



OAS and the National Materials Program



Kentucky Public Health
Prevent. Promote. Protect.



Atomic Energy Act of 1954

“The constitutional question was posed by many as to whether Congress had preempted the field of health and safety regulation...to the exclusion of the states or whether a state could adopt concurrent non-conflicting regulations applicable to AEC licensees.”

“The States’ New Role in Atomic Energy” by James N. Neel, Jr., 1961

In 1959 Public Law 86-373 “Cooperation with States” was enacted which became section 274 of the Atomic Energy Act of 1954.



Atomic Energy Act of 1954

Purpose...

...establish programs for, cooperation between the States and the Commission with respect to control of radiation hazards...

...provide for coordination of the development of radiation standards for the guidance of Federal agencies and cooperation with the States...



Atomic Energy Act of 1954

The Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs... will be coordinated and compatible.

The Commission is also authorized to provide training, with or without charge, to employees of, and such other assistance to, any State ...as the Commission deems appropriate.



Atomic Energy Act of 1954

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State with which an agreement... has become effective, or upon request of the Governor of such State, may terminate or suspend all or part of its agreement with the State and reassert the licensing and regulatory authority vested in it under this Act, if the Commission finds that

(1) such termination or suspension is required to protect the public health and safety, or

(2) the State has not complied with one or more of the requirements of this section.

The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.



Agreements Before the Agreement

“Concurrently with the publication of the proposed Kentucky-AEC agreement, the Commission has also published a proposed regulation for comment which could have a tremendous effect on the amount of federal regulatory power transferred to Kentucky and other qualifying states.”

“The regulation does not merely reserve to the Commission regulatory power over the three areas required by the Atomic Energy Act – production and utilization facilities, import and export of nuclear material, or facilities into or from the United States, and ocean or sea waste disposal. Two additional subsections exercise the optional authority of the Commission to retain control over **all** waste disposal and the transfer or sale of devices containing nuclear materials.”

“Federal or State Jurisdiction Over Atomic Products and Waste – A Dilemma” by James N. Neel, Jr., 1961



Agreements Before the Agreement

Some manufacturers objected to the transfer of this authority to the states due to concerns that they would face “a multitude of conflicting and non-uniform regulatory and licensing schemes in and among the states subsequent to relinquishment of control by the Commission.”

“This problem has been alleviated by a provision in the Kentucky agreement permitting reciprocal recognition of licenses of states which have executed an agreement with the Commission and licenses of the Commission .”

“Federal or State Jurisdiction Over Atomic Products and Waste – A Dilemma” by James N. Neel, Jr., 1961



Agreements Before the Agreement

“The proposed exercise of the optional jurisdiction over waste disposal appears to be premature and without good cause shown...”

“To this date, there is no evidence in the public domain that the federal government alone can cope with these hazards.”

“If the states are not competent to handle waste products of their own licensees, how can they be competent to handle the receipt, possession and use of these materials by the same licensees? The point is that the states are competent or can be made competent by the acquisition of additional personnel and equipment”

“Federal or State Jurisdiction Over Atomic Products and Waste – A Dilemma” by James N. Neel, Jr., 1961



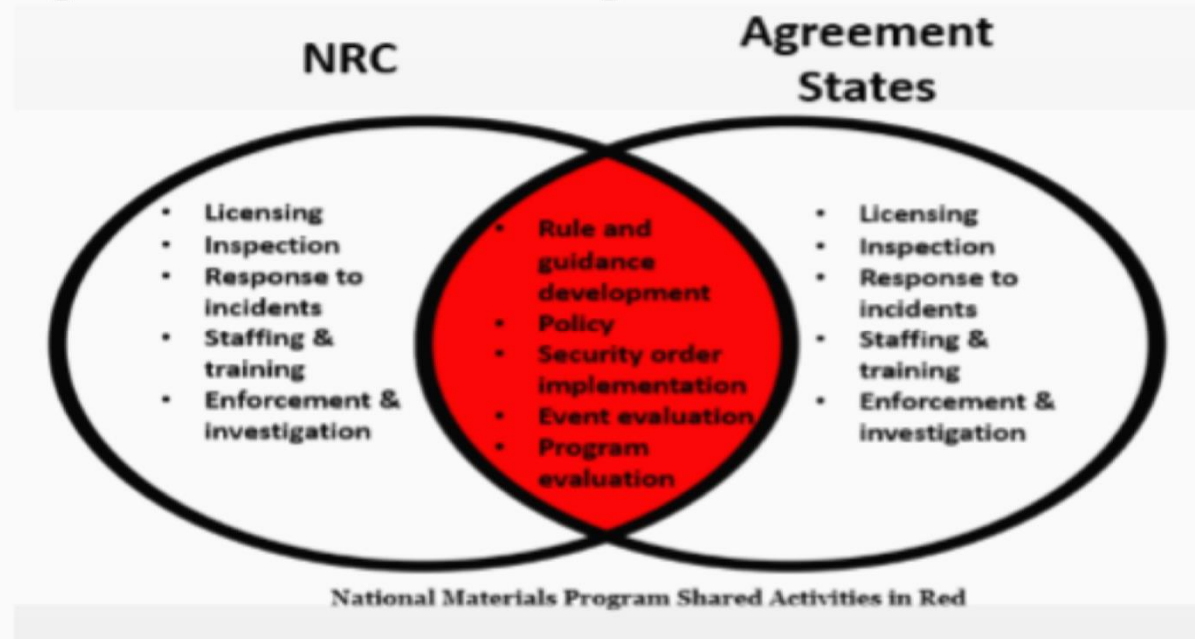
State Agreements

The Commonwealth will use its best efforts to maintain continuing compatibility between its program and the program of the Commission for the regulation of like materials. To this end the Commonwealth will use its best efforts to keep the Commission informed of proposed changes in its rules and regulations, and licensing, inspection, and enforcement policies and criteria, and of proposed requirements for the design and distribution of products containing source, byproduct, or special nuclear material, and to ***obtain the comments and assistance of the Commission*** thereon.

The Commission will use its best efforts to keep the Commonwealth informed of proposed changes in its rules and regulations and licensing, inspection and enforcement policies and criteria, and to ***obtain the comments and assistance of the Commonwealth*** thereon.

The National Materials Program

Figure 2: National Materials Program Activities



Source: OIG generated.



Discussion Points

Rulemaking

- Joint NRC/Agreement State Working Group on Rulemaking
- Common Prioritization of Rulemaking
- Standing Committee on Compatibility
- OAS Petition for rulemaking

IMPEP / MRB

Are NRC and the Agreement States using their best efforts?

How can the OAS best serve the interests of the National Materials Program now and in the future?