



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

January 21, 2000

ALL AGREEMENT STATES
MINNESOTA, OKLAHOMA, PENNSYLVANIA, WISCONSIN

**PROGRAM INFORMATION: NRC REIMBURSEMENT FOR AGREEMENT STATE
ACTIVITIES FOR NRC FORMERLY LICENSED SITES (SP-00-007)**

The Nuclear Regulatory Commission (NRC) has been evaluating potential funding to assist Agreement States in conducting file reviews and remediation work, when necessary, for sites formerly licensed by NRC. We requested information from the Agreement States by All Agreement State letter SP-99-016, dated March 22, 1999. In addition, we requested stakeholder views on the use of a separate General Fund appropriation as well as information that would assist in making accurate cost estimates in a Federal Register notice dated May 24, 1999 (64 FR 28014). The staff also requested comments on the approach of administering the funds to Agreement States through a grant program. The responses to these requests were included in the analysis presented to the Commission in SECY-99-193 dated July 26, 1999. The Commission, by Staff Requirements Memorandum (SRM) dated August 25, 1999, approved the staff recommendation to include a General Fund appropriation amount of \$1.65 million in the FY 2001 budget request.

SECY-99-193 is available at:

<http://www.nrc.gov/NRC/COMMISSION/SECYS/secy1999-193/1999-193scy.html>

The SRM for SECY-99-193 is available at:

<http://www.nrc.gov/NRC/COMMISSION/SRM/1999-193srm.html>

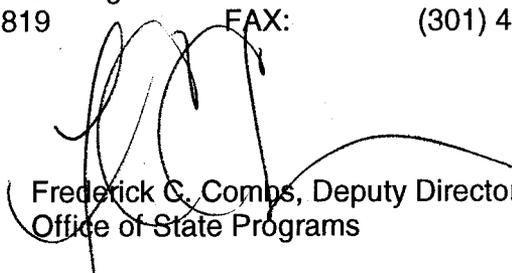
In addition, Mr. Thomas Ortziger, Director, Illinois Department of Nuclear Safety, wrote a letter dated October 19, 1999 to former Chairman Dicus requesting consideration of funding for work already completed by some Agreement States (letter enclosed). By letter dated January 4, 2000, Chairman Meserve responded to Mr. Ortziger indicating that the Commission has recently decided to develop a proposal to address his concerns. This action will be taken in the context of our FY 2001 budget request (see enclosed letter to Mr. Ortziger).

If you have any questions on this correspondence, please contact me or the individual named below.

POINT OF CONTACT:
TELEPHONE:

Dennis M. Sollenberger
(301) 415-2819

INTERNET: DMS4@NRC.GOV
FAX: (301) 415-3502


Frederick C. Comps, Deputy Director
Office of State Programs

Enclosures:
As stated

JAN 21 2000

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TELEPHONE: (301) 415-2819 FAX: (301) 415-3502

/S/ Frederick C. Combs

Frederick C. Combs, Deputy Director
Office of State Programs

Enclosures:
As stated

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Agreement State File

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STATE OF ILLINOIS
DEPARTMENT OF NUCLEAR SAFETY

1035 OUTER PARK DRIVE • SPRINGFIELD, ILLINOIS 62704
217-785-9906 • 217-782-6133 (TDD)

George H. Ryan
Governor

Thomas W. Ortziger
Director

October 19, 1999

The Honorable Greta Dicus
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Chairman Dicus:

Subject: Federal Funding for Previous Terminated NRC Licenses Project

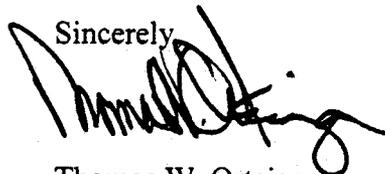
The Department learned during the Agreement States meeting in Austin, Texas on September 8, 1999, that a proposed \$1,650,000.00 grant program to fund the previously terminated NRC licenses project does not include reimbursement to states for work already performed.

This action by NRC is most disturbing as we have repeatedly indicated in correspondence (June 14, 1999, April 27, 1999 and May 12, 1998 letters enclosed) that reimbursement was anticipated for our efforts on this project. We support your commitment to obtain funding for this project; however, we strongly object to any proposal that does not provide retroactive funding to states that have already taken the appropriate and immediate initiative to ensure public health and safety for problems resulting from NRC's prior actions.

NRC is sending an unmistakable and misguided message by not recognizing states for their initiative and instead penalizing them. We are not aware of any obstacles that prevent the proposed grant program from being modified to correct this situation. Illinois rightfully expects to be reimbursed fully for resolving issues related to NRC license terminations.

Illinois has always supported Congressional approval of appropriations to support NRC programs, and we would look forward to continuing this relationship. Thank you for your consideration of this matter, and I look forward to seeing you at the State Liaison Officers Meeting.

Sincerely



Thomas W. Ortziger
Director

TWO:bac
Enclosures
cc: NRC Commissioners



DEPARTMENT OF NUCLEAR SAFETY

1035 OUTER PARK DRIVE • SPRINGFIELD, ILLINOIS 62704
217-785-9900 • 217-782-6173 (TDD)

George H. Ryan
Governor

Thomas W. Ortziger
Director



June 14, 1999

Chief, Rules and Directives Branch
Mail Stop T6-d59
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Re: NRC's request for comments on the proposed grant program for Agreement States' investigation of formerly NRC-licensed sites (Federal Register, May 24, 1999, Volume 64, Number 99)

Dear Sir or Madam:

The Illinois Department of Nuclear Safety (Department) is the agency responsible for protection of the public from sources of radiation in Illinois. We accepted responsibility from the NRC for Atomic Energy Act radioactive materials on June 1, 1987, believing that NRC had appropriate documentation for closeout of its previous licensee files and that facilities had been appropriately decommissioned before NRC terminated the licenses. NRC later notified us that 55 Illinois sites were not adequately documented for proper termination. In the absence of documentation from the NRC, the Department investigated and provided proper documentation for all 55 Illinois sites, including oversight for the cleanup of one contaminated site.

Our agency expended its own resources to accomplish this effort. It is our understanding that few other Agreement State programs on their own initiative proceeded to resolve and/or remediate sites for which NRC failed to properly terminate the license. NRC now proposes to pursue a separate appropriation from the general fund to "assist in completing file reviews and the remediation of formerly NRC-licensed sites in certain cases." We cannot agree with the current proposal, because it appears exclusively prospective in character. It fails completely to recognize that at least one state has already resolved the issue related to sites formerly licensed by NRC, and appears intended to fund only future efforts in this area. Any proposal to fund such efforts must also be designed to retroactively compensate Agreement State programs that have already taken it upon

Chief, Rules & Directives Branch

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themselves to rectify NRC's earlier failures. Under any such proposal, the State of Illinois expects to be reimbursed fully for performing its work in resolving these NRC license terminations.

We agree that the jurisdiction for these formerly NRC licensed sites located in Agreement States properly rests with the Agreement State regulatory agency. Furthermore, the burden of funding the effort to resolve this NRC legacy is clearly one that should be born by the federal government, (i.e., NRC). NRC must not consider this a matter of deciding in which cases to fund these efforts. All Agreement State efforts in this regard should be federally funded, including the efforts that have already resulted in resolution of the issues related to NRC's formerly licensed sites.

The referenced Federal Register notice requested comments on the following four items. Our comments follow.

The option of pursuing a separate appropriation from the General Fund to establish a fund for use by Agreement States through grants to assist in file reviews and, when necessary, the remediation of formerly NRC-license sites.

As indicated above, we do not agree with this option as it currently is formulated.

Aspects that should be considered in development of a decision framework that describes how NRC would allocate the appropriated funds, if approved, to individual Agreement States.

NRC should request appropriation of funds sufficient to reimburse Agreement States for work already accomplished and to allow all future work to be performed. Grant amounts should be based on the state efforts to date and/or their estimate to complete the work. Initial fund disbursement should compensate states for work already completed and allow states to begin work with further disbursement based on work performed.

Aspects that NRC should consider in development of a grant program for providing funds, if approved, to individual Agreement States to ensure a relatively fair and equitable allocation of available funds. For example, the funds could be provided to individual Agreement States based on the estimated cost for each site to comply with a 25 millirem/year public dose standard. Additional risk-ranking of the sites may also be necessary in the event that appropriated funds are less than requested.

NRC should request appropriation of funds sufficient to reimburse Agreement States for work already accomplished and to allow all future work to be performed. The

Chief, Rules & Directives Branch

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June 14, 1999

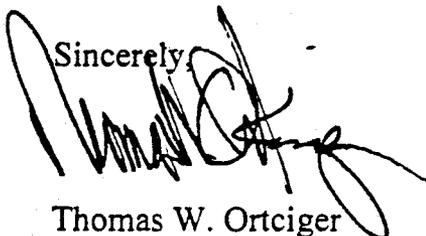
25 mrem/year standard is adequate if NRC is concerned that a more stringent cleanup standard would escalate program costs.

Additional information on cost estimates for site remediation (See cost estimates stated in SECY-28-273. Also see all Agreement States letter SP-99-016.)

Since the Department has completed its effort resolving issues related to formerly NRC licensed sites in Illinois. Our actual costs (not estimated) are \$48,650. Copies of the Department's letters dated April 27, 1999, May 12, 1998, and December 30, 1997, regarding Departmental costs related to these sites are enclosed.

If you wish to discuss this matter, please call me at 217/785-9868.

Sincerely,

A handwritten signature in black ink, appearing to read 'Thomas W. Ortziger', written over the word 'Sincerely,'.

Thomas W. Ortziger
Director

TWO: bac

Enclosures

cc: Paul H. Lohaus, Director Office of State Programs

STATE OF ILLINOIS
DEPARTMENT OF NUCLEAR SAFETY

1035 OUTER PARK DRIVE • SPRINGFIELD, ILLINOIS 62704
217-785-9900 • 217-782-6133 (TDD)

George H. Ryan
Governor

Thomas W. Ortziger
Director

April 27, 1999

Mr. Paul H. Lohaus, Director
Office of State Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Subject: SP-99-016 INFORMATION REQUEST FOR POTENTIAL FUNDING
ASSISTANCE FOR FORMERLY LICENSED SITES

Dear Mr. Lohaus:

The captioned letter requests supporting information on the costs to conduct all the necessary work to closeout license files that were terminated by the NRC. A copy of our response to SP-98-025- Agreement State Views On Cost/Impacts For Closure of Formerly Terminated NRC Licenses is attached. We have since updated our final costs to be \$48,650 for the final closeout of 55 sites. This amount includes \$5,150 (45 hours for labor and \$200 in lab analyses) in the identification and verification of the one site that required decontamination.

The Department applauds your attempt to seek funding to assist in the closeout of NRC's responsibilities in other states. We endorse efforts by NRC to secure reimbursement for the work that states initiated to protect the public health and welfare of its citizens. Once funding has been approved, the State of Illinois expects to receive its share for performing responsibilities originally assigned to the NRC.

Sincerely,


Joseph G. Klinger, Chief
Division of Radioactive Materials

Attachment

STATE OF ILLINOIS
DEPARTMENT OF NUCLEAR SAFETY

1035 OLIVER PARK DRIVE
SPRINGFIELD, ILLINOIS 62704

Jim Edgar
Governor

Thomas W. Ortziger
Director

May 12, 1998

Mr. Richard L. Bangart, Director
Office of State Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

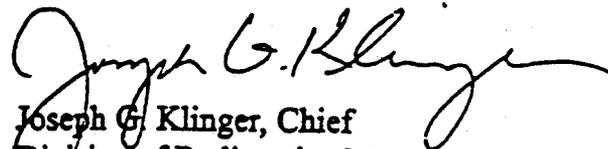
Subject: SP-98-025 AGREEMENT STATE VIEWS ON COST/IMPACTS
FOR CLOSURE OF FORMERLY TERMINATED NRC LICENSES

Dear Mr. Bangart:

A copy of our response to SP-97-080-Formerly Licensed Sites And Jurisdiction For Remaining Residual Materials is attached. This letter responds to your questions regarding our formerly licensed sites requested in SP-98-025. The Department has closed the remaining site which adds 35 hours to the estimate the Department originally provided. This site did require decontamination.

The Department applauds your attempt to seek funding to assist in the close-out of NRC's responsibilities in other states. Once funding has been approved, the State of Illinois expects to receive its share for performing responsibilities originally assigned to the NRC.

Sincerely,


Joseph G. Klinger, Chief
Division of Radioactive Materials

Attachment

cc: Bill Snell, Region III



CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

January 4, 2000

Mr. Thomas W. Ortziger, Director
Illinois Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704

Dear Mr. ^{Tom}Ortciger:

I am writing to respond to your letter of October 19, 1999, in which you expressed disappointment in the Commission decision not to include funds for reimbursement for certain work by Agreement States at NRC formerly licensed sites. The Commission has recently decided to develop a proposal to address your concerns for submission to OMB and Congress.

Under Office of Management and Budget (OMB) Circular No. A-87 (May 4, 1995) and applicable NRC requirements, it is impermissible to allow payment for work completed prior to the award of a grant or cooperative agreement absent specific Congressional authorization. As a result, we will seek Congressional approval to provide funds to Agreement States for their work on NRC formerly licensed sites that was incurred before the establishment of the grant program previously approved by the Commission. We will take this step in the context of our FY2001 budget request.

I appreciate the actions taken by the Illinois Department of Nuclear Safety to address the formerly licensed sites within the State promptly. I hope that we are successful in persuading Congress to allow the NRC to address the issue you raise.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Meserve".

Richard A. Meserve