



Organization of Agreement States

## **CONGRESSIONAL ACTION IS NEEDED TO ENSURE UNIFORM SAFETY AND SECURITY REGULATIONS FOR CERTAIN RADIOACTIVE MATERIALS**

### **POSITION STATEMENT OF THE HEALTH PHYSICS SOCIETY AND ORGANIZATION OF AGREEMENT STATES \***

Adopted: January 2005

The Health Physics Society (HPS) and the Organization of Agreement States (OAS), which represent radiation safety professionals and regulatory agency stakeholders, believe congressional action is needed to ensure the uniform regulation of all discrete sources of radioactive material to provide appropriate radiation safety standards to protect the public from these sources, including protection from malevolent uses of such sources by terrorists.

Currently, naturally occurring radioactive materials, especially radium, and radioactive materials produced by nuclear particle accelerators (accelerator-produced radioactive material) are not comprehensively regulated in the United States. These sources are not defined in the Atomic Energy Act of 1954, as amended (AEA), which has the effect of excluding these sources from regulation by the independent federal agency charged with regulation of other radioactive materials, i.e., the United States Nuclear Regulatory Commission (NRC). As a result of their omission in the AEA, the regulation of these sources rests with various federal agencies and each individual state. Our organizations believe that this fragmented regulatory framework allows for inconsistent standards for the possession, use, and disposal of these sources, which can potentially have a negative impact on public health and safety and on national common defense and security.

Therefore, we recommend congressional action to ensure not only the security of such sources, but also the uniformity of standards regarding their possession, use, and disposal.

The HPS and OAS jointly recommend enactment of federal legislation to regulate these sources according to the following principles:

1. Discrete sources of technologically enhanced naturally occurring radioactive material (TENORM)<sup>1</sup> and accelerator-produced radioactive material should be uniformly regulated throughout the United States. The most effective way to ensure uniformity in regulation is to include such sources in the definition of byproduct material in the AEA.
2. The NRC should be the sole agency authorized to promulgate federal regulations establishing requirements for controlling the acquisition, possession, transfer, use, and disposal of such sources to protect the public health and safety and the national security of the United States, except for those sources regulated by the United States Department of Energy.
3. The NRC shall, in consultation with the states and other stakeholders, develop a regulatory definition of the term "discrete," as applied to sources of TENORM and accelerator-produced radioactive materials. This definition should include both an activity limit and a concentration limit on any such source, such that the radiological hazards are controlled in a manner consistent with other sources of radioactive material posing the same radiological hazard.
4. Disposal of such sources should be allowed at facilities licensed by the NRC, by states that have entered into agreements with the NRC pursuant to the AEA, or in facilities regulated pursuant to the Resource Conservation and Recovery Act (RCRA) when such disposal is appropriate and authorized by the regulatory agency (or agencies) having jurisdiction.
5. Placing such sources under the NRC's jurisdiction should be done in such a manner that (a) does not change the definition of low-level radioactive waste in the Low-Level Radioactive Waste Policy Amendments Act of 1985 and (b) does not adversely affect the implementation of congressionally approved Compacts pursuant to the Low-Level Radioactive Waste Policy Act of 1980 as amended, thus preventing such sources from becoming "orphaned" from disposal.
6. In fulfilling its new responsibilities, the NRC shall consult with state radiation control agencies that have established regulations for controlling the safe use, security, and disposal of these sources.
7. The NRC is encouraged to consult with other federal agencies as it develops regulations for controlling the safe use, security, and disposal of these sources.

### Footnote

<sup>1</sup> TENORM is naturally occurring radioactive material that has been removed from the natural environment and has been concentrated to levels greater than that found in the natural environment due to human activities. (Indoor radon, because it is not technologically enhanced, should be specifically exempt from this provision for discrete sources.)

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\* The Health Physics Society is a nonprofit scientific professional organization whose mission is to promote the practice of radiation safety. The Organization of Agreement States is a nonprofit society of staff members from those states that have established programs under section 274 of the AEA to assume a portion of NRC regulatory authority.