



STATE OF TENNESSEE
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
Division of Radiological Health
Third Floor, L & C Annex
401 Church Street
Nashville, TN 37243-1532

December 11, 1996

Office of State Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Paul Lohaus, Deputy Director

Dear Mr. Lohaus:

The Tennessee Department of Environment and Conservation's Division of Radiological Health recently received your draft Management Directive 5.8, "Proposed 274b Agreements With States." Attached are the Division's comments concerning this document.

The Division appreciates the opportunity to review and comment on this draft management directive, and looks forward to commenting on future topics.

Sincerely,

Michael A. Page
Health Physicist
Licensing/Registration/Planning
Division of Radiological Health

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**Comments Concerning
Proposed Management Directive 5.8
"Proposed 274b Agreements with States"**

An first glance, the proposed "formal implementation process" seems harmless enough and if thoughtfully implemented would probably enable more states to eventually become Agreement States and allow NRC to operate more efficiently under ever increasing budget constraints. However, there are some areas of concern that should be considered if not changed. These areas are as follows:

1. Would the Agreement State's Inspectors, during the initial phase, receive training for inspecting more complex categories of licensees before the second phase is implemented, or would the transfer of all categories of licensees be "judged" only upon the Agreement State's IMPEP review which would be based on the State's experience with categories of licensees with programs of lesser complexity?
2. Part of the Agreement protocol provides that the Regional NRC Office in which the State is located will "invite inspectors from the State seeking an agreement to accompany regional staff on inspections conducted in that State prior to the agreement." Should this not be a prerequisite instead of an invitation?
3. In addition, the Agreement protocol provides that the Regional NRC Office in which the State is located will "assure, to the extent practicable, that licensing and inspection backlogs are as small as possible for licensees in the State seeking an agreement." Should a backlog of any kind exist before the "Initial Phase" is implemented? If so, it should be at a very minimum. NRC should clearly define "to the extent practicable." How would licensing and inspection backlogs be "graded" during the IMPEP review before the "Second Phase?" What type of message is NRC sending when it will only grant you limited control over licensees in your State when an agency of NRC's magnitude could not manage the radiation safety program in your State adequately?
4. Would the personnel in the State seeking the Agreement receive training from the NRC in regulating those licensees of greater complexity before the "Second Phase" is implemented? How will training in general be addressed? Who will pay? The training of personnel for the State seeking the Agreement would seem to be one the most important issues of this "phase in process."
5. NRC includes "the regulation of the land disposal of byproduct, source, or special nuclear waste materials received from other persons" in the categories of licensees with programs of lesser complexity. What is NRC thinking about? Is there a more complex radiation program, or, for that matter, a higher profile issue to the general public than the land disposal of radioactive material in their own State?
6. Finally, should NRC even consider changing the mechanism by which a State becomes an Agreement State? Some detractors might debate that this proposal only "dilutes" the problems NRC has within its own agency, and this solution could possibly make the existing problems of regulating radioactive material worse by developing additional layers of bureaucracy that will have to be sorted through to solve potential problems.



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