

March 8, 1996

FOR: The Commissioners  
 FROM: James M. Taylor /s/  
 Executive Director for Operations  
 SUBJECT: TO SEEK AUTHORIZATION TO ACCEPT RELINQUISHMENT OF SEALED SOURCE AND DEVICE EVALUATION AUTHORITY  
 FROM THE AGREEMENT STATES OF IOWA, NORTH DAKOTA, AND UTAH

## PURPOSE:

To obtain Commission approval to accept relinquishment of sealed source and device (SS&D) evaluation authority from the Agreement States of Iowa, North Dakota, and Utah, effective April 1, 1996.

## SUMMARY:

This paper addresses the requests from the Governors of Iowa, North Dakota and Utah to relinquish SS&D authority; and seeks Commission approval of their requests. Proposed responses from the Chairman to the Governors and a proposed Federal Register Notice announcing NRC's intention to reassert authority for SS&D in these States are attached.

## BACKGROUND:

On June 30, 1995, the Commission approved the staff's recommendation to adopt Option 2 in SECY-95-136 - OPTIONS TO IMPROVE AND STANDARDIZE THE EVALUATION AND APPROVAL OF SEALED SOURCES AND DEVICES MANUFACTURED IN AGREEMENT STATES. Option 2 provides a process for an Agreement State to voluntarily return the SS&D portion of their program. The process indicates that a letter from the Governor, requesting relinquishment of SS&D evaluation authority and assumption of that authority by the NRC, should be submitted to the Chairman. Other than the request, no detailed supporting basis or rationale is required.

It should be noted that the relinquishment of SS&D evaluation authority by Agreement States does not apply to the licensing of manufacturers of SS&Ds. Consequently, the Agreement States would continue to retain their authority to license manufacturers.

On July 25, 1995, the Office of State Programs sent an All Agreement States Letter (SP-95-116) notifying the States of the Commission approval of Option 2. To date, only the Agreement States of Iowa, North Dakota, and Utah have requested relinquishment of SS&D evaluation authority. Seven other Agreement States and Massachusetts have indicated that they prefer to retain SS&D approval authority. They are: Florida, Illinois, Nevada, South Carolina, Tennessee, Texas, and Washington. Other Agreement States have not responded.

Following the process established in SECY-95-136, the staff is providing the letters from the Governors of Iowa, North Dakota, and Utah; proposed responses to the Governors to be signed by the Chairman accepting the Governors' requests; and a proposed notice to be published in the Federal Register announcing NRC's intention to reassert SS&D evaluation authority in those States.

## DISCUSSION:

North Dakota Governor, Edward T. Schafer, wrote to Richard L. Bangart, Director, Office of State Programs, on September 25, 1995, that the State wished to relinquish its SS&D authority ([Attachment 1](#)). Although no explanation was required, the Governor stated that the State has not performed SS&D evaluations in the past and believes it is not likely that any devices containing radioactive material will be produced in North Dakota in the near future. (Note: The staff found out that North Dakota did two customized evaluations in 1983 and has done none since that time. The State is now aware of that fact.) In addition, the Governor noted such evaluations require large personnel resource requirements that are not within the scope of a regulatory program the size of the North Dakota program.

Utah Governor, Michael O. Leavitt, wrote to Chairman Jackson on January 16, 1996, requesting relinquishment of its SS&D evaluation authority and assumption by the NRC ([Attachment 2](#)). The Governor stated that Utah has performed a very limited number of SS&D evaluations and it is not likely that any devices requiring evaluation will be produced in Utah in the near future. The Governor stated that the State could not justify the investment in staff training and program maintenance in light of the limited demand for this individual component of its radiation safety program.

Iowa Governor, Terry E. Branstad, wrote to Chairman Jackson on January 22, 1996, requesting relinquishment of its SS&D evaluation authority ([Attachment 3](#)). The Governor stated that to properly fund and maintain a properly trained staff would not be cost effective because the State of Iowa has no licensed manufacturer of devices containing radioactive materials; however, the Governor stated Iowa would retain its authority to license manufacturers. (Note: The letter should read Option #2 instead of Option #3.)

The staff has drafted proposed responses to Governors Schafer, Leavitt, and Branstad to be signed by the Chairman, accepting their requests ([Attachments 4, 5, and 6](#)). In accordance with SECY-95-136, an effective date is proposed, April 1, 1996, to provide for an orderly assumption of authority by the NRC.

The staff has drafted a proposed notice to be published in the Federal Register announcing NRC's intention to reassert SS&D evaluation authority in Iowa, North Dakota, and Utah ([Attachment 7](#)). The effective date of April 1, 1996, is identified in that Notice.

## RESOURCES:

Since only a small number of sealed source and device evaluations were conducted by North Dakota and Utah and none by Iowa, NRC resumption of regulatory authority will have essentially no resource impacts at this time.

## RECOMMENDATION:

The staff recommends that the Commission approve the letters to the Governors of Iowa, North Dakota, and Utah; and authorize the staff to have the proposed notice published in the Federal Register.

Coordination:

The Office of General Counsel has no legal objection to this paper.

James M. Taylor  
Executive Director for Operations

Contact: Stephen N. Salomon, OSP  
415-2368

Attachments: 1. [Letter from Governor of North Dakota](#)  
2. [Letter from Governor of Utah](#)  
3. [Letter from Governor of Iowa](#)  
4. [Proposed response to North Dakota Governor Schafer](#)  
5. [Proposed response to Utah Governor Leavitt](#)  
6. [Proposed response to Iowa Governor Branstad](#)  
7. [Proposed Federal Register Notice](#)

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[ATTACHMENT 4](#)

The Honorable Edward T. Schafer  
Governor of North Dakota  
Bismarck, North Dakota 58505-0001

Dear Governor Schafer:

Thank you for your letter of September 25, 1995, requesting relinquishment to the Nuclear Regulatory Commission of North Dakota's authority to evaluate and approve sealed source and device applications.

The Commission accepts your request and will assume regulatory authority for sealed source and device evaluations within the State of North Dakota effective April 1, 1996. Resumption of authority by NRC will be noticed in the Federal Register prior to April 1, 1996.

Your staff may contact Richard L. Bangart, Director, Office of State Programs, at (301) 415-3340, if they have any questions regarding this matter.

Sincerely,

Shirley Ann Jackson

cc: Dana K. Mount, Director  
Division of Environmental Engineering  
North Dakota Department of Health

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[ATTACHMENT 5](#)

The Honorable Michael O. Leavitt  
Governor of Utah  
Salt Lake City, Utah 84114-0601

Dear Governor Leavitt:

Thank you for your letter of January 16, 1996, requesting relinquishment to the Nuclear Regulatory Commission of Utah's authority to evaluate and approve sealed source and device applications.

The Commission accepts your request and will assume regulatory authority for sealed source and device evaluations within the State of Utah effective

April 1, 1996. Resumption of authority by NRC will be noticed in the Federal Register prior to April 1, 1996.

Your staff may contact Richard L. Bangart, Director, Office of State Programs, at (301) 415-3340, if they have any questions regarding this matter.

Sincerely,

Shirley Ann Jackson

cc: William J. Sinclair  
Division of Radiation Control  
Utah Department of Environmental Quality

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[ATTACHMENT 6](#)

The Honorable Terry E. Branstad  
Governor of Iowa  
Des Moines, Iowa 50319

Dear Governor Branstad:

Thank you for your letter of January 22, 1996, requesting relinquishment to the Nuclear Regulatory Commission of Iowa's authority to evaluate and approve sealed source and device applications.

The Commission accepts your request and will assume regulatory authority for sealed source and device evaluations within the State of Iowa effective

April 1, 1996. Resumption of authority by NRC will be noticed in the Federal Register prior to April 1, 1996.

Your staff may contact Richard L. Bangart, Director, Office of State Programs, at (301) 415-3340, if they have any questions regarding this matter.

Sincerely,

Shirley Ann Jackson

cc: Donald A. Flater, Chief  
Bureau of Radiological Health  
Iowa Department of Public Health

ATTACHMENT 7

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### Iowa, North Dakota and Utah; Relinquishment of Sealed Source and Device Authority and Assumption by the Commission

**AGENCY:** Nuclear Regulatory Commission

**ACTION:** Notice of Assumption of Sealed Source and Device Evaluation Authority from the States of Iowa, North Dakota and Utah

**SUMMARY:** Notice is hereby given that effective April 1, 1996, the Nuclear Regulatory Commission will assume regulatory authority for sealed source and device evaluations in response to requests from the Agreement States of Iowa, North Dakota and Utah to relinquish that authority.

**EFFECTIVE DATE:** April 1, 1996

**FOR FURTHER INFORMATION CONTACT:** Stephen N. Salomon, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Phone (301) 415-2368. Internet: SNS@NRC.GOV.

**SUPPLEMENTARY INFORMATION:**

The Nuclear Regulatory Commission received letters from North Dakota Governor Edward T. Schafer (September 25, 1995), Iowa Governor Terry E. Branstad (January 22, 1996), and Utah Governor Michael O. Leavitt (January 16, 1996) requesting the relinquishment of their sealed source and device authority and the assumption, thereof, by the Commission. The Governors note there has been little or no need to conduct such evaluations in the past and given no future prospects for device evaluations, they do not believe they can continue to justify the costs to the State to maintain this authority.

The Commission has accepted their requests and has notified these Agreement States that effective April 1, 1996, the Commission will assume authority to evaluate and approve sealed source and device applications within these States.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

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John C. Hoyle, Secretary  
U.S. Nuclear Regulatory Commission