

**Strategic Assessment and Rebaselining
Agreement State/NRC Regulators' Meeting**

October 23, 1996



ATTENDEES: See Attached list.

SUMMARY OF DISCUSSION: See attached agenda.

The discussions at the Strategic Assessment and Rebaselining Agreement State/NRC Regulators' Meeting were informal. The discussions were not recorded by a court reporter; instead this meeting summary along with the attached written comments submitted by the Organization of Agreement States (OAS), letter dated October 21, 1996 to Chairman Shirley Jackson, will serve as the record for this meeting. It was noted by the States that the individual State views attached to the October 21, 1996 letter are draft and may be revised and resubmitted to the NRC. In addition to discussing the attached written comments, the OAS and other participants submitted the following additional comments for the record on the issue papers.

DSI-2: Oversight of the Department of Energy (DOE)

- The Agreement States indicated that the NRC should seek changes needed to regulate DOE. The Conference of Radiation Control Program Directors, Inc. (CRCPD) and OAS recommended that NRC actively pursue obtaining authority to regulate all DOE facilities, including the regulation of the decommissioning of DOE facilities. They also felt that NRC regulation of Pantax and U.S. Enrichment Corporation (USEC) would be consistent with the role of NRC. In addition, the Agreement States felt NRC should also seek regulatory authority over naturally-occurring and accelerator produced radioactive material (NARM) since some DOE facilities currently possess NARM. Moreover, one State representative indicated that they would prefer the NRC to merge its regulation with that of the Defense Nuclear Facility Safety Board (DNFSB) since NRC has oversight for protection of public health and safety.
- The State representatives indicated that the regulation of DOE facilities should be performed in a partnership manner with the Agreement States since Agreement States have had considerable experience in the regulation of DOE facilities. They cited, for example, their experience in regulating DOE hazardous waste activities. The OAS stated that the partnership between NRC and the States to regulate DOE facilities could be constructed similar to the Agreement State Program or similar to EPA's delegation of authority program. In addition, the States felt that the resource impacts for regulation of DOE were workable; however, they thought that such a program might take several years to implement.

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- The OAS representatives felt that the regulation of DOE and other federal agencies should not be funded by the fees of NRC licensees. They indicated that DOE and other federal agencies should pay NRC for regulatory oversight.
- In general, the CRCPD and OAS felt that the NRC should work closely with Agreement States to involve Agreement States more in regulatory activities. They believe that Agreement States should be involved as co-partners. In addition, they indicated that the Federal government should waive sovereign immunity and the NRC contract Agreement States to perform some of NRC's regulatory activities.
- One representative from the State disagreed with the statement in DSI-2, page 15, paragraph 4, first sentence, "Decontamination would also be excluded from the facility safety regulatory's purview."

DSI-20: International Programs

- The OAS representatives indicated that the paper did not address the Agreement State role in international program activities. An example cited was the use of Agreement State staff in the training of regulators from other countries.
- The OAS supported Option 3, Conduct Activities of Benefit to NRC's Domestic Mission, as the preferred option. They indicated that this option would free-up funds to train Agreement States.
- Questions were raised regarding imported materials. It was questioned to what extent and how does NRC ensure that these devices are well designed, and how are manufacturers of these devices inspected. It was noted that this also may apply to pharmaceuticals. In addition, it was questioned whether States need to perform a separate evaluation of these reviews. In addition, the question of whether Illinois can conduct the review of Amersham's German facility was raised.

DSI-4: NRC's Relationship with Agreement States

Section of Paper: Background/Bases

- On page 4, paragraph 3, line 2 of DSI 4, one State representative indicated that the word "specific" should be added after "15,000." In addition, a State representative indicated that this section should indicate that the States regulate 100,000 general licenses.

Section of Paper: Funding of Training, Travel and Technical Assistance

- One State indicated that although they are capable of developing their own training program for their personnel, they find that the training provided by the NRC is valuable in terms of enhancing the compatibility, consistency and uniformity of NRC and Agreement States personnel. The OAS and other State representatives indicated that this uniformity of training ensures that Agreement State personnel

adequately respond to incidents which sometimes involve NRC regulated materials, such as States responding to inadequate disposal of NRC-licensed material. A State representative, quoted NUREG-1311, "Funding the NRC Training Program for States," in saying that training funding is important. In addition, the State representatives noted that NRC sponsored training has the advantage of giving a single viewpoint, rather than diverging views which may come from industry sponsored training. In addition, the OAS and State representatives indicated that NRC sponsored training will be more cost-effective in maintaining compatibility between NRC and Agreement State Programs. The representatives also felt that the lack of NRC sponsored training could lead to problems and inconsistencies.

- State representatives indicated that it may be extremely difficult to adequately train staff with the combination of paying for both travel and training costs. It was noted that some State personnel currently have difficulty getting out-of-State travel approval to attend NRC training courses and meetings. It was further noted that some States require staff to take leave to attend NRC training courses and meetings.
- State representatives were concerned that there were no discussions on their contributions to the NRC in carrying out its mission and to the national radiation protection program. State representatives cited examples that included that Agreement States have provided instruction at NRC-sponsored training courses, have participated in NRC's Integrated Materials Performance Evaluation Program (IMPEP) reviews, have provided assistance to NRC in inspecting off-shore oil well sites and have provided assistance to NRC and other federal agencies on some international issues without any reimbursement.
- With regard to the costs for NRC regulation development being paid solely by NRC licenses, even though these activities benefit all Agreement States, the States indicated that this activity would have to be borne by the NRC anyway. In addition, the State of Arizona pointed out that although the NRC develops regulations, each Agreement State must still go through regulatory analysis and justification of each regulation adopted by the NRC even though the NRC develops draft rules. Additionally, the OAS, CRCPD, and other State representatives indicated that the cost of regulation development should not be derived from the fees paid by NRC licensees.

Section of Paper: Options

Option 1: Turn the Agreement States Program over to the EPA

- The States asked the question, "Why wasn't the FDA considered instead of EPA in terms of taking the Agreement State Program." The OAS and other State representatives felt that since FDA currently regulates many other uses of radiation, it would be more suitable to assume the Agreement State Program from the NRC than EPA. The commenters noted that EPA currently regulates these materials in the waste disposal area *only*.

Option 2: Strongly Encourage States to Become Agreement States

- The States raised concern regarding how the NRC derived the number, "500," as being the number of licensees necessary to maintain a viable NRC materials program. The States indicated that many Agreement States are able to maintain viable materials programs with far fewer licensees.
- Some Agreement States believe that States do not get that much benefit from seed money. However, representatives from Ohio indicated that the NRC could have helped them start up with seed money.

Option 3: Continue the Current Agreement States Program, Including Adopting Current Initiatives

- The OAS stated that Agreement States and NRC should jointly develop model regulations. They indicated that States would work with NRC on developing regulations and would get involved in advance of completion of a draft rule, as opposed to concurring in NRC's self-developed regulation.

Section of Paper: Related Issues

- The State representatives were opposed to obtaining funds from the utilities to support radiation environmental monitoring programs for NRC-licensed facilities. They felt that utility funding of this program could create a potential conflict of interest situation. They thought that utility funding would appear to compromise the independence, integrity and confidence of the monitoring program.
- Some Agreement States felt that the cost of the environmental monitoring program around nuclear reactors costs them three times what NRC pays them for this activity. However, there was strong support for NRC continued support of the environmental monitoring program.

DSI-12: Risk-Informed, Performance-Based Regulation

- The Organization of Agreement States (OAS) felt that all of the options presented should be combined.
- The State representatives indicated that the paper should be revised to indicate that the Agreement States assist in the development of regulations.
- The States indicated that there were more prescriptive regulations as opposed to performance based regulations in the materials area. The States cited the training requirements in regulations for licensees as an example of prescriptive materials regulations. Additionally, the States cited radiographers, well-loggers, and, to a lesser extent than the first two, portable gauge users, as specific examples of prescriptive regulations.

DSI-21: Fees

- A State representative stated that the NRC should not allow the collection of fees from licensees to drive its program. The States believe that the NRC should include in its program funding for Agreement State training, travel and technical assistance. The States recommended that the NRC seek guidance from FDA on its training program for x-ray machines and medical accelerators.
- The OAS and other State representatives indicated that the NRC should seek appropriates from Congress for the funding of the travel, training, and technical assistance for Agreement States. They also indicated that they should be involved in NRC's next Congressional budget hearing.

DSI-7: Materials/Medical Oversight

- The States disagreed with the discrete NARM resource estimates included in the paper.
- With regard to Option 3, Decrease Oversight of Low-Risk Activities with Continued Emphasis on High-Risk Activities, the State representatives indicated that they are willing to evaluate this option. However, they indicated that reduction in licensing requirements should be carefully thought out.

**Strategic Assessment and Rebaselining Agreement State/NRC Regulators'
Meeting**

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ATTENDEES LIST

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AGREEMENT STATE/NRC REGULATORS' MEETING

OCTOBER 23, 1996

8:30 a.m.	Introduction and Meeting Purpose R. L. Bangart
8:45	Strategic Assessment and Rebaselining Overview and Status James L. Milhoan John Craig Clare DeFino
9:15	Discussion of DSIs 2, 4, 5, 7, 9, 12, 21 Agreement State Representatives NRC Steering Committee Representative(s)
11:30	Lunch
1:00 p.m.	Discussion of DSIs 2, 4, 5, 7, 9, 12, and 21 (Cont'd)
4:30	Major Discussion Points Summary Malcolm Knapp Agreement State Representatives
5:00	Adjourn