

POLICY ISSUE NOTATION VOTE

June 9, 2006

SECY-06-0137

FOR: The Commissioners

FROM: Luis A. Reyes
Executive Director for Operations

SUBJECT: REQUEST BY RHODE ISLAND TO RELINQUISH AUTHORITY FOR
SEALED SOURCE AND DEVICE EVALUATION AND APPROVAL

PURPOSE:

To obtain Commission approval to accept the State of Rhode Island's relinquishment of its sealed source and device (SS&D) evaluation and approval authority and assumption of this authority by the U.S. Nuclear Regulatory Commission (NRC) to be effective July 1, 2006.

BACKGROUND:

In Staff Requirements Memorandum (SRM) dated June 30, 1995, in response to SECY-95-136, "Options to Improve and Standardize the Evaluation and Approval of Sealed Sources and Devices Manufactured in Agreement States," the Commission approved a process for the voluntary return of the SS&D evaluation authority from Agreement States to NRC. The process indicates that a letter from the Governor of the State requesting relinquishment of the SS&D evaluation and approval authority and assumption of the authority by the NRC should be submitted to the Chairman. The request from the Governor would serve as the basis of NRC action and no detailed supporting basis or rationale is required for relinquishment of SS&D evaluation and approval authority and assumption by the NRC.

In an SRM dated April 10, 1996, in response to SECY-96-050, "To Seek Authorization to Accept Relinquishment of Sealed Source and Device Evaluation Authority from the Agreement States of Iowa, North Dakota, and Utah," the Commission approved the assumption of regulatory authority by NRC for SS&D evaluations in these three States.

CONTACT: Jennifer C. Tobin, STP
301-415-2328

DISCUSSION:

In a letter dated May 16, 2006, from Rhode Island Governor Donald L. Carcieri to Chairman Diaz (Enclosure 1), the State requested relinquishment of SS&D evaluation authority. In his letter, the Governor indicated that Rhode Island has one manufacturer of devices and the last SS&D evaluation performed by the State was approximately in 2001. Governor Carcieri stated that, based upon this information, it would not be cost effective to fund and maintain trained staff to conduct SS&D evaluations.

The NRC acknowledged the Rhode Island request in a letter dated May 25, 2006, to Governor Carcieri from Janet R. Schlueter, Director, Office of State and Tribal Programs. The staff has also drafted a proposed response to Governor Carcieri from Chairman Diaz (Enclosure 2), accepting the State's request with an effective date of July 1, 2006. The staff believes this proposed date will provide for an orderly transfer of authority. Following the process established in SECY-95-136, the staff is providing the letter from the Governor of Rhode Island; a proposed response to Governor Carcieri from Chairman Diaz, accepting the Governor's request; and a proposed notice to be published in the Federal Register announcing NRC's intention to assume SS&D evaluation authority in the State of Rhode Island effective July 1, 2006 (Enclosure 3).

RESOURCES:

The State of Rhode Island became an Agreement State on January 1, 1980. Since becoming an Agreement State, the staff notes that the State has submitted two SS&D sheets to the national registry. These sheets were initially issued January 1, 1980, and last amended in November 2001. Since only a small number of SS&D evaluations were conducted by Rhode Island in the past and no recent applications have been received, NRC resumption of regulatory authority will have essentially no resource impacts at this time.

RECOMMENDATIONS:

The staff recommends that the Commission approve:

1. Assumption of regulatory authority in the State of Rhode Island for SS&D evaluation authority.
2. The approval letter to the Governor of Rhode Island and the proposed Federal Register Notice.

NOTE:

Upon Commission approval of the above actions, the staff will recommend to the Rhode Island Agreement Program that they provide public notice of this action to their licensees.

COORDINATION:

The Office of General Counsel has no legal objection to this paper. Additionally, the Office of the Chief Financial Officer has reviewed this Commission Paper for resource implications and has no objections.

/RA/

Luis A. Reyes
Executive Director
for Operations

Enclosures:

1. Letter from Governor of Rhode Island
2. Proposed Response to Governor of Rhode Island
3. Proposed Federal Register Notice



State of Rhode Island and Providence Plantations
State House
Providence, Rhode Island 02903-1196
401-222-2080

Donald L. Carcieri
Governor

May 16, 2006

Chairman Nils J. Diaz
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Chairman Diaz:

Upon the recommendation of the Rhode Island Department of Health (RIDOH), I request relinquishment of the sealed source and device evaluation authority currently granted RIDOH and assumption of this authority by the Nuclear Regulatory Commission (NRC). In order to provide for an orderly assumption of this authority, I recommend an effective date of July 1, 2006.

Rhode Island has performed sealed source and device evaluations on a very limited basis and it is not likely that devices requiring evaluation will be produced in Rhode Island in the near future. We are committed to maintaining an adequate program that is compatible with that of the NRC. However, it was clear during our last NRC Integrated Materials Performance Evaluation Program review that it has become increasingly difficult for Rhode Island to maintain the appropriate training and experience necessary to perform this function. We cannot justify the State's investment in staff training and program maintenance in light of the limited demand for this individual component.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink, appearing to read "Donald L. Carcieri".

Donald L. Carcieri
Governor

06 MAY 23 AM 10:53

STP

DRAFT

The Honorable Donald L. Carcieri
Governor of Rhode Island
Providence, RI 02908

Dear Governor Carcieri:

In response to your May 16, 2006, request to relinquish Rhode Island's authority to evaluate and approve sealed source and device (SS&D) applications, I asked the U.S. Nuclear Regulatory Commission staff to prepare a paper on the issue so that the Commission could act on your request. After reviewing your proposal and the staff's analysis, the Commission has decided to assume regulatory authority for SS&D evaluations and approvals within the State of Rhode Island, effective July 1, 2006. For your information, I have enclosed a pre-publication copy of the Federal Register Notice announcing this change. Rhode Island will retain authority to regulate the manufacture and use of SS&D within the State in accordance with its Section 274b Agreement with the NRC.

Your staff may contact Janet R. Schlueter, Director, Office of State and Tribal Programs, at (301) 415-3340, if they have any questions regarding this matter.

Sincerely,

Nils J. Diaz

Enclosure:
As stated

cc: Marie Stoeckel, Chief
Office of Occupational & Radiological Health
Rhode Island Department of Health

ENCLOSURE 2

NUCLEAR REGULATORY COMMISSION

State of Rhode Island Relinquishment of Sealed Source
and Device Evaluation and Approval Authority and
Assumption by the Nuclear Regulatory Commission

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Assumption by the Nuclear Regulatory Commission of Sealed Source and Device Evaluation and Approval Authority from the State of Rhode Island.

SUMMARY: Notice is hereby given that effective July 1, 2006 the Nuclear Regulatory Commission will assume regulatory authority for sealed source and device evaluations and approvals in the State of Rhode Island in response to a request from the Governor of the State of Rhode Island to relinquish this authority.

EFFECTIVE DATE: July 1, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer C. Tobin, Health Physicist, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone (301) 415-2328, Internet: JCT1@NRC.GOV.

ENCLOSURE 3

SUPPLEMENTARY INFORMATION: Currently, the State of Rhode Island has an Agreement with the Nuclear Regulatory Commission (NRC) which recognizes the State authority to regulate specific categories of radioactive materials formerly regulated by the NRC. This Agreement was entered into on January 1, 1980, pursuant to Section 274b of the Atomic Energy Act of 1954, as amended.

Recently, the NRC received a letter from Rhode Island Governor Donald L. Carcieri (May 16, 2006) requesting relinquishment of the State's authority to evaluate and approve sealed source and devices, and assumption of this authority by NRC. The requested action would involve assumption of regulatory authority by NRC over activities currently regulated by Rhode Island pursuant to its Agreement with NRC.

The Governor of Rhode Island noted there is one manufacturer in the State and there has been no sealed source and device evaluations conducted since 2001. Governor Carcieri indicated that it would not be cost effective to fund and maintain staff to conduct sealed source and device evaluations.

The Commission has agreed to the request and has notified Rhode Island that effective July 1, 2006, the NRC will reassume authority to evaluate and approve sealed source and device applications within the State of Rhode Island. The State of Rhode Island will retain authority to regulate the manufacture and use of sealed sources and devices within the State in accordance with its Section 274b. Agreement with the NRC.

Dated at Rockville, Maryland this _____ day of _____, 2006

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,
Secretary of the Commission.