

DLD (SPD3)

RAB2  
PHLSTATE OF COLORADO SLDRoy Romer, Governor  
Patti Shwiyder, Executive Director

Dedicated to protecting and improving the health and environment of the people of Colorado

4300 Cherry Creek Dr. S.  
Denver, Colorado 80222-1530  
Phone (303) 692-2000Laboratory Building  
4210 E. 11th Avenue  
Denver, Colorado 80220-3716  
(303) 691-4700Colorado Department  
of Public Health  
and Environment

DEC 11 1996

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

RE: Proposed 274b Agreements with States

Dear Mr. Bangart:

The proposed Management Directive 5.8, "Proposed 274b Agreements with States" appears reasonable; we agree with the concept of phasing the discontinuance of NRC's authority in a new Agreement State.

The draft Agreement has been compared with Colorado's Agreement. It appears the NRC is proposing new criteria that could be counter productive toward the goal of protecting public health and safety in an efficient and effective manner.

Article VI appears to formalize the Commission's role as the director of radiation standards and programs, rather than as a cooperating agency. The basis for the Agreement should be 42 USC Sec. 2021. Under Subchapter I - General Provisions, the following is found:

(a) Purpose - It is the purpose of this section -

(2) to recognize the need, and establish programs for, cooperation between the States and the Commission with respect to control of radiation hazards associated with use of such materials;

(g) Compatible radiation standards

The Commission is authorized and *directed to cooperate with the States* in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. [Emphasis added]

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Colorado's Agreement states "The Commission will use its best efforts to cooperate with the State . . . in the formulation of standards and regulatory programs of the State and the Commission . . . and to assure that State and Commission programs . . . will be coordinated and compatible." Clearly, in Colorado's Agreement, the Commission is committed to cooperate with Colorado in the development of radiation programs - not just regulations. Colorado's commitment to cooperate with the Commission is listed separately.

Rather than both agencies clearly and independently pledging to cooperate, the new Agreement states "The State agrees to cooperate with the Commission . . .". This puts the State in a subservient role. This was not the intent of Congress, and should not be acceptable to Agreement States. The Commission's preliminary determination in Direction-Setting Initiative 4, *NRC's Relationship with Agreement States*, was ". . . in favor of encouraging more states to become Agreement States . . . through intangible incentives . . .". Participating with states to develop regulatory programs is an incentive. Requiring a state to "cooperate with the Commission" is a disincentive.

Also, Colorado has a requirement that "the State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective . . . licensing, inspection and enforcement policies and criteria . . .". The NRC often changes policies and procedures that affect states without allowing states to participate in the development of those policies. If the NRC and states cooperate in the development of policies and procedures, both the Commission and Agreement States would have better overall programs.

The last paragraph of the proposed Article VI should be deleted from the Agreement. It requires the states to "report to NRC all immediately reportable, 24- hour reportable and 30-day reportable events reported to the state by its licensees." At the current time, states should report such data, and this reporting should continue as long as it can be shown that the reports have utility. However, over time it may be determined that sending these reports to the NRC does not reduce exposures. If this is the case, states should not be required to amend their Agreements in order to end these submissions.

If you have any questions, please call me at (303) 692-3030.



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Case Ref. Copy SP-A-4  
SP-C-6  
SP-AE-5

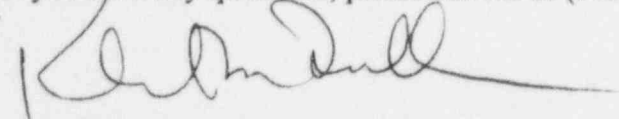
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Case - Ref. Copy SP-AG-5

SP-A-4

SP-C-6



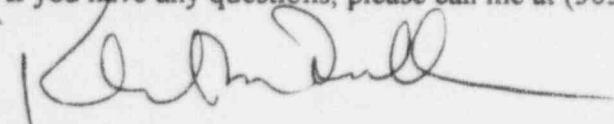
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