

Management Directive 5.9

Adequacy and Compatibility of Program Elements for Agreement State Programs

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Revised MD 5.9

- Revised April 26, 2018
- Reflects revisions made to the Agreement State Program Policy Statement published in October 2017
- Reflect organizational changes
- Incorporate changes to Compatibility Category B.
- Update the compatibility review process to include Standing Committee on Compatibility
- New title: *Adequacy and Compatibility of Program Elements for Agreement State Programs*
- Additional definitions

Adequate and Compatibility of Program Elements

Adequate: protection of public health and safety within the State.

Compatibility: impacts of a State's regulation of agreement material nationwide basis or its potential effects on other jurisdictions

Can program elements for compatibility impact health and safety? ***Yes, they must also be considered program elements for adequacy***

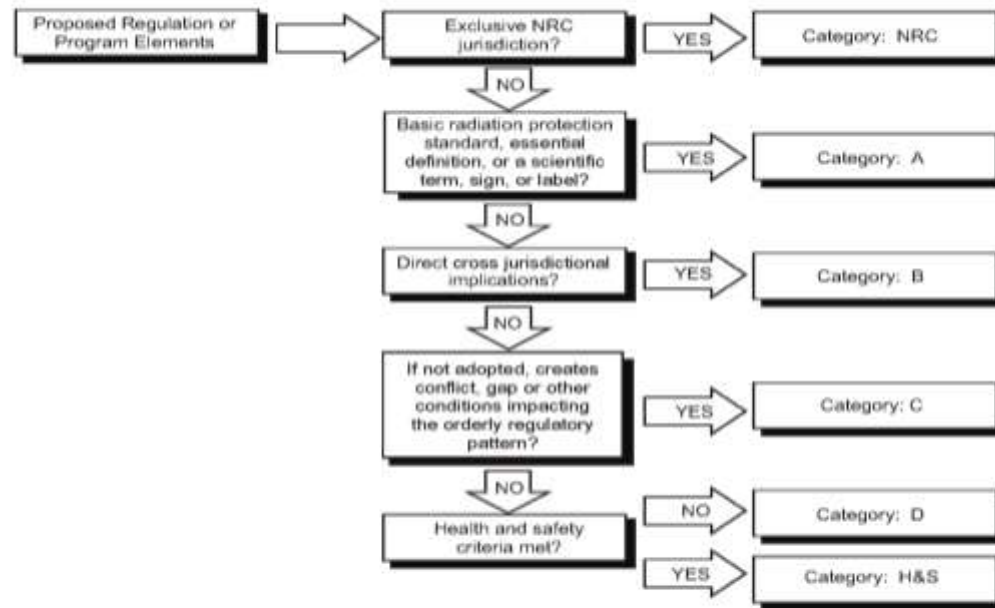
What is a Program Element?

- Any component or function of a radiation control regulatory program, including regulations, procedures, and/or other legally binding requirements, imposed on regulated persons that contributes to implementation of that program.
- Examples? See SA-200, Appendix A

Examples of Program Elements

| PROGRAM ELEMENT | REQUIRED FOR | Compatibility Category | COMMENTS |
|---|--|------------------------|--|
| Legislation and Legal Authority | Adequacy or Compatibility | | See discussion in Agreement State Program Policy Statement 82 FR 48535 |
| <ul style="list-style-type: none"> • Statutes • Regulations • Legally Binding Requirements | Adequacy, Compatibility or Health and Safety | | See Regulation Tables for 10 CFR Parts on the NMSS website at: https://scp.nrc.gov/regsumsheets_newregs.html |
| <ul style="list-style-type: none"> • Guidance documents and interpretations | | D | |
| Licensing | Adequacy & Compatibility | | See Agreement State Program Policy Statement 82 FR 48535 |
| <ul style="list-style-type: none"> • Reciprocal recognition of licenses | | C | This program element has significant effects on the regulation of agreement materials on a national basis. However, States should be provided flexibility for the type of license and time period recognized under reciprocity. Although there are transboundary implications, it is not a necessity for all States to be identical, such as would be required by a classification of "B." |
| <ul style="list-style-type: none"> • Written procedures | | C | |
| <ul style="list-style-type: none"> • Maintenance of records, especially for decommissioning | | C | |

Characterization Process for Proposed NRC Program Elements



Essentially Identical Essential Objectives

- Essentially Identical: the interpretation of the text must be the same regardless of the version (NRC or Agreement State)
 - Compatibility Categories A and B
- Essential Objective: the action to be achieved, modified, or prevented by implementing and following the regulation or other program element
 - Can be numerical value or general goal
 - Compatibility Category C and Health & Safety*

Compatibility Category B

- Applies to activities that cross jurisdictional boundaries
- Program elements designated as Category B need to be essentially identical to those of NRC
- Cross jurisdictional
 - A practice or licensed activity that necessitates identical requirements to ensure an orderly regulatory pattern for the use of agreement material between all NRC and Agreement State jurisdictions

Adoption of Program Elements

- Regulations: three years from the effective date of NRC rule (in most cases)
- Other Program Elements: six months as designated by the NRC (via RCPD or STC Letter)

Standing Committee on Compatibility

- A working group established in 2008 to enhance the existing compatibility determination process through the independent review of program elements required for compatibility.
- Reviews proposed regulations, final rules and other program elements
- Reviews time frames for adoption of program elements
- Resolution of compatibility designation and interpretive issues

Questions?

