

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



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BACKGROUND STATEMENT ON THE NUCLEAR REGULATORY COMMISSION'S
PROGRAM FOR TRANSFER OF REGULATORY AUTHORITY TO STATES

The following is a statement of background information on the program of the Nuclear Regulatory Commission¹ for the relinquishment to and assumption by the several states of certain of the Commission's regulatory authority over the possession and use of the radioactive materials described herein.

Atomic energy activities prior to 1954 were confined largely to the federal government. With the enactment of the Atomic Energy Act of 1954, however, it became possible for private enterprises to enter the field and use nuclear materials, and operate nuclear facilities in a manner consistent with our national traditions in other fields of free enterprise. Because these activities involve the use of radiation, they also present considerations of public health and safety. Congress, therefore, determined that private activities in atomic energy should be regulated under a system of licensing to protect the health and safety of radiation workers and the public against radiation hazards. The NRC is charged by the Congress with this responsibility.

Protection of the public health and safety has traditionally been a responsibility of the several states. The 1954 Act, however, did not specify what role, if any, was left to the states in regulating safety in the use of atomic materials. Many states became concerned as to what their responsibilities, if any, might be and many of them expressed interest in seeing that the boundaries of federal and state authority were clearly defined.

In response to the states' concern, Section 274 of the Atomic Energy Act was enacted in 1959, to recognize the states' interest in atomic energy activities, to clarify the respective responsibilities of the states and the AEC under the Act, and to provide a statutory means by which the AEC could relinquish to the states as part of its regulatory authority, i.e., authority over the use of source material (natural uranium and thorium,

¹Under provisions of the Energy Reorganization Act of 1974, the regulatory functions formerly carried out by the Atomic Energy Commission are now carried out by NRC effective as of January 19, 1975.

which are raw materials of atomic energy), byproduct material (radioisotopes), and small quantities of fissionable (special nuclear) material. The Commission is required, however to retain regulatory authority over the licensing of nuclear facilities such as reactors, exports and imports of nuclear materials and facilities, and larger quantities of fissionable material. A copy of Section 274 of the Act is enclosed.

The mechanism for the transfer of the Commission's regulatory authority is by an agreement between the Governor of a state and the Commission. Before entering into an agreement the Commission is required to make a finding that the state's radiation control program is compatible with the Commission's, and the state's program is adequate to protect the public health and safety.

Thus far, 25 states have entered into such agreements and have taken over the regulatory authority described above.² A copy of the agreement with the State of New Mexico, the most recent state to assume regulatory authority from NRC, is enclosed. This agreement is typical of those entered into with other Agreement States. As of December 31, 1975, the 25 Agreement States administered some 10,600 licenses for radioactive materials under the authority transferred from NRC.

It is necessary that a state have enabling legislation authorizing its Governor to enter into such an agreement. In addition to the 25 states that have agreements with NRC, nineteen others and the Commonwealth of Puerto Rico have enacted such enabling legislation.³

The Commission's staff is available to consult with a state which is interested in entering into a regulatory agreement with NRC. This includes consultation and the drafting of enabling legislation and radiation control and licensing regulations, as well as other aspects of the state's program. The Commission also provides training assistance in radiation safety and regulatory procedures for personnel in Agreement States and states negotiating for agreements.

²Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, South Carolina, Tennessee, Texas and Washington.

³Alaska, Connecticut, Delaware, Hawaii, Illinois, Indiana, Maine, Michigan, Montana, New Jersey, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Utah, Vermont, Virginia and Wisconsin.

The question has frequently been raised as to the nature of the advantages that accrue to a state by taking over the Commission's regulatory authority as described above. The principal advantages are the following:

- (a) NRC's authority does not include regulation of x-ray machines, accelerator-produced radioactive materials, and radium. These sources of radiation are, and always have been, the responsibility of the several states. A number of states now exercise surveillance over these sources of radiation which, in the aggregate, are estimated to represent over 90% of the total number of radiation sources in the United States. Thus, by assuming the authority which the NRC is authorized to relinquish, a state is able to have, as part of its public health system, a complete and comprehensive program for radiation safety.
- (b) The proximity of licensed users of radioactive materials to the regulating agency has significant advantages for both the users and the agency. Moreover, many medical institutions and physicians use radioisotopes as well as x-ray machines and radium. Thus, a state's regulatory system which covers all such radiation sources enables licensees to deal with a single agency rather than with the state for a part and a federal agency for the remainder.
- (c) Entering into such an agreement with NRC would be consistent with a serious interest of a state in being knowledgeable about all sources of radiation located within its boundaries.
- (d) Enhances the core of knowledgeable people at the State level who can respond to inquiries and incidents.

With regard to the administrative cost that would be incurred by a state in taking over NRC's authority, the figures vary rather widely from state to state, depending, among other factors, upon whether the particular state already has a radiation control program covering sources of radiation not regulated by the NRC, i.e., x-ray machines, accelerator-produced radioactive materials and radium. Where this is the case, the incremental cost would be less than if the state previously had no radiation control program at all. As a broad rule of thumb, it has been estimated that 1-1.5 man-year per 100 licenses is required to administer the authority assumed from the NRC. It is emphasized, however, that this is a rather general index and will vary according to the particular circumstances in any given state.

Section 274j of the Atomic Energy act provides that the NRC may terminate its agreement with a state if the Commission finds that such termination is necessary to protect the public health and safety. Each agreement provides that the state will use its best effort to maintain continuing compatibility with the NRC's program. For these reasons, the NRC maintains a continuing relationship with each Agreement State to assure continued compatibility of the state's regulatory program and its adequacy to protect health and safety. This relationship includes: periodic meetings to review the current status of the state's program; accompaniment of state inspectors by NRC staff on selected inspections of state licensees; exchange of information on a current basis covering regulations, licensing, inspection and enforcement data; consultation on special licensing and regulatory problems; and an annual meeting of all Agreement States to consider regulatory matters of common interest or concern.

Enclosures:

1. Cpy of Section 274 of the Act
2. Cpy of Agreement with the
State of New Mexico