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KEVIN W. CONCANNON
COMMISSIONER

December 16, 1996

Pavi Lohaus, Deputy Director
Office of State Programs
US Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: Proposed Management Directive 5.8, "Proposed 274B Agreements With States"

Dear Mr. Lohaus

Thank you for offering this opportunity to comment on the proposed revision to Management Directive 5.8. This revision would create a phased implementation for the agreement process. As the most recent Agreement State, Maine is fully aware of the unexpected burdens placed on a program when assuming authority over byproduct materials and the impacts on both the program and the licensee when things go awry. The phased approach does offer some advantage, but the NRC has failed to address several key issues.

The reasons cited for this proposal are to provide for an orderly transition of regulatory control and to help identify areas in a State's program that may require "additional guidance" from the NRC prior to assuming authority over all licensees. Specifically, the NRC would retain authority over priority 1 and 2 licensees until such time as the State was deemed able to assume these licenses.

The NRC offers the State the opportunity to accompany NRC inspectors on inspections of facilities that remain under NRC jurisdiction. However, this proposal does not adequately address the need for licensing experience for these more complex licensees. And actually seems to downplay the need for enhanced licensing experience for these priority 1 and 2 licensees. Our experience is that licensing issues were much more challenging and more time consuming than inspections. A more beneficial approach would be to detail NRC licensing staff to the state to assist and guide state staff through all licensing actions.

The second key area is funding. The NRC fails to discuss how fees from these licensees would be managed. Presumably, the NRC will continue to collect fees from these licensees. If true, the NRC has failed to recognize the negative impacts this loss of funding will have on fee recovery states. The obvious impact will be inability to fund personnel with the potential outcome of inadequate or inexperienced personnel identified at the end of the first phase IMPEP.

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I do appreciate that the NRC has identified the transitionary period as a critical time for an Agreement State, but I do not believe that the phased approach is necessarily the best option for all states. I would prefer to see several options, from total transfer, as has been past practice, a phased approach, as proposed and detailing of NRC personnel to the state for 3 to 6 months. In this latter approach the NRC would transfer all licenses to the state, the state would receive full funding and perhaps reimburse NRC for travel and per diem as agreed under an agreement for technical support. More importantly, the state would immediately begin developing experience with all licensees and the NRC would provide hands-on, day-to-day guidance. Any licenses in process would be transferred and completed jointly by State/NRC licensing staff.

Thank you for the opportunity to comment. If you have any questions, please feel free to call. My number is 207-287-5698. E-mail to bob.schell@state.me.us.

Sincerely



Robert J. Schell, PE, Manager
Radiation Control Program
Division of Health Engineering

FAX TRANSMITTAL		DATE
TO <i>K. Schuchman</i>	FROM <i>R. Schell</i>	<i>12/16/96</i>
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