts to keep each other informed on regulatory changes to assure that the State and Commission programs are coordinated and compatible. Currently, representatives of the Agreement States and NRC staff in AEOD, DSP, and NMSS are evaluating options for the development of a database on events involving Atomic Energy Act-regulated materials. The database is intended to provide Agreement State and NRC staffs with information to assist in the evaluation of regulatory effectiveness, and aid in the prediction of safety trends.

The PAG will consider the current initiatives to obtain information on events in conjunction with its examination of the merits of codifying State agreement practices in a new part of the NRC rules and

regulations, including the need to codify a requirement for reporting of event data by Agreement States. The PAG will factor in the information derived from these initiatives when it examines the codification issue.

- Identification of the minimum administrative-type provisions the NRC will consider necessary in assessing the adequacy and compatibility of Agreement State programs. This covers such things as: hearing opportunities, rulemaking procedures, environmental assessments, the separation of regulatory and promotional responsibilities, investigative capabilities, enforcement policies, criminal sanctions, and other similar provisions.

In establishing compatibility criteria, the staff will address these issues. IMPEP is also considering a number of these areas. The PAG will maintain cognizance of these initiatives and serve as an integrative mechanism.

- Evaluation of the present practice of placing Agreement State approved devices on the NRC registration list so that they can be used nationwide.

OSP, NMSS, and OGC are evaluating the current practice and will provide recommendations to the Commission describing approaches which will result in improved effectiveness and efficiency in sealed source and device reviews.

- Review and make appropriate recommendations on the adequacy of the documentation and control procedures currently being used by the NRC for the Agreement State program.

Although Commission regulations do not specifically impose data reporting requirements on Agreement States, the NRC criteria for the approval of new programs and the periodic review of existing State programs, necessitate that a State provide sufficient documentation to the NRC for the evaluation of the program. In addition to the documentation needed for the NRC to evaluate a State program against the NRC approval or review criteria, existing State programs routinely submit a wide variety of information and documentation, including copies of licenses and orders issued by the State, statistical data on licensing and inspection activities, draft and proposed regulations, copies of sealed source and device registrations, licensing guides, and similar documents.

The PAG explored the handling of documents generated and received by NRC in relation to Agreement State and State Liaison program business, e.g., program reviews, followup letters, and other incoming documents and correspondence, as well as the management of information contained in these documents. OSP has informed the PAG that initiatives have begun that will improve the document control procedures used by the Office of State Programs. OSP has also initiated efforts to integrate its document tracking, control, and filing systems with those used throughout NRC. OSP will establish procedures to assure that

appropriate documents are placed in the Public Document Room, use NRC Central Files as the official agency file for OSP correspondence, and use NUDOCS and RIDS for document distribution and retrieval. Other program improvements, such as procedures to implement the Integrated Materials Performance Evaluation Program, will result in satisfactory documentation of the important elements of OSP programs.

Additionally, OSP, with support from IRM, will establish an INTERNET-based E-mail and file transfer system for use by NRC and the Agreement States. This system should permit electronic communication between NRC and the Agreement States. The system will also permit the electronic transfer of large documents between regulators. This system began operation in May 1994. As a longer term project, OSP and IRM will establish an Agreement State program electronic information base that will permit faster retrieval and analysis of programmatic information in the future.

OSP indicates that these documentation and document control improvements should result in assurance that appropriate OSP documents are available to the public through use of the PDR; provide an administrative resource savings to OSP by using Central Files, RIDS and NUDOCS; and provide a resource savings to OSP and the Agreement States generally through (1) greater use of electronic communication, (2) more easily retrievable correspondence through the use of Central Files and NUDOCS, and (3) electronic retrieval and analysis of electronic data base information.

- Until performance indicators are in place and provide beneficial regulatory insight, staff should (keeping in mind the importance of a short turnaround time) provide the Commission with the results of each Agreement State program evaluation for which a finding is withheld concerning adequacy or compatibility prior to issuing a letter to the state.

It is now staff practice to provide the Commission with the results of each Agreement State program evaluation for which a finding of either adequacy or compatibility is withheld.

- Propose a method to accelerate the process of issuing letters to States which notify State management of the status of the State program following NRC's formal review.

The proposed IMPEP review process is designed to achieve and institutionalize an accelerated procedure for issuing review letters. The goal is to have letters, which contain factual program review findings, issued in one month. The PAG agrees with this approach.

- Determine criteria for placing (or removing) a State program in a status category which would serve to put State officials and the public on notice that their program is failing to fully meet an acceptable norm for public health and safety protection or compatibility.

The PAG's recommendations in this area have been incorporated into the draft Policy Statement, and can be found at section VIII.

- Evaluate and propose internal procedures/guidance on the NRC process to take over when a state agreement is suspended or terminated, in whole or in part, or is temporarily suspended.

You will find the PAG's proposed internal procedures in the following pages. Note that the concept of a Management Review Board (MRB) as described in these procedures, is a pilot initiative to evaluate the effectiveness of indicator information in adequacy and compatibility determinations.

POST AGREEMENT ACTIVITIES
GUIDELINES FOR SUSPENSION OF A SECTION 274b AGREEMENT

I. Introduction

- A. This procedure provides the guidelines that will be followed by NRC staff when considering whether or not to exercise the authority contained in Section 274j(2) of the Atomic Energy Act to suspend an Agreement for a State.
- B. This procedure will not address the emergency situation where there is a danger to the public health and safety. Guidelines for emergency suspension are found in Procedure _____.

II. Suspension

- A. Section 274j. of the Atomic Energy Act gives the Commission authority to suspend all or part of its agreement with a State if the suspension is required to protect the public health and safety, or if the State has not complied with one or more of the requirements of the Act. In cases where the Commission finds that program deficiencies related to either adequacy or compatibility are such that the Commission must take action, the Commission will suspend all or part of its agreement with the State.

- B. Before reaching a final decision on suspension, the Commission will notify the State and provide the State an opportunity for a hearing on the proposed suspension as discussed in Part VI. Notice of the proposed suspension will also be published in the Federal Register. Suspension, rather than termination, will be the preferred option in those cases where the State provides evidence that the program deficiencies are temporary and that the State is committed to implementing program improvements.

III. Management Review Board Role

- A. The Management Review Board (MRB) is responsible for making the adequacy assessment of each Agreement State's program based on the reviews of the program, using both common performance indicators and non-common performance indicators and the compatibility determination. The management review board consists of senior NRC managers, or their designees, to include:

Executive Director for Operations

Director, Office of Nuclear Material Safety and Safeguards

Director, Office of State Programs

Director, Office of Analysis and Evaluation of Operational Data

General Counsel

- B. The MRB will consider the results of the Agreement State review and any other appropriate information in making a determination of

adequacy and compatibility with respect to an Agreement State. MRB meetings to discuss specific program review findings normally will be open and Agreement States representatives will be invited to attend. MRB internal deliberations regarding the overall Agreement State program rating may be closed, given the predecisional nature of those discussions.

- C. If it is the recommendation of the MRB that NRC initiate the proceedings to suspend an Agreement, the Office of State Programs will be assigned the lead for preparation of the Commission paper. The Commission paper will contain the information supporting the suspension as described in Part IV, and will assess potential resource implications of NRC reasserting authority. The Commission paper will be coordinated with OGC, NMSS and the region.

IV. Staff Work

- A. Before the opportunity for hearing and issuance of the Federal Register notice, OSP will draft a Commission paper for the signature of EDO on the suspension of regulatory authority in the State based on the initial recommendations of the MRB. In preparation of the Commission paper, the assigned Project manager should coordinate with OGC as to the form or type of Commission paper. The draft Commission paper (Appendix A) should contain the following information:

1. Background information (Appendix B)
2. MRB recommendations (Appendix C)
3. Proposed Commission Order Reasserting Authority (Appendix D)
4. Proposed Federal Register Notice regarding the Suspension and Reassertion of NRC authority (Appendix E)
5. Letter to the Governor regarding the Commission decision (Appendix F)
6. A public announcement to be issued by Public Affairs (Appendix G)
7. Proposed letters to the appropriate Congressional Committees on the Commission Decision (Appendix H)

V. Hearings

Before the Commission can suspend a State's program, it must provide reasonable notice and opportunity for a hearing to the State as required by Section 274j(1). Section 274j(1) does not require such a hearing if suspension is requested by the Governor.

Before the opportunity for a hearing can arise, the Office of State Programs must submit to the Commission a paper containing a recommendation to suspend the State program in question. This Commission paper will include the recommendations of the MRB and any other material pertinent to the staff's recommendation to

suspend the Agreement. Before a decision is made on the OSP recommendation, the Commission must provide the State with notice and an opportunity to request a hearing on the issue. If the State does not request a hearing, the Commission will make a final decision on the issue. If the State does request a hearing, the Commission will initiate the hearing process described below.

The hearing for the suspension of an Agreement State program will be an informal hearing conducted either by the Commission itself, or at the Commission's discretion, by a Special Agreement State Board appointed by the Commission. In cases where the Commission determines that a Special Board will be used, the Board will consist of three members: (1) the chair of the Organization of Agreement States (OAS) (unless the chair is from the State in question, in which case the Agreement State representative will be the past chair of the OAS); (2) an official from the Office of General Counsel, and (3) the Deputy Director of an NRC regional office (outside of the region in which the State is located).

The Commission, or the Special Board, as appropriate, will conduct an informal hearing to address the issues in question. At the hearing, the NRC staff, representatives of the Agreement State, and interested third parties will have an opportunity to testify, answer questions from the Special Board, and submit written materials. Third parties may submit written material to the Special Board and may testify for a limited period of time. After

consideration of the issues, the Commission or the Special Board will issue a decision on suspension. A majority of the Commission or the Special Board will be required to support a decision. In cases where a Special Board is used, the Commission will have discretion to review the decision of the Special Board, and either uphold or overturn the Board's decision.

VI. Additional Coordination During the Suspension

- A. NRC will conduct a meeting with the licensees in the State to explain the reassertion of NRC authority and the present fee structure. Lead for the meeting should be the Region in consultation with NMSS, OGC and OC.
- B. After the suspension of the Agreement, OSP will prepare a letter to the Department of Labor advising the Department of the effective date of the termination of the Agreement (Appendix J).
- C. The Regional State Agreements Officer (RSAO) should obtain from the State a computer printout of all specific and general licenses affected by the suspension of the State's agreement. Mailing labels should be obtained if possible from the State. A letter should be prepared notifying each licensee of the suspension and reassertion by NRC and appropriate information (Appendix K).

- D. DSP will prepare a letter to all Agreement and Non-Agreement States notifying them of the effective date of the suspension and if appropriate, enclosing a copy of the order or Federal Register notice (Appendix L).
- E. The RSAO will coordinate with the State so that all necessary action is taken to have license files transferred or made available to the NRC.

VII. Withdrawal of Suspension/Recommendation for Termination

- A. When the situation requiring the suspension has been corrected or eliminated, the Management Review Board will consider all factors and recommend to the Commission whether to lift the suspension.
- B. If the situation is not resolved, termination will be considered and the Procedure _____ for termination should be followed.

Appendices to Suspension Procedure

<u>Appendix</u>	<u>Subject</u>
A	Commission Paper for Suspension of all or part of a Agreement and request for special board for hearings
B	Background information on the Agreement State
C	Management Review Board Recommendations
D	Proposed Commission Order Reasserting Authority
E	Proposed Federal Register Notice regarding the Suspension and Reassertion of NRC authority
F	Letter to Governor regarding the Commission decision on suspension
G	Public Announcement to be issued by Public Affairs
H	Letters to Congressional Committees
I	Special Board's report to Commission on hearings
J	Letter to Department of Labor on suspension
K	Letter to licensees regarding suspension and reassertion
L	Letter to All States regarding suspension and reassertion

POST AGREEMENT ACTIVITIES
GUIDELINES FOR EMERGENCY SUSPENSION OF A SECTION 274b AGREEMENT

I. Introduction

This procedure provides the guidelines that will be followed by NRC staff when considering whether or not to exercise the authority contained in Section 274j(2) of the Atomic Energy Act.

II. General

Section 274j(2) of the Act addresses emergency situations and gives the Commission authority to temporarily suspend all or part of its agreement with a State without notice or hearing if an emergency situation exists requiring immediate action to protect public health and safety and the State failed to take steps within a reasonable time. The NRC will invoke this authority to temporarily suspend all or part of its agreement with an Agreement State only as a last resort, where an emergency creates a danger to the public health or safety, and the Agreement State has failed to take, or is prevented from taking, the necessary steps to protect the public health and safety. The Commission will exercise this authority whenever necessary to contain or eliminate the danger, and only during the period of the emergency. Prior to any emergency suspension of all or part of the NRC's agreement with a State, the NRC will notify the governor of the State. The NRC will consider invoking this authority with respect to a single facility or location if

the emergency situation and the criteria of Part V or the guidelines so warrant after considering the factors stated in Part VI.

III. Emergency

The NRC recognizes that a severe threat to public health and safety would have to exist before a emergency suspension of all or part of its agreement with an Agreement State would be invoked. Under existing practices, an Agreement State could, if necessary, request technical assistance from NRC for a specific emergency situation. NRC continues to encourage State requests for technical assistance. The exercising of NRC authority to temporarily suspend an agreement would occur for those highly unusual events which would require prompt remedial action to protect the public health and safety.

IV. Initiation of Emergency Suspension Action

1. Under section 274j(2), if a State requests that the NRC temporarily suspend part of its agreement, the State shall make the request by telephone call to the Executive Director for Operations (telephone number), in coordination with the Director of Office of State Program or in off hours, to the NRC Emergency Operation Center, telephone (). Such a request should be made by the Governor, or the Governor's designee, and include the specific nature of the emergency and its possible impacts as related to the criteria and factors in Parts V and VI below. This

request may be made only by the Agreement State that has regulatory authority under which the licensee is operating when the emergency occurs.

2. When the NRC determines an event warrants emergency suspension of an agreement it will follow the guidelines and criteria stated in Parts V below.
3. The Governor and the radiation control program director of the affected State will be consulted and kept fully informed of the actions taken by the NRC. For events which may warrant consideration of emergency suspension but for which there is a reasonable basis for presumption that a State can satisfactorily resolve the emergency situation, the NRC will inform the State of necessary actions that the State should take to avert further consideration of emergency suspension under section 274j(2) and will provide appropriate technical assistance within the limits of its resources.
4. The Executive Director for Operations, in consultation with OSP, NMSS, the involved Regional Office and OGC will issue an order regarding the emergency suspension (Appendix A). The Commission will be kept informed as to the nature of the emergency situation and the actions taken to contain or eliminate the danger (Appendix B).

5. A press release regarding the emergency suspension will be prepared and issued by the Office of Public Affairs (Appendix C).
6. State Programs will coordinate with the Office of Congressional Affairs in order to notify the appropriate State representatives and congressional committees (Appendix D).
7. Notification to the affected licensee or groups of licensees in the State will be made by the Regions after obtaining information regarding the affected licensee or groups of licensees from the Agreement State Radiation Control Program (Appendix E).

V. Minimum Criteria

1. The NRC will consider suspension of an agreement pursuant to Section 274j(2) in the case of an emergency involving byproduct, source or special nuclear material when the situation presents an immediate, significant, or unacceptable threat to the public health and safety and immediate action by the Commission is needed because the Agreement State program is not able to effectively carry out mitigative actions to ensure continued protection of the public health and safety.
2. In evaluating such emergency situations, the NRC staff will consider whether the Agreement State has failed to take, or is

prevented from taking, necessary steps to protect the public health and safety. Factors the staff would consider include:

- A. The timeliness and adequacy of actions being taken by the State in response to the emergency;
 - B. Whether the State can satisfactorily resolve the emergency situation; and
 - C. Whether the State is implementing or is committed to implement program improvements to address systemic deficiencies.
3. The following type of conditions, if not appropriately addressed by the State to prevent the threat or prevent the threat from recurring, are example candidates that could result in a consideration of emergency suspension:
- A. Conditions that caused or threaten to cause individuals to receive a dose exceeding those basic dose limits set forth in Subpart C of 10 CFR Part 20,
 - B. Conditions that caused or threaten to cause individuals members of the public to receive a dose exceeding those basic dose limits set forth in Subpart D of 10 CFR Part 20, or

- C. Conditions that caused or threaten to cause a individuals to receive a dose exceeding those dose limits applicable to a certain class of licenses set forth in other parts of 10 CFR, such as Part 35 limits for patient release.
- D. Conditions specified by the Commission where an emergency has been or appears to need immediate action by the Commission to protect public health and safety.

VI. Withdrawal of Emergency Suspension

When the emergency situation is contained or eliminated, the EDO will consider all factors and recommend to the Commission whether to lift the suspension.

The Executive Director for Operations will notify the Governor of the State the emergency suspension is no longer in effect (Appendix F). Such a decision will be made only after NRC has determined that the conditions which initiated the emergency suspension no longer exist and are unlikely to be repeated. The NRC will inform the State of continuing actions which the State must carry out in order to prevent another emergency.

VII. Impact of the Emergency Suspension

The State's inability to address the emergency situation will be considered by the Management Review Board in the evaluation of the Agreement State's continued ability to protect public health and safety. Depending on the nature of the emergency, it may be necessary to place the State on probation, with NRC heightening its oversight of the program.

Appendices to Emergency Suspension Procedure

Appendix

Subject

- | | |
|---|---|
| A | Order for Emergency Suspension |
| B | Memorandum to the Commission regarding the emergency suspension of all or part of an Agreement. |
| C | Public Announcement to be issued by Public Affairs |
| D | Letters to Congressional Committees concerning the emergency suspension |
| E | Notification to affected Agreement State licensees regarding the emergency suspension |
| F | Notification of lifting suspension |

POST AGREEMENT ACTIVITIES
GUIDELINES FOR TERMINATION OF A SECTION 274b AGREEMENT

I. Introduction

This procedure provides the guidelines that will be followed by NRC when considering whether or not to terminate an agreement pursuant to the authority contained in Section 274j(1) of the Atomic Energy Act.

This procedure will describe the method for processing the termination whether initiated at the request of the State or at the initiative of the NRC.

II. Objectives

The objectives of these procedures are to:

- A. Provide guidelines for timely action on termination of an agreement at the State's request or at the initiation by the NRC staff and
- B. Provide an orderly transition in the discontinuance of certain regulatory authority by the State and assumption thereof by the NRC.

III. Background

Section 274j of the Atomic Energy Act gives the Commission authority to terminate its agreement with a State if such termination is required to protect the public health and safety, or if the State has not complied with one or more of the requirements of the Act (e.g. is found to be not compatible with the Commission's program). Section 274j(1) also provides that an agreement may be terminated at the request of the Governor of a State. When the Commission finds that program deficiencies are such that the State can no longer protect the public health and safety, the Commission will institute proceedings to terminate the agreement with the State. Procedures to address emergency situations to temporarily suspend all or part of an agreement with a State can be found in Procedure_____.

In cases where a State has failed to respond in an acceptable manner during the probationary or suspension period, and there is no prospect for improvement, the Commission may also institute formal proceedings to terminate the agreement. Before reaching a final decision on termination, the Commission will notify the State and provide the State the opportunity for a hearing on the proposed termination as discussed in Part VI. Notice of the proposed termination will also be published in the Federal Register.

IV. Minimum Criteria for Termination

- A. At the request of the Governor, NRC may terminate all or part of its agreement with a State and reassert its authority. The letter should be addressed to the Chairman, NRC, from the Governor. (Appendix A).
- B. The Commission, on its own initiative, will institute formal procedures to terminate an agreement under the following circumstances:
 - 1. The State radiation control program is found to be inadequate to protect public health and safety, and no compensating program has been implemented,
 - 2. The State has been on probation for a period of time during which it failed to respond to NRC concerns regarding the States ability to carry out a program to protect public health and safety, and
 - 3. The State radiation control program is not compatible with the NRC program and the State has refused or is unable to address those areas previously identified as compatibility concerns and the non-compatibility is disruptive to the national program for the regulation of Atomic Energy Act material.

C. The following are examples of situations where NRC would consider initiating formal procedures to terminate an agreement. This list is not inclusive and other situations may require consideration by the Commission at the recommendation of the Management Review Board.

1. Significant loss of staff which includes number of staff or those with critical skills, coupled with a State's inability to hire appropriate replacements
2. Continual management problems which manifest in the State's inability to perform adequate inspections or issue appropriate licenses
3. State's inability to adopt compatible program elements over significant period of time
4. Continued probationary or suspension status for a State program.

V. Management Review Board Role

A. The Management Review Board (MRB) is responsible for making the adequacy assessment of each Agreement State's program based on the reviews of the program, using both common performance indicators and non-common performance indicators, and the compatibility

determination. The management review board consists of senior NRC managers, or their designees, to include:

Executive Director for Operations
Director, Office of Nuclear Material Safety and Safeguards
Director, Office of State Programs
Director, Office of Analysis and Evaluation of Operational Data
General Counsel

- B. The MRB will consider the results of the Agreement State review and any other appropriate information in making a determination of adequacy and compatibility with respect to an Agreement State. MRB meetings to discuss specific program review findings normally will be open and Agreement State representatives will be invited to attend. MRB internal deliberation regarding the overall Agreement State program rating may be closed, given the predecisional nature of those discussions.
- C. If it is the recommendation of the MRB that NRC initiate the proceedings to terminate an Agreement, the Office of State Programs will be assigned the lead for preparation of the Commission paper. The Commission paper will contain the information supporting the termination. The Commission paper will be coordinated with OGC, NMSS and the region.

VI. Staff Work

A. Before the opportunity for hearing and issuance of the Federal Register notice, OSP will draft a Commission paper for the signature of EDO on the termination of regulatory authority in the State based on the initial recommendations of the MRB. In preparation of the Commission paper, the assigned Project manager should coordinate with OGC as to the form or type of Commission paper. The draft Commission paper (Appendix B) should contain the following information:

1. Background information (Appendix C)
2. MRB recommendations (Appendix D)
3. Letter from Governor requesting termination - if appropriate (Appendix A)
4. Proposed Commission Order Reasserting Authority (Appendix E)
5. Proposed Federal Register Notice regarding the Termination and Reassertion of NRC authority (Appendix F)
6. Letter to the Governor regarding the Commission decision (Appendix G)
7. A public announcement to be issued by Public Affairs (Appendix H)
8. Proposed letters to the appropriate Congressional Committees on the Commission Decision (Appendix I)

VII. Hearings

Before the Commission can terminate a State's program, it must provide reasonable notice and opportunity for a hearing to the State as required by Section 274j(1). Section 274j(1) does not require such a hearing if termination is requested by the Governor.

Before the opportunity for a hearing can arise, the Office of State Programs must submit to the Commission a paper containing a recommendation to terminate the State program in question. This Commission paper will include the recommendations of the MRB and any other material pertinent to the staff's recommendation to terminate the Agreement. Before a decision is made on the OSP recommendation, the Commission must provide the State with notice and an opportunity to request a hearing on the issue. If the State does not request a hearing, the Commission will make a final decision on the issue. If the State does request a hearing, the Commission will initiate the hearing process described below.

The hearing for the termination [including the termination of a program that had been previously suspended] of an Agreement State program will be an informal hearing conducted either by the Commission itself, or at the Commission's discretion, by a Special Agreement State Board appointed by the Commission. In cases where the Commission determines that a Special Board will be used, the Board will consist of three members: (1) the chair of the

Organization of Agreement States (OAS) (unless the chair is from the State in question, in which case the Agreement State representative will be the past chair of the OAS); (2) an official from the Office of General Counsel, and (3) the Deputy Director of an NRC regional office (outside of the region in which the State is located).

The Commission, or the Special Board, as appropriate, will conduct an informal hearing to address the issues in question. At the hearing, the NRC staff, representatives of the Agreement State, and interested third parties will have an opportunity to testify, answer questions from the Special Board, and submit written materials. Third parties may submit written material to the Special Board and may testify for a limited period of time. After consideration of the issues, the Commission or the Special Board will issue a decision on termination. A majority of the Commission or the Special Board will be required to support a decision. In cases where a Special Board is used, the Commission will have discretion to review the decision of the Special Board, and either uphold or overturn the Board's decision.

VIII. Agreement State and NRC Activities During Termination Proceedings

During the period of time NRC is pursuing termination of an Agreement with a State, State and NRC activities should be coordinated so that there is continued protection of the public health and safety. The

State should be urged to request technical assistance in any area where there is a concern regarding the State's ability to carry out its responsibilities under the Agreement. OSP will coordinate with the State, region and NMSS as to the necessary technical assistance to continue the protection of public health and safety.

IX. Additional Coordination After Terminations

- A. NRC will conduct a meeting with the licensees in the State to explain the reassertion of NRC authority and the present fee structure. Lead for the meeting should be the Region in consultation with NMSS, OGC and OC.
- B. After the termination of the Agreement, OSP will prepare a letter to the Department of Labor advising the Department of the effective date of the termination of the Agreement (Appendix K).
- C. The Regional State Agreements Officer (RSAO) should obtain from the State a computer printout of all specific and general licenses under the State's agreement. Mailing labels should be obtained if possible from the State. A letter should be prepared notifying each licensee of the termination, reassertion by NRC and appropriate information (Appendix L).
- D. OSP will prepare a letter to all Agreement and Non-Agreement States notifying them of the effective date of the termination

and, if appropriate, enclosing a copy of the order or Federal Register notice (Appendix M).

E. The RSAO will coordinate with the State so that all necessary action is taken to have the files for the licenses transferred to the NRC.

X. Renewed Interest in 274b

After a State has terminated an agreement, it may at a later date express interest in obtaining a new agreement. The State should be treated as other non-agreement States interested in agreements and Procedure C.1 for processing new agreements should be followed for these negotiations.

Appendices to Termination Procedure

<u>Appendix</u>	<u>Subject</u>
A	Letter from Governor requesting NRC reassert its authority
B	Commission Paper for reassertion of NRC authority in an Agreement State and special board for hearings
C	Background information on the Agreement State
D	Management Review Board recommendations
E	Proposed Commission Order Reasserting Authority
F	Proposed Federal Register Notice regarding Reassertion
G	Letter to Governor regarding the Commission decision on termination
H	Public Announcement to be issued by Public Affairs
I	Letters to Congressional Committees
J	Special Board's report to Commission on hearings
K	Letter to Department of Labor on termination
L	Letter to licensees regarding termination and reassertion
M	Letter to All States regarding termination and reassertion

[7590-01-P]

NUCLEAR REGULATORY COMMISSION

Draft Policy Statement on Agreement State Program

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft Policy Statement on Agreement State Program.

The Nuclear Regulatory Commission staff is releasing the proposed policy statement on the Agreement State Program for public comment. The draft policy statement establishes Agreement State program principles, and describes the respective roles and responsibilities of the NRC and the States in the administration of this program, which is authorized by Section 274 of the Atomic Energy Act of 1954, as amended. Agreement States are States which have assumed regulatory authority from NRC over the possession and use of certain radioactive materials.

On August 25, 1993, the Commission requested the NRC staff to recommend improvements to the NRC's Agreement States Program to assure adequate protection of the public health and safety. This draft policy statement responds to the first area the Commission requested be considered, "improvements in guidance and principles of operations for the Agreement State Program." This draft document is an "umbrella" policy statement which will serve as broad guidance in delineating the NRC's and the State's

9408160089

1-10-17

respective responsibilities and expectations. In this regard, the NRC especially requests comments on the following:

The Commission has proposed that the categories of findings made about adequacy of an Agreement State's program be Adequate, Marginally Adequate and Inadequate. For the Marginally Adequate finding, the NRC action could be either (a) followup reviews, or (b) probation with followup reviews, depending on whether or not NRC were confident that the State would address the program deficiencies in an expeditious and effective manner. Comment is requested as to whether these three categories are appropriately and sufficiently descriptive of the performance, or whether the "Marginally Adequate" category needs to be subdivided such that States placed on probation are not identified in the same category as those which are not placed on probation.

In addition to the draft proposed "Statement of Principles and Policy For the Agreement State Program," a document provided to the Commission entitled "Specific Review Area Recommendations," and draft internal procedures on the NRC process to be applied when a State agreement is suspended or terminated, also are being made available for public comment. We also request specific comments on the use of 10 C.F.R. Part 2, Subpart L "Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings" for suspension and termination decisions, in lieu of the hearing procedures detailed in the internal

procedures published with this Notice for suspension and termination of an agreement, sections V and VI, respectively.

The staff is soliciting comments from the Agreement States and the public at this informal stage by publishing the documents and also placing them in the Nuclear Regulatory Commission's Public Document Room located at 2120 L Street, NW. (Lower Level), Washington, DC. Comment period expires (60 days after publication in the Federal Register). Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date. Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Services Branch. Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 am and 4:15 pm on Federal workdays. For further information contact Ms. Maria Lopez-Otin, Federal Liaison, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504-2598. Once the comments are received, the staff will develop a final draft of the policy statement for Commission review. After obtaining Commission approval, the proposed policy statement will once again be issued for a final round of public comment.

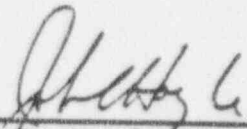
Two other policy statements continue to be applicable, in large part, but future revisions to these existing policy statements

will be necessary to reflect the new "umbrella" policy statement. The two existing policy statements are: "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement" (46 FR 7540; January 23, 1981 as amended by policy statements published at 46 FR 36969; July 16, 1981 and 48 FR 33376, July 21, 1983) and "NRC Review of Agreement State Radiation Control Programs, Final General Statement of Policy" (57 FR 22495; May 28, 1992).

This draft statement of policy does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (434 U.S.C. 3501 et seq.).

Dated at Rockville, Maryland this 29th day of July, 1994.

For the Nuclear Regulatory Commission.



John C. Hoyle, Acting
Secretary of the Commission.

ENCLOSURE 4

(The Commission limited the role of the Management Review Board (MRB) to a review of reports related to the pilot program. As a result, reference to MRB activities were not incorporated into Management Directive 5.6 as noted in this Enclosure. Following the completion of the pilot program the Commission intends to reevaluate the role of the MRB).