



Organization of Agreement States

Robert Quillin, Chair
Richard A. Ratliff, P.E., Past Chair

Roland Fletcher, Chair-Elect
Thomas Hill, Secretary

October 21, 1996

U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Sirs:

As you know, there are currently 29 states that have entered agreements with the NRC under Section 274 of the Atomic Energy Act of 1954. The agreement state program is an excellent example of the ability of states to conduct regulatory programs in an effective and efficient manner. The Organization of Agreement States (OAS) provides a vehicle for Agreement States to interact on common issues that affect individual states or all 29 Agreement States.

The OAS has received comments from individual Agreement States on the Direction Setting Issue Papers issued as part of the NRC's Strategic Assessment of Regulatory Activities. These comments have been summarized for each of the Direction Setting Issue Papers and are attached for consideration in this matter. Many of the individual Agreement States will provide state specific comments as well.

If you have any questions, please contact me.

Sincerely,

Robert Quillin, Chair
Organization of Agreement States
Radiation Control Division
Department of Health
4300 Cherry Creek Drive South
Denver, Colorado 80222-1530

Comments on USNRC's Strategic Assessment and Rebaselining Initiative by the Conference of Radiation Control Program Directors

Direction Setting Issue Paper # 21

"FEES"

State radiation control programs face the same problems as NRC with fee collection. Several states have been directed by their legislatures to collect fees equal to 100% of their radiation control budgets. Fees are assessed to licensees and registrants for regulatory cost. Like NRC, we must also recover cost for many regulatory activities not attributable to licensees and registrants.

Is NRC unique in the federal government in that it is the only agency being required to collect 100% of its budget through fees? Congress should recognize and appropriate NRC funds for areas for which fees should not be collected from licensees, such as Agreement State oversight and international programs.

We support Option 2 because payments of fees should not be considered in deciding whether or not to perform mandated activities. Funds for mandated activities were allocated in the first place from appropriations. Therefore, recouping the costs of performing those activities should not be a determining factor. As stated in the discussion of this option, training for Agreement States is a mandated activity. NRC should not consider charging the Agreement States for training or other "services" provided to the Agreement States, such as technical assistance. Doing so would only force the Agreement States to adopt the same philosophy and charge NRC for services provided. State radiation control programs have, for the most part, technical competence and adequate resources to address problems that arise in the states, but occasional technical assistance from NRC is sometimes necessary. However, if NRC chooses to charge for this service, state programs will be inclined to charge NRC for any technical assistance we provide to them. An example of this technical assistance is the assistance in the survey and coordination work done by the states during the Mexican steel contamination incident and during the polonium air ionizer incidents(3-M). Further, states would need to charge NRC for rule development done on the well logging and industrial radiography rules that were used as models for NRC rule promulgation.

The funding mechanism for fee recovery should remain as it is currently. However, it seems that the NRC should be charging fellow federal agencies for regulatory cost incurred. This should be done either as contract work for special projects or if the fellow federal agency functions the same as a licensee (VA hospitals, DOE facility, U.S. Army, etc.), the applicable license fee should be charged. Interagency contracts are used in state agencies to account for work done, and cost incurred. In many states, fellow state agencies that function as licensees/registrants are charged the applicable license/registration fee, e.g., state DOT's, with moisture density gauges, and most large state universities with broad medical, academic, or research/development licenses. Even though at times, payments involve simply a movement of state funds, it represents an accurate accounting of cost for all agencies. We encourage NRC to develop such cost accounting, rather than passing on the cost of regulating federal agencies and institutions to the fee-paying licensees.



NRC STRATEGIC ASSESSMENT AND REBASELINING INITIATIVE

DIRECTION SETTING ISSUE COMMENT FORM

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Conference of Radiation Control Program Directors

PLEASE CHECK ONLY ONE:

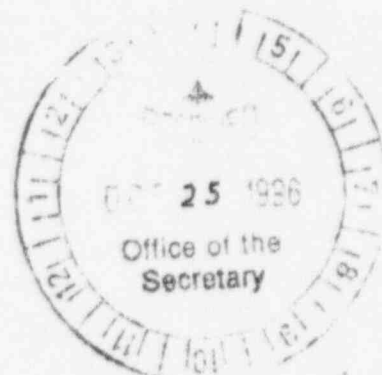
- ☐ DSI 2 - Oversight of the Department of Energy
☐ DSI 4 - NRC's Relationship with Agreement States
☐ DSI 5 - Low-Level Waste
☐ DSI 6 - High-Level Waste
☐ DSI 7 - Materials/Medical Oversight
☐ DSI 9 - Decommissioning - Non Reactor Facilities
☐ DSI 10 - Reactor Licensing for Future Applicants
☐ DSI 11 - Operating Reactor Program Oversight
☐ DSI 12 - Risk-Informed, Performance-Based Regulation

- ☐ DSI 13 - Role of Industry
☐ DSI 14 - Public Communication Initiatives
☐ DSI 20 - International Activities
☒ DSI 21 - Fees
☐ DSI 22 - Research
☐ DSI 23 - Enhancing Regulatory Excellence
☐ DSI 24 - Power Reactor Decommissioning
☐ General

COMMENT:

*See Attached**In addition to the attached comments:*

For the Agreement States there is an issue of practicality of funding for out-of-state travel for training. Staff of many radiation control programs frequently can receive authorization for out-of-state travel only when the travel is funded by sources outside state government.



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