



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

NOV 21 1985

Ref: SA/JOL

MEMORANDUM FOR: John G. Davis, Director, NMSS  
James M. Taylor, Director, IE  
Guy H. Cunningham, ELD  
Harold R. Denton, Director, NRR  
Clemens J. Heltemes, Director, AEOD  
Robert B. Minogue, Director, RES  
Thomas E. Murley, Regional Administrator, RI  
J. Nelson Grace, Regional Administrator, RII  
James G. Keppler, Regional Administrator, RIII  
Robert D. Martin, Regional Administrator, RIV  
John B. Martin, Regional Administrator, RV

FROM: G. Wayne Kerr, Director  
Office of State Programs

SUBJECT: NRC POLICY STATEMENT ON GUIDELINES FOR REVIEW OF  
AGREEMENT STATE PROGRAMS-REQUEST FOR REVIEW

In 1980, NRC published in the Federal Register a proposed Policy Statement, "Guide for Evaluation of Agreement State Programs." Based on the comments received, NRC made changes to the proposed Policy and the Final General Statement of Policy was approved by the Commission and published in the Federal Register on December 4, 1981 (enclosure).

In 1983, the National Governors' Association published a report of its study of the Agreement State program which included the following recommendation:

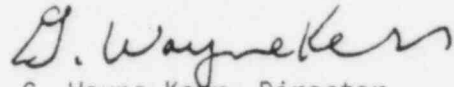
"The present guidelines for evaluating Agreement State programs are considered adequate and offer the proper degree of flexibility in reviewing State programs for adequacy and compatibility. Any proposed changes in the present system should be thoroughly discussed with the States."

We believe that in the nearly 5 years of experience with the present guidelines that they have worked well. Nonetheless, this experience base has suggested that clarifying and editorial amendments could be considered that would enhance the effectiveness of the Policy Statement. Such a process can also afford us an opportunity to review the guidelines in light of present and projected program needs.

We are not including in this review the guidelines related to uranium milling and mill tailings. This aspect will be undertaken as a separate effort following finalization of NRC regulations relating to control of groundwater aspects. The NRC regulations have the potential for affecting a number of the existing guidelines.

I would appreciate your review of the Policy Statement and your views on whether any revisions need to be considered. If your staff is not entirely familiar with the Agreement State program, including the process for reviewing Agreement State radiation control programs for adequacy and compatibility, I would like an opportunity for our staff to meet and familiarize them with it. We will also be glad to meet with you and your staff to informally discuss preliminary questions or comments you may have. Please contact Donald Nussbaumer at 492-7767.

I would appreciate a reply by January 15, 1986.



G. Wayne Kerr, Director  
Office of State Programs

Enclosure:  
As stated

cc: w/encl.  
RSAR's  
RSLO's

hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506:

Date: December 18, 1981.

Time: 9:00 a.m. to 5:30 p.m.

Room: 314.

Program: This meeting will review applications for Summer Stipends in English Literature I, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1982.

The proposed meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose:

- (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (2) Information on a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and
- (3) Information the disclosure of which would significantly frustrate implementation of proposed agency action.

Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724-9367.

Stephen McCleary,

Advisory Committee Management Officer.

(FR Doc. 81-34858 Filed 12-3-81; 8:45 am)

BILLING CODE 7530-01-M

## NUCLEAR REGULATORY COMMISSION

### Evaluation of Agreement State Radiation Control Programs; General Statement of Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Final general statement of policy.

**SUMMARY:** The Nuclear Regulatory Commission is adopting as a general statement of policy the recently revised "Guidelines for NRC Review of Agreement State Radiation Control Programs." This statement of policy is being issued to inform the States and the public of the criteria and guidelines which the Commission intends to use in its periodic evaluations of Agreement State Programs.

**EFFECTIVE DATE:** This general statement of policy is effective on December 4, 1981.

**FOR FURTHER INFORMATION CONTACT:** Donald A. Nussbaumer, Assistant Director for State Agreements Program, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-492-7767.

**SUPPLEMENTARY INFORMATION:** On October 3, 1980, the NRC published in the Federal Register as a proposed General Statement of Policy its "Guide for Evaluation of Agreement State Radiation Control Programs." (45 FR 65726-65734). Interested persons were invited to submit written comments and suggestions on the proposed policy statement during the comment period which expired on December 22, 1980 (45 FR 80937, December 8, 1980). Based on the comments received and the Commission's own evaluation, a number of changes have been made to the policy statement.

This document is organized in much the same manner as the former "Guide." It contains six major sections, each of which deals with a separate program element. These sections are: Legislation and Regulations, Organization, Management and Administration, Personnel, Licensing, and Compliance. As in the former "Guide" each program element contains "Indicators" which address specific functions within the program element. A number of recommended "Guidelines" are listed under each "Indicator." The "Guidelines" replace the former "Guides for Acceptable Practice."

The indicator "Legal Authority" has been taken out of the Organization section and combined with Regulations to form a new section, Legislation and Regulations. The underlying authority granted the radiation control program in State legislation together with implementing regulations form the foundation of any regulatory program and are essential to the effectiveness of that program. A new indicator "Status of Regulations" has replaced "Compatibility." The guidelines under the indicator "Status of Regulations" indicate that certain State regulations must be essentially identical to NRC

regulations and that other regulations must have a high degree of uniformity with NRC regulations. This is basically what is meant by compatibility as it is applied to regulations.

With regard to the Organization section, the only significant change was the moving of the indicator Legal Authority, to a new section.

The section on Management and Administration has been revised in a number of areas. The guidelines under Budget have been revised to list the specific program areas we feel require budgetary support. A specific dollar range, however, has been deleted. With the growing complexity of radiation control programs, (e.g., the additional requirement on States [licensing uranium mills], inflation, and other considerations, it is becoming increasingly difficult to establish specific funding levels which could be useful in comparing State programs. A number of points should be stressed: (1) There have been a number of occasions in the past where States have not met the NRC's recommended guidelines and yet the overall program has functioned satisfactorily; (2) The States utilize a variety of accounting techniques and it has been difficult to develop a guideline that would be generally applicable to all States; (3) Past experience has shown that there is not a strong correlation between budget problems and problems in other program areas. For example, in most States, salaries constitute a major part of the radiation control program budget. There have been a number of cases where a State's overall budget was within the recommended guideline but yet the salaries were too low to recruit and retain adequate staff. Conversely, States with more than adequate salaries have had an overall budget below the recommended guideline. Our conclusion is that the diversity of State programs and the variety of accounting techniques employed by the State makes the use of specific budget level guidelines of little value. Other editorial changes have been made to the Management and Administration section.

The indicator "Duties" has been changed to "Staff Supervision" which we feel more accurately expresses the subject of the guidelines. We have eliminated "salaries" as a separate indicator, and have placed it under a new indicator "Staff Continuity." Salary levels are important only from the standpoint of being able to recruit and retain staff. The indicator "Recruiting" has been eliminated. The guideline relating to job descriptions has been moved to "Qualifications." The

guideline regarding vacancy notification procedures has been eliminated since, as pointed out by one commenter, State recruitment practices vary according to State personnel office procedures. Based on our experience, there does not appear to be any reason for recommending one recruitment practice over another.

Only minor changes have been made to the Licensing section. Under "Licensing Procedures" the guideline pertaining to the preliminary review of applications within 30 days of receipt has been eliminated. The time needed to review an initial license application is a purely administrative matter. An artificial time limit serves no useful purpose. It is the quality of the licensing action that has a bearing on public health and safety. The timely review of licensee renewal applications may, however, be important. The recommended guideline pertaining to the issuance of license expiration notices to licensees 30-60 days prior to expiration has also been eliminated. License renewal is the responsibility of the licensee. The issuance of expiration notices by the State is a purely administrative matter.

No significant changes have been made to the Compliance section.

A number of changes have been made to the Categories assigned to various indicators. Category III has been eliminated. All guidelines previously included in Category III indicators were considered to be more appropriately identified as Category II. A separate Category III is no longer needed.

The "Guidelines for NRC Review of Agreement State Radiation Control Programs" will be used by the NRC staff during its onsite reviews of Agreement State programs. Such reviews are conducted at approximately 18 month intervals or less if deemed necessary. As a result of the review of a State program, the NRC determines that the Agreement State's program is either:

- (1) Adequate to protect the public health and safety; or
- (2) Inadequate to protect the public health and safety.

A program may be adequate to protect the public health and safety although in need of improvement in specified areas. In some cases, the NRC may be unable to make a finding at the time of the review because of unresolved items or inadequate information necessitating a follow-up review. In such cases, NRC follows up on these matters by correspondence, follow-up onsite reviews or at the time of the next regular scheduled review. No significant items will be left unresolved over a prolonged period.

A determination is also made that the program is either:

- (1) Compatible with the NRC Regulatory program in areas related to the public health and safety; or
- (2) Incompatible with the NRC Regulatory program; or
- (3) NRC is unable to make a finding at the time of the review because of unresolved items or inadequate information.

A dispositive finding of adequacy and compatibility is made at the time the staff submits a consolidated assessment to the Commission in an annual report on all Agreement States.

In making a finding of adequacy, the NRC considers areas of the State program which are critical to its primary function, i.e., protection of the public health and safety. For example, a State that does not have qualified personnel, fails to take adequate licensing actions or has no inspection program, would not be considered to have a program adequate to protect the public health and safety. Basic radiation protection standards, such as exposure limits, also directly affect the States' ability to protect public health and safety. The NRC feels that it is important to strive for a high degree of uniformity in technical definitions and terminology, particularly as related to units of measurement and radiation dose. Maximum permissible doses and levels of radiation and concentrations of radioactivity in unrestricted areas as specified in 10 CFR Part 20 are considered to be important enough to require States to be essentially equivalent in this area in order to protect public health and safety. Certain administrative procedures, such as those involving the licensing of products containing radioactive material intended for interstate commerce, also require a high degree of uniformity. If no serious performance problems are found in an Agreement State program and if its standards and program procedures are compatible with the NRC program, a finding of adequacy and compatibility is made. In a case where a State has not formally updated radiation standards in important areas, but other areas of the program are not deficient, a State could be found to be adequate but not compatible with the NRC program. It is also possible that a State program could have up-to-date regulations, all proper procedures, and adequate staff, but still fail to perform the necessary work. In this case, a program could be found to be inadequate to protect the public health and safety, yet compatible with the Commission's program. In the worst case, a program can be found to be both

inadequate and incompatible with the NRC program.

### Guidelines for NRC Review of Agreement State Radiation Control Programs

1981.

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

### Introduction

Section 274 of the Atomic Energy Act was enacted by the Congress in 1959 to recognize the interests of the States in atomic energy, to clarify the respective responsibilities of State and Federal Governments, and to provide a mechanism for States to enter into formal agreements with the Atomic Energy Commission (AEC), and later the Nuclear Regulatory Commission (NRC), under which the States assume regulatory authority over byproduct, source, and small quantities of special nuclear materials, collectively referred to as agreement materials. The mechanism by which the NRC discontinues and the States assume regulatory authority over agreement materials is an agreement between the Governor of a State and the Commission. Before entering into an Agreement, the Governor is required to certify that the State has a regulatory program that is adequate to protect the public health and safety. In addition, the Commission must perform an independent evaluation and make a finding that the State's program is adequate from the health and safety standpoint and compatible with the Commission's regulator program.

### Current Guidelines

In 1980, the NRC staff initiated a major revision of the guide for review of Agreement State programs (two earlier revisions reflected primarily minor and editorial changes). This was necessitated by changes in NRC licensing and compliance policy, the Uranium Mill Tailings Radiation Control Act of 1978 and inflationary impacts on budgeting. In view of increased public interest in radiation control matters and the Agreement State program, the Commission has published these Guidelines, which constitute Commission policy in the form of a document entitled "Guidelines for NRC Review of Agreement State Radiation Control Programs." This document provides guidance for evaluation of operating Agreement State programs based on 20 years of combined AEC-NRC experience in administering the Agreement State program. The



document will be used by the NRC in its continuing program of evaluating Agreement State programs.

The "Guidelines" contain six sections, each dealing with one of the essential elements of a radiation control program (RCP) which are: Legislation and Regulations, Organization, Management and Administration, Personnel, Licensing, and Compliance. Each section contains (a) a summary of the general significance of the program elements, (b) indicators which address specific functions within the program element, (c) categories which denote the relative importance of each indicator, and (d) guidelines which delineate specific objectives or operational goals.

#### *Categories of Indicators*

The indicators listed in this document cover a wide range of program functions, both technical and administrative. It should be recognized that the indicators, and the guidelines under each indicator, are not of equal importance in terms of the fundamental goal of a radiation control program, i.e. protecting the public health and safety. Therefore, the indicators are categorized in terms of their importance to the fundamental goal of protecting the public health and safety. Two categories are used.

*Category I—Direct Bearing on Health and Safety.* Category I Indicators are:

- Legal Authority.
- Status of Regulations.
- Quality of Emergency Planning.
- Technical Quality of Licensing

#### *Actions.*

- Adequacy of Product Evaluations.
- Status of Inspection Program.
- Inspection Frequency.
- Inspectors' Performance and Capability.
- Response to Actual and Alleged Incidents.

- Enforcement Procedures.

These indicators address program functions which directly relate to the State's ability to protect the public health and safety. If significant problems exist in several Category I indicator areas, then the need for improvements may be critical. Legislation and regulations together form the foundation for the entire program, establishing the framework for the licensing and compliance programs. The technical review of license applications is the initial step in the regulatory process. The evaluation of applicant qualifications, facilities, equipment, and procedures by the regulatory agency is essential to assure protection of the public from radiation hazards associated with the proposed activities. Assuring that licensees fulfill

the commitments made in their applications and that they observe the requirements set forth in the regulations is the objective of the compliance program. The essential elements of an adequate compliance program are (1) the conduct of onsite inspections of licensee activities, (2) the performance of these inspections by competent staff, and (3) the taking of appropriate enforcement actions. Another very important factor is the ability to plan for, respond effectively to, and investigate radiation incidents.

*Category II—Essential Technical and Administrative Support.* Category II Indicators are:

- Updating of Regulations.
- Location of Radiation Control Program Within State Organization.
- Internal Organization of Radiation Control Program.
- Legal Assistance.
- Technical Advisory Committees.
- Budget.
- Laboratory Support.
- Administrative Procedures.
- Management.
- Office Equipment and Support Services.
- Public Information.
- Qualifications of Technical Staff.
- Staffing Levels.
- Staff Supervision.
- Training.
- Staff Continuity.
- Licensing Procedures.
- Inspection Procedures.
- Inspection Reports.
- Independent Measurements.

These indicators address program functions which provide essential technical and administrative support for the primary program functions. Good performance in meeting the guidelines for these indicators is essential in order to avoid the development of problems in one or more of the principal program areas, i.e. those that fall under Category I indicators. Category II indicators frequently can be used to identify underlying problems that are causing, or contributing to, difficulties in Category I indicators.

It is the NRC's intention to use these categories in the following manner. In reporting findings to State management, the NRC will indicate the category of each comment made. If no significant Category I comments are provided, this will indicate that the program is adequate to protect the public health and safety. If at least one significant Category I comment is provided, the State will be notified that the program deficiency may seriously affect the State's ability to protect the public health and safety and should be addressed on a priority basis. When

more than one significant Category I comment is provided, the State will be notified that the need of improvement in the particular program areas is critical. The NRC would request an immediate response, and perform a follow-up review of the program within six months. If the State program has not improved or if additional deficiencies have developed, the NRC may institute proceedings to suspend or revoke all or part of the Agreement. Category II comments would concern functions and activities which support the State program and therefore would not be critical to the State's ability to protect the public. The State will be asked to respond to these comments and the State's actions will be evaluated during the next regular program review.

It should be recognized that the categorization pertains to the significance of the overall indicator and not to each of the guidelines within that indicator. For example, "Technical Quality of Licensing Actions" is a Category I indicator. The review of license applications for the purpose of evaluating the applicant's qualifications, facilities, equipment, and procedures is essential to assuring that the public health and safety is being protected. One of the guidelines under this indicator concerns preclicensing visits. The need for such visits depends on the nature of the specific case and is a matter of judgment on the part of the licensing staff. The success of a State program in meeting the overall objective of the indicator does not depend on literal adherence to each recommended guideline.

As a matter of policy, the Commission supports the development of more specific objective measures of Agreement State regulatory performance. The difficulties of implementing this policy are also recognized (e.g., lack of adequate data, lack of cause and effect relationships between State radiation control programs and radiation exposure data, cost of collecting data). Nonetheless, the Commission believes there is potential merit in using objective rather than subjective measures where appropriate. NRC will work toward establishing more quantitative measures on a State-by-State basis to improve the quality and consistency of NRC reviews. Recognition will be given to State unique factors, the difficulty in comparing one State to another, and the availability and cost of data collection. NRC solicits State assistance and suggestions in identifying objective performance indicators.

### General NRC Policy

The "Guidelines for NRC Review of Agreement State Radiation Control Programs" will be used by the NRC staff during its onsite reviews of Agreement State programs. Such reviews are conducted at approximately 18 month intervals, or less if deemed necessary. As a result of the review of a State program, the NRC determines that the Agreement State's program is either:

- (1) Adequate to protect the public health and safety; or
- (2) Inadequate to protect the public health and safety.

A program may be adequate to protect the public health and safety although in need of improvement in specified areas. In some case, the NRC may be unable to make a finding at the time of the review because of unresolved items or inadequate information necessitating a follow-up review. In such cases, NRC follows up on these matters by correspondence, follow-up onsite reviews or at the time of the next regularly scheduled review. No significant items will be left unresolved over a prolonged period.

A determination is also made that the program is either:

- (1) Compatible with the NRC Regulatory program in areas related to the public health and safety; or
- (2) Incompatible with the NRC Regulatory program; or NRC is unable to make a finding at the time of the review because of unresolved items or inadequate information. A dispositive finding is made at the time the staff submits a consolidated assessment to the Commission in an annual report on all Agreement States.

In making a finding of adequacy, the NRC considers areas of the State program which are critical to its primary function, i.e., protection of the public health and safety. For example, a State that does not have qualified personnel, fails to take licensing actions or has no inspection program, would not be considered to have a program adequate to protect the public health and safety. Basic radiation protection standards, such as exposure limits, also directly affect the States' ability to protect public health and safety. The NRC feels that it is important to strive for a high degree of uniformity in technical definitions and terminology, particularly as related to units of measurement and radiation dose. Maximum permissible doses and levels of radiation and concentrations of radioactivity in unrestricted areas as specified in 10 CFR Part 20 are considered to be important enough to require States to be essentially equivalent in this area in order to

protect public health and safety. Certain administrative procedures, such as those involving the licensing of products containing radioactive material intended for interstate commerce, also require a high degree of uniformity. If no serious performance problems are found in an Agreement State program and if its standards and program procedures are compatible with the NRC program, a finding of adequacy and compatibility is made. In a case where a State has not formally updated radiation standards in important areas, but other areas of the program are not deficient, a State could be found to be adequate but not compatible with the NRC program. It is also possible that a State program could have up-to-date regulations, all proper procedures, and adequate staff, but still fail to perform the necessary work. In this case, a program could be found to be inadequate to protect the public health and safety, yet compatible with the Commission's program. In the worst case, a program can be found to be both inadequate and incompatible with the NRC program.

### Guidelines—Legislation and Regulations

The effectiveness of any State radiation control program (RCP) is dependent upon the underlying authority granted the RCP in State legislation, and implemented in the State regulations. Regulations provide the foundation upon which licensing, inspection, and enforcement decisions are made. Regulations also provide the standards and rules within which the regulated must operate. Periodic revisions are necessary to reflect changing technology, improved knowledge, current recommendations by technical advisory groups, and consistency with NRC regulations. Procedures for providing input to the NRC on proposed changes to NRC regulations are necessary to assure consideration of the State's interests and requirements. The public and, in particular, affected classes of licensees should be granted the opportunity and time to comment on rule changes.

Indicators	Category	Guidelines
Legal Authority	I	Clear statutory authority should exist, designating a State radiation control agency and providing for promulgation of regulations, licensing, inspection and enforcement.

Indicators	Category	Guidelines
Status of Regulations	I	States requesting uranium or thorium recovery and associated wastes pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) must have statutes enacted to establish clear authority for the State to carry out the requirements of UMTRCA. Where regulatory responsibilities are divided between State agencies, clear understandings should exist as to division of responsibilities and requirements for coordination.
	II	The State must have regulations essentially identical to 10 CFR Part 20 (radiation dose standards and effluent limits), and those required by UMTRCA, as implemented by Part 40.
Updating of Regulations	I	The State should adopt other regulations to maintain a high degree of uniformity with NRC regulations. The RCP has established procedures for effecting appropriate amendments to State regulations in a timely manner, normally within 3 years of adoption by NRC. For those regulations deemed a matter of compatibility by NRC, State regulations should be amended as soon as practicable but no later than 3 years.
	II	Opportunity should be provided for the public to comment on proposed regulatory changes. (Required by UMTRCA for uranium mill regulations.) Pursuant to the terms of the Agreement, opportunity should be provided for the NRC to comment on draft changes in State regulations.

**Organization**

The effectiveness of any State RCP may be dependent upon its location within the overall State organizational structure. The RCP should be in a position to compete effectively with other health and safety programs for budget and staff. Program management must have access to individuals or groups which establish health and safety program priorities. The RCP should be organized to achieve a high degree of efficiency in supervision, work functions, and communications.

Indicators	Category	Guidelines
Location of Radiation Control Program Within State Organization.	II	The RCP should be located in a State organization parallel with comparable health and safety programs. The Program Director should have access to appropriate levels of State management.
Internal Organization of Radiation Control Program.	II	The RCP should be organized with the view toward achieving an acceptable degree of staff efficiency, place appropriate emphasis on major program functions, and provide specific lines of supervision from program management for the execution of program policy. Where regional offices are utilized, the lines of communication and administrative control between the regions and the central office (Program Director) should be clearly drawn to provide uniformity in inspection policy, procedures and supervision.
Legal Assistance	II	Legal staff should be assigned to assist the RCP or procedures should exist to obtain legal assistance expeditiously. Legal staff should be knowledgeable regarding the RCP program, statutes, and regulations.

Indicators	Category	Guidelines
Technical Advisory Committees.	II	Technical Committees, Federal Agencies, and other resource organizations should be used to extend staff capabilities for unique or technically complex problems. A State Medical Advisory Committee should be used to provide broad guidance on the use of radioactive drugs in or on humans. The Committee should represent a wide spectrum of medical disciplines. The Committee should advise the RCP on policy matters and regulations related to use of radionuclides in or on humans. Procedures should be developed to avoid conflict of interest, even though Committees are advisory. This does not mean that representatives of the regulated community should not serve on advisory committees or not be used as consultants.

Laboratory support services should be administered by the RCP or be readily available through established administrative procedures.

In order to meet program goals, a State RCP must have adequate budgetary support. The total RCP budget must provide adequate funds for salaries, travel costs associated with the compliance program, laboratory and survey instrumentation and other equipment, and other administrative costs. The program budget must reflect annual changes in the number and complexity of applications and licenses, and the increase in costs due to normal inflation.

**Management and Administration**

State RCP management must be able to meet program goals through strong, direct leadership at all levels of supervision. Administrative procedures are necessary to assure uniform and appropriate treatment of all regulated parties. Procedures for receiving information on radiological incidents, emergency response, and providing information to the public are necessary. Procedures to provide feedback to supervision on status and activities of the RCP are necessary. Adequate facilities, equipment and support services are needed for optimum utilization of personnel resources.

Indicators	Category	Guidelines
Quality of Emergency Planning.	I	The State RCP should have a written plan for response to such incidents as spills, overexposures, transportation accidents, fire or explosion, theft, etc. The Plan should define the responsibilities and actions to be taken by State agencies. The Plan should be specific as to persons responsible for initiating response actions, conducting operations and cleanup. Emergency communication procedures should be adequately established with appropriate local, county and State agencies. Plans should be distributed to appropriate persons and agencies. NRC should be provided the opportunity to comment on the Plan while in draft form. The plan should be reviewed annually by Program staff for adequacy and to determine that content is current. Periodic drills should be performed to test the plan.

Indicators	Category	Guidelines	Indicators	Category	Guidelines	Indicators	Category	Guidelines
Budget	II	Operating funds should be sufficient to support program needs such as staff travel necessary to the conduct of an effective compliance program, including routine inspections, followup or special inspections (including pre-licensing visits) and responses to incidents and other emergencies, instrumentation and other equipment to support the RCP, administrative costs in operating the program including rental charges, printing costs, laboratory services, computer and/or word processing support, preparation of correspondence, office equipment, hearing costs, etc. as appropriate. Principal operating funds should be from sources which provide continuity and reliability, i.e., general tax, license fees, etc. Supplemental funds may be obtained through contracts, cash grants, etc.	Management	II	high degree of uniformity and continuity in regulatory practices. These procedures should address internal processing of license applications, inspection policies and procedures, decommissioning, and other functions required of the program. Program management should receive periodic reports from the staff on the status of regulatory actions (backlogs, problem cases, inquiries, regulation revisions). RCP management should periodically assess workload trends, resources and changes in legislative and regulatory responsibilities to forecast needs for increased staff, equipment, services and fundings. Program management should perform periodic reviews of selected license cases handled by each reviewer and document the results. Complex licenses (major manufacturers, large scope—Type A Broad, potential for significant releases in environment) should receive second party review (supervisory committee, consultant). Supervisory review of inspections, reports and enforcement actions should also be performed. The RCP should have adequate secretarial and clerical support. Automatic typing and Automatic Data Processing	Public Information	II	and retrieval capability should be available to larger (>200-400 licenses) programs. Similar services should be available to regional offices, if utilized. Inspection and licensing files should be available to the public consistent with State administrative procedures. Opportunity for public hearings should be provided in accordance with UMTRCA and applicable State administrative procedure laws.
Laboratory Support	II	The RCP should have the capability in-house, or readily available through established procedures, laboratory support to conduct bioassays, analyze environmental samples, analyze samples collected by inspectors, etc. on a priority established by the RCP.						
Administrative Procedures	II	The RCP should establish written internal procedures to assure that staff performs its duties as required and to provide a	Office Equipment and Support Services	II				

### Persounel

The RCP must be staffed with a sufficient number of trained personnel. The evaluation of license applications and the conduct of inspections require staff with in-depth training and experience in radiation protection and related subjects. The staff must be adequate in number to assure licensing, inspection, and enforcement actions of appropriate quality to assure protection of the public health and safety. Periodic training of existing staff is necessary to maintain capabilities in a rapidly changing technological environment. Program management personnel must be qualified to exercise adequate supervision in all aspects of a State radiation control program.

Indicators	Category	Guide for acceptable practice
Qualifications of Technical Staff	II	Professional staff should have bachelor's degree or equivalent training in the physical and/or life sciences. Additional training and experience in radiation protection for senior personnel should be commensurate with the type of licenses issued and inspected by the State.



Indicators	Category	Guide for acceptable practice
Staffing Level	I	Written job descriptions should be prepared so that professional qualifications needed to fill vacancies can be readily identified.  Staffing level should be approximately 1-1.5 person-year per 100 licenses in effect. RCP must not have less than two professionals available with training and experience to operate RCP in a way which provides continuous coverage and continuity.  For States regulating uranium mills and mill tailings, current indications are that 2-2.75 professional person-years of effort, including consultants, are needed to process a new mill license (including mill mill) or major renewal, to meet requirements of Uranium Mill Tailings Radiation Control Act of 1978. This effort must include expertise in radiological matters, hydrology, geology, and structural engineering. <sup>1</sup>  Supervisory personnel should be adequate to provide guidance and review the work of senior and junior personnel.  Senior personnel should review applications and inspect licenses independently, monitor work of junior personnel, and participate in the establishment of policy.  Junior personnel should be initially limited to reviewing license applications and inspecting small programs under close supervision.  Senior personnel should have attended NRC core courses in licensing orientation.

Indicators	Category	Guide for acceptable practice
Staff Continuity	I	Inspection procedures, medical practices and industrial radiography practices. (For mill States, mill training should also be included.)  The RCP should have a program to utilize specific short courses and workshops to maintain appropriate level of staff technical competence in areas of changing technology.  Staff turnover should be minimized by combinations of opportunities for training, promotions, and competitive salaries.  Salary levels should be adequate to recruit and retain persons of appropriate professional qualifications. Salaries should be comparable to similar employment in the geographical area.  The RCP organization structure should be such that staff turnover is minimized and program continuity maintained through opportunities for promotion. Promotion opportunities should exist from junior level to senior level or supervisory positions. There also should be opportunity for periodic salary increases compatible with experience and responsibility.

<sup>1</sup> Additional guidance is provided in the Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.

### Licensing

It is necessary in licensing by product, source, and special nuclear materials that the State regulatory agency obtain information about the proposed use of nuclear materials, facilities and equipment, training and experience of personnel, and operating procedures

appropriate for determining that the applicant can operate safely and in compliance with the regulations and license conditions. An acceptable licensing program includes: preparation and use of internal licensing guides and policy memoranda to assure technical quality in the licensing program (when appropriate, such as in small programs, NRC Guides may be used); prelicensing inspection of complex facilities; and the implementation of administrative procedures to assure documentation and maintenance of adequate files and records.

Indicators	Category	Guidelines
Technical Quality of Licensing Actions	I	The RCP should assure that essential elements of applications have been submitted to the agency, and which meet current regulatory guidance for describing the isotopes and quantities to be used, qualifications of persons who will use material, facilities and equipment, and operating and emergency procedures sufficient to establish the basis for licensing actions.  Prelicensing visits should be made for complex and major licensing actions.  Licenses should be clear, complete, and accurate as to isotopes, forms, quantities, authorized uses, and permissive or restrictive conditions.  The RCP should have procedures for renewing licenses prior to renewal to assure that supporting information in the file reflects the current scope of the licensed program.  RCP evaluations of manufacturer's or distributor's data on sealed sources and devices outlined in NRC, State, or appropriate ANSI Guides, should be sufficient to assure integrity and safety for users.
Adequacy of Product Evaluations	I	

Indicators	Category	Guidelines	Indicators	Category	Guidelines
Licensing Procedures.		The RCP should review manufacturer's information at labels and brochures relating to radiation health and safety, assay, and calibration procedures for adequacy.	Inspection Frequency.		The RCP should establish an inspection priority system. The specific frequency of inspections should be based upon the potential hazards of licensed operations, e.g., major processors, broad licensees, and industrial radiographers should be inspected approximately annually—smaller or less hazardous operations may be inspected less frequently. The minimum inspection frequency should be consistent with the NRC system.
		Approval documents for sealed sources or device designs should be clear, complete and accurate as to isotopes, forms, quantities, uses, drawing identifications, and permissive or restrictive conditions.	Inspectors' Performance and Capability.		Inspectors should be competent to evaluate health and safety problems and to determine compliance with State regulations. Inspectors must demonstrate an understanding of regulations, inspection guides, and policies prior to independently conducting inspections.
		The RCP should have internal licensing guides, checklist, and policy memoranda consistent with current NRC practices.			The compliance supervisor (may be RCP manager) should conduct annual field evaluations of each inspector to assess performance and assure application of appropriate and consistent policies and guides.
		License applicants (including applicants for renewals) should be furnished copies of applicable guides and regulatory positions.	Response to Actual and Alleged Incidents.		Inquiries should be promptly made to evaluate the need for onsite investigations.
		The present compliance status of licensees should be considered in licensing actions.			Onsite investigations should be promptly made of incidents requiring reporting to the Agency in less than 30 days (10 CFR 20.403 types.)
		Under the NRC Exchange-of-Information program, evaluation sheets, service licensees, and licensees authorizing distribution to general licensees and persons exempt from licensing should be submitted to NRC on a timely basis.			For those incidents not requiring reporting to the Agency in less than 30 days, investigations should be made during the next scheduled inspection.
		Standard license conditions comparable with current NRC standard license conditions should be used to expedite and provide uniformity in the licensing process.			
		Fees should be maintained in an orderly fashion to allow fast, accurate retrieval of information and documentation of discussions and visits.			

## Compliance

Periodic inspections of licensed operations are essential to assure that activities are being conducted in compliance with regulatory requirements and consistent with good safety practices. The frequency of inspections depends on the amount and the kind of material, the type of operation licensed, and the results of previous inspections. The capability of maintaining and retrieving statistical data on the status of the compliance program is necessary. The regulatory agency must have the necessary legal authority for prompt enforcement of its regulations. This may include, as appropriate, administrative remedies, orders requiring corrective action, suspension or revocation of licenses, the impounding of materials, and the imposing of civil or criminal penalties.

Indicators	Category	Guidelines
Status of Inspection Program.		State RCP should maintain an inspection program adequate to assure licensee compliance with State regulations and license conditions.
		The RCP should maintain statistics which are adequate to permit Program Management to assess the status of the inspection program on a periodic basis. Information showing the number of inspections conducted, the number overdue, the length of time overdue and the priority categories should be readily available.
		At least semiannual inspection planning for number of inspections to be performed, assignments to senior vs. junior staff, assignments to regions, identification of special needs and periodic status reports.

Indicators	Category	Guidelines	Indicators	Category	Guidelines	Indicators	Category	Guidelines
Enforcement Procedures		<p>Onsite investigations should be promptly made of non-reportable incidents which may be of significant public interest and concern, e.g., transportation accidents.</p> <p>Investigations should include in-depth reviews of circumstances and should be completed on a high priority basis. When appropriate, investigations should include reenactments and time-study measurements (normally within a few days). Investigation (or inspection) results should be documented and enforcement action taken when appropriate.</p> <p>State licensees and the NRC should be notified of pertinent information about any incident which could be relevant to other licensed operations (e.g., equipment failure, improper operating procedures).</p> <p>Information on incidents involving failure of equipment should be provided to the agency responsible for evaluation of the device for an assessment of possible generic design deficiency.</p> <p>The RCP should have access to medical consultants when needed to diagnose or treat radiation injuries. The RCP should use other technical consultants for special problems when needed.</p>			<p>Enforcement letters should be issued within 30 days following inspections and should employ appropriate regulatory language clearly specifying all items of noncompliance and health and safety matters identified during the inspection and referencing the appropriate regulation or license condition being violated.</p> <p>Enforcement letters should specify the time period for the licensee to respond indicating corrective actions and actions taken to prevent re-occurrences (normally 20-30 days). The inspector and compliance supervisor should review licensee responses.</p> <p>Licensee responses to enforcement letters should be promptly acknowledge as to adequacy and resolution of previously unresolved items.</p> <p>Written procedures should exist for handling escalated enforcement cases of varying degrees.</p> <p>Impounding of material should be in accordance with State administrative procedures.</p> <p>Opportunity for hearings should be provided to all impartial administration of the radiation control program.</p> <p>Inspection guides, consistent with current NRC guidance, should be used by inspectors to assure uniform and complete inspection practices and provide technical guidance in the inspection of licensed programs. The NRC Agreement States Guides may be used if properly supplemented by policy memoranda, agency interpretations, etc.</p>	Inspection Reports		<p>Written inspection policies should be issued to establish a policy for conducting unannounced inspections, obtaining corrective action, following up and closing out previous violations, assuring exit interviews with management, and issuing appropriate notification of violations of health and safety problems.</p> <p>Procedures should be established for maintaining licensee compliance histories.</p> <p>Oral briefing of supervisors or the senior inspector should be performed upon return from nonroutine inspections.</p> <p>For States with separate licensing and inspection staffs, procedures should be established for feedback of information to licensee reviewers.</p> <p>Findings of inspections should be documented in a report describing the scope of inspections, substantiating all items of noncompliance and health and safety matters, describing the scope of licensee programs, and indicating the substance of discussions with licensee management and licensee response.</p> <p>Reports should uniformly and adequately document the results of inspections and identify areas of the licensee's program which should receive special attention at the next inspection. Reports should show the status of previous noncompliance and the independent physical measurements made by the inspector.</p>
	Inspection Procedures	<p>Enforcement Procedures should be sufficient to provide a substantial deterrent to licensee noncompliance with regulatory requirements. Provisions for the levying of monetary penalties are recommended.</p>						

Indicators	Category	Guidelines
Independent Measurements.		<p>Independent measurements should be sufficient in number and type to ensure the licensee's control of materials and to validate the licensee's measurements.</p> <p>RCP instrumentation should be adequate for surveying licensee operations (e.g., survey meters, air samplers, lab counting equipment for smears, identification of isotopes, etc.).</p> <p>GM Survey Meter: 0-20 mR/hr Ion Chamber Survey Meter: several 10<sup>6</sup> hr Neutron Survey Meter: Fast &amp; Thermal Alpha Survey Meter: 0-100,000 c/m Air Samplers: HE and Lo Volume Lab Counters: Detect 0.001 µCi/wipe Volumeters Smoke tubes Lupet Air samplers</p> <p>Instrument calibration services or facilities should be readily available and appropriate for instrumentation used. Licensee equipment and facilities should not be used unless under a service contract. Exceptions for other State Agencies, e.g., a State University, may be made. Agency instruments should be calibrated at intervals not greater than that required to licensees being inspected.</p>

Dated at Washington, DC this 30th day of November 1981.

For the Nuclear Regulatory Commission,  
Samuel J. Chilk,

Secretary of the Commission.

(FR Doc. 81-34700 Filed 12-3-81; 8:45 am)

BILLING CODE 7590-01-M

(Docket Nos. STN 50-454 and STN 50-455)

#### Availability of Draft Environmental Statement for Byron Station, Units 1 and 2

Notice is hereby given that a Draft Environmental Statement (NUREC-0848) has been prepared by the

Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Byron Station, Units 1 and 2, by the Commonwealth Edison Company. The site for this station is located in Rockvale Township, Ogle County, Illinois, approximately seventeen miles southwest of Rockford, Illinois.

The Draft Environmental Statement (DES) addresses the aquatic, terrestrial, radiological, social and economic costs and benefits associated with normal station operation. Also considered are station accidents, their likelihood of occurrence or their consequences. Finally, the statement presents an update discussion of a need for the facility since the construction permit application.

This DES is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103. The DES is also being made available at the State Clearinghouse, Bureau of the Budget, Lincoln Tower Plaza, 524 S. Second Street, Room 315, Springfield, Illinois 62706. Request for copies of the DES (NUREC-0848) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Technical Information and Document Control.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the DES (local agencies may obtain these documents upon request).

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and in the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

After consideration of comments submitted with respect to the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the Federal Register. Comments are due by January 18, 1982.

Comments on this report from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of November 1981.

For the Nuclear Regulatory Commission,  
B. J. Youngblood,  
Chief, Licensing Branch No. 1, Division of Licensing.

(FR Doc. 81-34866 Filed 12-3-81; 8:45 am)

BILLING CODE 7590-01-M

(Docket No. 50-369)

#### Duke Power Co.; Issuance of Amendment, Facility Operating License No. NPF-9

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina. This amendment revises the minimum reactor coolant system flow rate to permit an option for operation at a reduced flow rate (95%) in conjunction with a reduced power level (90%). The amendment is effective as of its date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Duke Power Company letter dated November 11, 1981, (2) Amendment No. 9 to Facility Operating License No. NPF-9 with Appendix A, Technical Specification page changes, and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of items 2 and 3 may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington.



D.C. 20555. Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23rd day of November 1981.

For the Nuclear Regulatory Commission.

Elmor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing, NRR.

(FR Doc. 81-34808 Filed 12-3-81; 8:45 am)

BILLING CODE 7590-01-M

(Docket No. 50-414)

#### Duke Power Co., et al.; Issuance of Amendment to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Construction Permit No. CPPR-117. The amendment reflects the addition of Piedmont Municipal Power Agency as a new co-owner of the Catawba Nuclear Station, Unit 2 (the facility) along with present owners Duke Power Company and North Carolina Municipal Power Agency Number One. Duke Power Company has sole responsibility for the design and construction of the facility, which is located in York County, South Carolina.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amendment.

Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for the amendment dated April 8, 1981, (2) Amendment No. 2 to Construction Permit No. CPPR-117, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina. In addition, a copy of the above items (2) and (3) may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland the 24th day of November 1981.

For the Nuclear Regulatory Commission.

Elmor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

(FR Doc. 81-34870 Filed 12-3-81; 8:45 am)

BILLING CODE 7590-01-M

(Docket No. 50-244)

#### Rochester Gas and Electric Corp.; Issuance of Amendment to Provisional Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Provisional Operating License No. DPR-18 for the R. E. Ginna Nuclear Power Plant to Rochester Gas and Electric Corporation (the licensee). The Ginna Plant is located in Wayne County, New York. The amendment is effective as of the date of issuance and is to be implemented within 60 days of Commission approval in accordance with provisions of 10 CFR 73.55(b)(4).

The amendment adds a license condition to include the Commission-approved Guard Training and Qualification Plan as part of the license.

The licensee's filing, as revised, which has been handled by the Commission as an application, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filings dated May 4, 1981, and July 30, 1981, are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment No. 46 to License No. DPR-18, and (2) the Commission's related letter to the licensee dated November 30, 1981. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington,

D.C., and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of November, 1981.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

(FR Doc. 81-34871 Filed 12-3-81; 8:45 am)

BILLING CODE 7590-01-M

(Docket No. 50-312)

#### Sacramento Municipal Utility District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 37 to Facility Operating License No. DPR-54, issued to Sacramento Municipal Utility District (the licensee), which revised the license for operation of the Rancho Seco Nuclear Generating Station (the facility) located in Sacramento County, California. The amendment is effective as of its date of issuance.

The amendment modifies the license to include revisions to the previously approved Physical Security Plan for the facility.

The licensee's filing, which is being handled by the Commission as an application, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filing dated June 10, 1981, as revised September 22, 1981, is being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to