



Organization of Agreement States

Pearce O'Kelley, Chair
Stan Fitch, Chair-Elect
William Sinclair, Past Chair
Gary Robertson, Treasurer
Kenneth Weaver, Secretary

October 31, 2002

The Honorable Representative
C.W. Bill Young, Chairman
House Appropriations Committee
2407 Rayburn Building
Washington, D.C. 20515

Dear Congressman Young:

I am writing today, as the Chair of the Organization of Agreement States (OAS). The OAS represents thirty-two states that regulate certain uses of byproduct, source and limited quantities of special nuclear materials under agreement with the U.S. Nuclear Regulatory Commission (NRC).

Our organization shares the Appropriations Committee's concerns, expressed in Report 107-740, with respect to the October 9, 2002 Memorandum of Understanding (MOU) between the NRC and the U.S. Environmental Protection Agency (EPA). In addition, we are extremely concerned that the MOU did not specifically address Agreement State licensees, and also that the EPA, in a memorandum to their own regions (OSWSER No. 9295.8.06a dated October 9, 2002) regarding the implementation of the MOU, clearly indicated that the MOU did not apply to Agreement States and their decommissioning licensees.

In the United States, Agreement States currently regulate approximately 75% of all byproduct, source and limited quantities of special nuclear materials licensees. The licensees in Agreement States have the same concerns about dual regulation as licensees in states regulated by the NRC. Both the Agreement States and their regulated communities are extremely concerned about the finality of decommissioning actions and the clarity of decommissioning standards. Meaningful resolution of these issues requires the inclusion of the Agreement States under the terms of the current and any future MOU between the NRC and EPA addressing decommissioning issues.

Based on the various reports by the Appropriations Committees over the last several years on this issue, it seems unlikely the Committee meant to bring finality and clarity to only 25% of the licensees in only 18 states. The failure of this MOU to address Agreement State licensees appears to us to demonstrate a lack of recognition of the important role played by the Agreement States in decommissioning of radioactive materials sites, as well as a lack of regard for the directions from your Appropriations Committee to resolve issues concerning decommissioning of radioactive materials sites in the country.

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It is our understanding that each Agreement State will have to negotiate a separate MOU with their EPA regional office with no guarantee that the regional office will be required to enter into a similarly worded agreement. We feel this will result in a non-uniform approach to decommissioning across the country. We do not think that is what Congress had in mind and is certainly not the approach we believe is in the best interest of the country.

The OAS is anxious to work with the NRC and EPA to bring resolution to this issue across the whole of the United States. We hope that you view the importance of inclusion of Agreement State licensees in the resolution of this issue to be as vital as we do, and will direct that appropriate actions be taken to address the Agreement States' concerns in this regard.

If you would like to contact me regarding this letter, my phone number is 803-545-4403. My mailing address is Bureau of Radiological Health, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, S.C. 29201. The e-mail address is okelletp@dhec.state.sc.us.

Sincerely,

ORIGINAL SIGNED BY T. PEARCE O'KELLEY

T. Pearce O'Kelley, Chair
Organization of Agreement States

CC: Richard A. Meserve, Chair
U.S. Nuclear Regulatory Commission

Christie Todd Whitman, Administrator
U.S. Environmental Protection Agency

Paul Lohaus, Director STP
U.S. Nuclear Regulatory Commission