

February 7, 2002

Mr. Ralph F. Boyd, Jr.
Assistant Attorney General
Civil Rights Division
U.S. Department of Justice
P.O. Box 65808
Washington, D.C. 20035-5808

Dear Mr. Boyd:

In response to your letter of December 19, 2001, enclosed is the U.S. Nuclear Regulatory Commission's Civil Rights Implementation Plan Update for FY 2002 and FY 2001 Civil Rights Workload and Performance Data for Federally Assisted and Federally Conducted Programs subject to Executive Order 12250. If you have questions regarding this matter, please contact me at 301- 415-7380.

Sincerely,

/RA/

Irene P. Little, Director
Office of Small Business and Civil Rights

Enclosures:
As stated

cc w/enclosures:
Ms. Merrily Friedlander, DOJ
Mr. John Wodatch, DOJ

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Sincerely,
Original signed by
Irene Little
Irene P. Little, Director
Office of Small Business and Civil Rights

Enclosures:
As stated

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FY 2001 INFORMATION AND REPORTING REQUIREMENTS FOR
AGENCIES COVERED BY EXECUTIVE ORDER 12250
(October 1, 2001 - September 30, 2002)

I. Overview of the Civil Rights Enforcement Program

Objectives and activities to enforce statutes covered by Executive Order 12250.

A. Mission

The U.S. Nuclear Regulatory Commission's (NRC or Agency) Federal financial assistance programs remain limited to (1) the State Agreements Program authorized under Section 274 of the Atomic Energy Act of 1954, which provides for training for State and local government personnel in connection with States assuming certain regulatory authorities; (2) the award of grants for the support of basic and applied scientific research and (3) the exchange of scientific information.

The budget allocation for the Federal financial assistance programs totalled \$1,557,000 in FY2001 (\$1,307,000 for grants and \$250,000 for the Historically Black Colleges and Universities (HBCU) Program). Approximately \$1,669,000 has been budgeted for these programs in FY 2002 (\$1,419,000 for grants and \$250,000 for HBCU's).

B. Authority

Training for State personnel under the State Agreements Program is authorized pursuant to Section 274.i of the Atomic Energy Act of 1954, as amended 49 U.S.C. 2021(i).

Agreement authority for the program, Grants for the Support of Basic and Applied Scientific Research and for the Exchange of Scientific Information, is provided pursuant to Section 31.a and 141.b of the Atomic Energy Act of 1954, as amended, 49 U.S.C. 2051(a), 2161(b).

The regulations implementing all of the NRC's Federal financial assistance programs (described as the State Agreements Program and Grants for the Support of Basic and Applied Scientific Research and for the Exchange of Scientific Information and Historically Black Colleges and Universities) are provided in 10 CFR Part 4. These regulations implement the following statutes:

- (a) Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000(d), et seq.
- (b) Section 401 of the Energy Reorganization Act of 1974, 42 U.S.C. 5891.
- (c) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794.
- (d) Title II of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. 12101-213.
- (e) Age Discrimination Act of 1975, as amended. 42 U.S.C. 6101-6107

The State Agreements Program training is also covered by Title IX of the Education Amendments of 1972.

C. Program Coverage

None of the Agency's programs cover an activity where a "primary objective" of the Federal assistance is to provide employment.

1. State Agreements Program

Since the inception of the Agency in 1975, the NRC has funded assistance in the form of training for State and local government personnel under the State Agreements Program. Section 274 of the Atomic Energy Act authorized the U.S. Atomic Energy Commission (now the NRC) to enter into agreements which allow States to assume certain specified areas of regulatory authority of the Agency. At present, 32 States have executed agreements pursuant to this authority.

The NRC provides training, with or without charge, to employees of various State agencies to assist the States in achieving and maintaining a level of competence necessary to carry out an effective radiation control program. The NRC's training program for State personnel has two primary goals: (1) to improve the technical competence of State personnel, and (2) to assure the regulatory effectiveness of the State radiation control program. The courses cover a broad range of topics including basic health physics, regulatory practices and procedures, industrial radiography, nuclear medicine, well logging, and management practices. The training, funded by the NRC under the State Agreements Program, is held at various locations and conducted by a variety of institutions. In FY 2001, approximately 54 State employees attended training on a space available basis at no additional cost to the NRC.

2. Grants for the Support of Basic and Applied Scientific Research and for the Exchange of Scientific Information

Beginning in FY 1981, the NRC established a program of assistance relationships (grants and certain types of cooperative agreements) with educational institutions, nonprofit institutions, State and local governments, and professional societies, covering two areas of activity:

- a. The support of research necessary to provide a technology base to assess the safety of nuclear power operation, plant siting and waste disposal. This program includes, but is not limited to, support of basic and applied research to advance understanding of, and contribute to, the store of knowledge applicable to the design operation, siting, systems and subsystems performance of nuclear power, and disposal of waste products resulting from nuclear power applications.
- b. The expansion, exchange and transfer of knowledge, ideas and concepts, is directed toward the research program. This program includes, but is not limited to, support of professional meetings, symposia, conferences, national and international commissions, and publications. Its primary purpose is to stimulate research to provide a technological basis for the safety assessment of systems and subsystem technologies used in nuclear power applications. This program will increase public understanding relating to nuclear safety, enlarge the fund of theoretical and practical knowledge and technical information, and ultimately enhance the protection of public health and safety.

Historically Black Colleges and Universities (HBCU) Program

This Program is an important tool in creating successful partnerships that promote research, education, and training opportunities benefitting faculty, undergraduate and graduate students at HBCU's. The Program is conducted through a Cooperative Agreement with the Oak Ridge Institute for Science and Education. It enables HBCU faculties and students to conduct technical research and development activities on campus and at Department of Energy laboratories, where a majority of NRC's technical assistance work is performed.

Attachment A includes the definition of NRC's Federal financial assistance programs.

D. Organization

The Director, Office of Small Business and Civil Rights (SBCR) has primary responsibility for the coordination and implementation of the NRC's financial assistance programs under 10 CFR Part 4, "Nondiscrimination in Federally Assisted Commission Programs." The program is centralized, with the four regional offices of the NRC referring matters pertaining to the program to SBCR for appropriate handling.

Designated as "the responsible official" under Part 4, the Director, SBCR, has the delegated authority to monitor, as necessary, the Agency's programs to assure that applicants and recipients comply with the requirements of these regulations. Generally, final compliance decisions are rendered by the Agency. The Director, SBCR, however, has the overall responsibility for the administration of the compliance provisions of these regulations. The Director has the authority to accept complaints, conduct investigations of any indication of a possible noncompliance, make determinations as to whether compliance can be secured by voluntary means, serve notice of opportunity for hearing and, among a number of other responsibilities and authorities, may enter consent orders. All matters are handled in coordination with the Agency's legal staff.

The Office of State and Tribal Programs (STP) coordinates the attendance of Agreement State staff in NRC training courses. Grant awards are administered by the NRC Grants Officer, Division of Contracts and Property Management, Office of Administration. Any information received regarding possible violations of NRC nondiscrimination regulations would be referred to the SBCR staff. The same procedure would be followed in the event of problems associated with nondiscrimination clauses included in grant awards under the grant program.

Since the NRC Civil Rights Program is centralized, there are no provisions for management information systems or reporting requirements for the regional offices.

The NRC does not contemplate any civil rights training activities for recipients or potential recipients of Federal Financial Assistance during FY 2002. The Agency will continue to disseminate information concerning civil rights requirements under 10 CFR Part 4, to recipients.

Attachment B includes organizational charts that reflect the roles, responsibilities and relationships of Headquarters and Regional offices that undertake activities in support of the Civil Rights Compliance Program for Federal financial assisted and conducted programs.

E. Staff and Budgetary Resources

Although there are no resources specifically budgeted for this program, the Civil Rights Program staff in SBCR devoted a small portion of FTE in providing support to the State Agreements staff and providing necessary reports. In addition, the Civil Rights Program staff participate in training to keep abreast of matters pertaining to the coordination and review of issues relating to implementation of the NRC's Federal Financial Assistance Program and Federally Conducted Programs under 10 CFR Part 4. With regard to civil rights compliance responsibilities, the Office of State and Tribal Programs devotes approximately .01 and Nuclear Regulatory Research devotes a total of approximately .03 staff-years in support of programs of Federal financial assistance.

II. Approach to Major Civil Rights Functions

A. Federally Assisted Programs

In view of the nature of the NRC Federal financial assistance programs, the fact that no formal or informal complaints of discrimination have been referred to the Agency, and considering staffing limitations, the NRC has not conducted any pre or post-award reviews of these programs.

Since the Agency has not received any complaints of discrimination involving the Federal financial assistance program, there have been no administrative or legal enforcement actions under 10 CFR Part 4.

B. Federally Conducted Programs

The Office of Small Business and Civil Rights is responsible for the initial policy development and overall program implementation for Section 504, Federally Conducted Programs.

Self evaluation and transition plans, in connection with the Section 504 regulations, were completed in August 1987.

All buildings currently occupied by NRC in the Washington, D.C., area and all Regional offices are accessible to handicapped individuals.

C. Civil Rights Policy Development and Dissemination

The Office of Small Business and Civil Rights implements a continuing program of evaluation of NRC policies and procedures that impact civil rights activities. Information regarding the operation of Federal financially assisted programs is periodically obtained from organizational components implementing such programs. Civil rights regulations and guidelines are developed by SBCR in coordination with the Office of the General Counsel.

There were no civil rights policies developed during FY 2000, therefore Attachment F is not required.

D. Coordination with Other Federal Agencies

1. Delegation agreements

The NRC does not have any delegation agreements with other agencies.

2. Information sharing

The NRC shares civil rights information with other agencies on an ad hoc basis when requested.

3. Other coordinated activities

The NRC joined several other Federal agencies to modify the common rule to implement enforcement of Title VI prepared by the Department of Justice. The Proposed Rule was published in the Federal Register on December 6, 2000.

In accordance with Executive Order 13166, the Agency's plan for improving access to agency programs and activities by persons with limited English proficiency (LEP) was approved by the Department of Justice. The Agency's draft guidance to recipients of Federal financial assistance was submitted to the Department of Justice for approval. We are awaiting the results of their review before publication in the Federal Register.

4. Implementation of Agency's Title IX Enforcement Plan

In order to implement enforcement of Title IX of the Education Amendments of 1972 (as requested by the President), the NRC joined several other Federal agencies in a common rule prepared by the Department of Justice. The Final Common Rule was published in the Federal Register on August 30, 2000.

5. Implementation of Office of Management and Budget's guidance on the collection of data on race and ethnicity

The Agency has not completed its implementation plan.

E. Technical Support

Data base management systems

The NRC has established a data base management system to track employment discrimination complaint activity. The system contains comprehensive data on the status of complaints and any complaints received under this plan would be incorporated into this system.

III. Program Goals

The goals of the Program is to continue to monitor all NRC facilities to ensure that they remain accessible to handicapped individuals and to ensure that applicants and beneficiaries are not denied benefits of the program or activity because of race, color, national origin, handicapped status, age, gender or LEP.

ATTACHMENTS TO
U.S. NUCLEAR REGULATORY COMMISSION'S
FY 2002 INFORMATION AND REPORTING REQUIREMENTS FOR
AGENCIES COVERED BY EXECUTIVE ORDER 12250
(October 1, 2001 - September 30, 2002)

Attachment A: Definition of Federal Financial Assistance
To Which 10 CFR Part 4 Applies

Attachment B: NRC Organizational Chart

Nondiscrimination in Federally Assisted Commission Programs To Which
10 CFR Part 4 Applies¹

Failure to list a type of Federal assistance below shall not mean, if Title VI is otherwise applicable, that a program or activity is not covered by Title VI.

- (a) *Conferences on regulatory programs and related matters.* Agreements for financial assistance to State and local officials, without full-cost recovery, to confer on regulatory programs and related matters at NRC facilities and offices, or other locations.
- (b) *Orientations and instruction.* Agreements for financial assistance to State and local officials, without full-cost recovery, to receive orientation and on-the-job instruction at NRC facilities and offices, or other locations.
- (c) *Technical training courses.* Agreements for financial assistance to State and local officials, without full-cost recovery to attend training on nuclear material licensing, inspection and emergency response regulatory responsibilities to ensure compatibility between NRC and Agreement State regulation.
- (d) *Participation in meetings and conferences.* Agreements for participation, without full-cost recovery, in meetings, conferences, workshops, and symposia to assist scientific, professional or educational institutions or groups.
- (e) *Research Support.* Agreements for the financial support of basic and applied scientific research and for the exchanges of scientific information.

¹Categories of assistance may be added to Appendix A from time to time by notice published in the Federal Register. This part shall be deemed to apply to all grants, loans or contracts entered into under any such category of assistance on or after the effective date of the inclusion of the category of assistance in Appendix A.

FY 2001 Civil Rights Workload and Performance Data
(Federally Assisted and Section 504
Federally Conducted Programs)

Agency: U.S. Nuclear Regulatory Commission

Activity: Summary of civil rights activities

Federally Assisted Programs

1. Total civil rights outlays	\$ <u> *900 </u>
2. Total Federal work-years (full-time equivalent)	<u> *.01 </u>
3. Number of federally assisted programs	<u> 3 </u>
4. Dollar amount of Federal financial assistance provided	\$ <u> 1,557,000 </u>
5. Number of recipients of Federal financial assistance	<u> 20 (11 grants, and 9 Historically Black Colleges and Universities) </u>

Section 504 Federally Conducted Programs

1. Total civil rights outlays	\$ <u> **2,700 </u>
2. Total Federal work-years (full-time equivalent)	<u> **.03 </u>

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*No funds or FTE's are specifically budgeted for these programs. NRC's Federally Assisted and Section 504 Federally Conducted Programs are very small, limited basically to assistance to Agreement States. **A small portion of FTE is spent providing support to the Agreement State staff and providing necessary reports.**

**Since all of our buildings are currently in compliance with Section 504, none of our resources are currently budgeted for this function. If an issue arises in this area, staff handling Title VI complaints will be responsive.

The SBCR staff members who are responsible for Title VI complaints are trained on Federally Assisted and Section 504 Programs.

FY 2001 Civil Rights Workload and Performance Data
(Federally Assisted Programs and ADA Title II)

Agency: U.S. Nuclear Regulatory Commission

Activity: Complaint Processing

1. Total unresolved complaints in inventory beginning of FY: 0

2. Total complaints received during the FY: 0

3. Complaints received (reported in line 2) were classified as:

Non-disability complaints

- a. Title VI (only) 0
- b. Title VI and program statute
(race, color, national origin) 0
- c. Title IX (sex in education programs) 0
- d. Program statute (sex) 0
- e. Program statute (religion) 0

Disability complaints

- f. Section 504 (only) 0
- g. Section 504 and Title II 0
- h. Title II (only) 0

4. Total unresolved complaints in inventory at end of FY: 0

4.1 Total unresolved complaints reported in line 4 that were processed under Title II: 0

5. Total unresolved complaints reported in line 4 that were unresolved more than 180 days after receipt: 0

5.1 Total complaints unresolved for more than 180 days reported in line 5 that were processed under Title II: 0

6. Total complaints closed administratively or for lack of jurisdiction (not including those referred to another agency): 0

6.1 Total complaints reported in line 6 that were processed under Title II: 0

7. Total complaints referred to another agency: 0

7.1 Total complaints reported in line 7 that were processed under Title II: 0 Total complaints resolved, prior to issuance of findings: 0

8. Total complaints resolved prior to issuance of findings: 0

8.1 Total complaints reported in line 8 that were processed under Title II: 0

9. Total complaint investigations completed with findings of compliance: 0
- 9.1 Total complaints reported in line 9 that were processed under Title II: 0
10. Total complaint investigations completed with findings of non-compliance: 0
- 10.1 Total complaints reported in line 10 that were processed under Title II: 0
11. Total complaint investigations resulting in findings of non-compliance reported in line 10 in which recipients agreed, in writing, to remedy the identified discrimination or discriminatory practices: 0
- 11.1 Total complaints reported in line 11 that were processed under Title II: 0
12. Total investigations resulting in findings of non-compliance reported in line 10 in which judicial or administrative enforcement actions were initiated: 0
- 12.1 Total complaints reported in line 12 that were processed under Title II: 0
13. Total investigations resulting in findings of non-compliance reported in line 10 in which no action was taken: 0
- 13.1 Total complaints reported in line 13 that were processed under Title II: 0
14. Total work-years devoted to complaint processing activities: 0

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FY 2001 Civil Rights Workload and Performance Data
(Nondiscrimination on the Basis of Disability in Federally Conducted Programs)

Agency: U.S. Nuclear Regulatory Commission

Activity: Section 504 Federally Conducted Program Complaint Processing

1. Total unresolved complaints in inventory beginning of FY: 0
2. Total complaints received during the FY: 0
3. Complaints received reported in line 2 that involved:
 - a. Employment issues 0
 - b. Non-employment issues 0
 - c. Both employment and non-employment issues 0
4. Total unresolved complaints at the end of FY: 0
5. Total unresolved complaints reported in line 4 that were unresolved more than 180 days after receipt: 0
6. Total complaints closed administratively or for lack of jurisdiction: 0
7. Total complaints resolved, prior to issuance of findings: 0
8. Total complaint investigations completed with findings of compliance: 0
9. Total complaint investigations completed with findings of non-compliance: 0
10. Total complaint investigations reported in line 9 in which the agency agreed, in writing, to remedy the identified discrimination or discriminatory practices: 0
11. Total investigations reported in line 9 in which no action was taken: 0
12. Total work-years devoted to federally conducted program complaint processing activities: 0

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FY 2001 Civil Rights Workload and Performance Data
(Federally Assisted Programs)

Agency: U.S. Nuclear Regulatory Commission

Activity: Pre-Award Review

1. Total covered grants awarded: 20
2. Total completed pre-award reviews involving onsite reviews: 0
3. Total completed pre-award reviews involving desk audits only: 0

(Note: A desk audit is a structured review of compliance information obtained before or without going onsite, conducted according to codified procedures. Desk audits do not include routine reviews of assurance forms or other documents to assure that they have been properly completed.)

4. Total pre-award reviews resulting in findings of compliance: 0
5. Total pre-award reviews resulting in findings of non-compliance: 0
6. Total number of findings of non-compliance in which no action was taken: 0
7. Total number of findings of non-compliance resulting in denial of award and/or initiation of judicial or administrative enforcement: 0
8. Total number of findings of non-compliance resulting in award conditioned on corrective action: 0
9. Total number reported in lines 7 and 8 which involved discrimination or discriminatory practices (i.e., deficiencies related to the illegal treatment of persons based on race, color, national origin, religion, sex, or disability): 0
10. Total number reported in line 8 in which recipients agreed, in writing, to remedy identified discrimination or discriminatory practices: 0
11. Total work-years devoted to pre-award review activities: 0

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FY 2001 Civil Rights Workload and Performance Data
(Federally Assisted Programs)

Agency: U.S. Nuclear Regulatory Commission

Activity: Post-Award Review

1. Total estimated number of covered recipients: 0
2. Total number of reviews initiated: 0
3. Total number of reviews completed: 0
4. Total number of reviews completed involving desk audits only: 0

(Note: A desk audit is a structured review of compliance information obtained before or without going onsite, conducted according to codified review procedures. Desk audits do not include routine reviews of assurance forms or other documents to ensure that they have been properly completed.)

5. Total number of reviews still pending completion after 180 days: 0
6. Total number of reviews resulting in findings of compliance: 0
7. Total number of reviews resulting in findings of non-compliance: 0
8. Total number of findings of non-compliance resolved through corrective action commitments by recipients: 0
9. Total number of findings of non-compliance resulting in initiation of judicial or administrative enforcement: 0
10. Total number of findings of non-compliance in which no action was taken: 0
11. Total number reported in lines 8 and 9 that involved discrimination or discriminatory practices (i.e., deficiencies related to the illegal treatment of persons based on race, color, national origin, religion, sex, or disability): 0
12. Total number reported in line 8 in which recipients agreed, in writing, to remedy identified discrimination or discriminatory practices: 0
13. Total work-years devoted to post-award review activities: 0

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FY 2001 Civil Rights Workload and Performance Data
(Federally Assisted Programs)

Agency: U.S. Nuclear Regulatory Commission

Activity: Legal and Administrative Enforcement

1. Number of matters referred to the Department of Justice for judicial enforcement: 0
2. Number of lawsuits or administrative proceedings initiated as a result of the agency's own non-compliance findings (or investigations by legal staff): 0
3. Number of lawsuits or administrative proceedings in progress at beginning of FY: 0
4. Number of lawsuits or administrative proceedings in progress at end of FY: 0
5. Number of lawsuits or administrative proceedings resulting in injunctive or negotiated remedies: 0
6. Number of lawsuits or administrative proceedings resulting in imposition of sanctions: 0
7. Number of administrative proceedings resulting in imposition of sanctions: 0
8. Total work-years devoted to legal and administrative enforcement activities: 0

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