

January 27, 2014

Mr. Christopher Boyd
Assistant Commissioner
Bureau of Environmental Sciences and Engineering
New York City Department of Health and Mental Hygiene
42-09 28th Street
14th Floor, CN-56
Queens, NY 11101

Dear Mr. Boyd,

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of December 5, 2013 regarding the NRC working cooperatively with Agreement States to establish regulatory standards and assist Agreement States' assumption of regulatory responsibility for byproduct material. The NRC values the participation of Agreement States in developing a national regulatory program for regulation of Atomic Energy Act (AEA) of 1954, as amended radioactive material. The NRC also endeavors to support to the Agreement States radiation control program consistent with our statutory authority.

Your letter noted that you disagree with the NRC's interpretation of its statutory authority that has been provided to you in a prior email on June 5, 2013. The NRC's interpretation of the Section 274i of the AEA (42 USC 2021(i)) has not changed. The NRC finds that the legislative history of 274i supports the conclusion that Congress did not intend for the NRC to provide cash grants to pay for the administration of States' regulatory programs under the Act. The Joint Committee on Atomic Energy Report for the Bill (PL 86-373), specifically states, "... it is not intended that a cash grant shall be provided to pay for the administration of States' regulatory programs."¹ All of the States that entered into 274b agreements had the full knowledge and understanding of this interpretation would prevent the NRC from providing direct funding for Agreement State programs. Agreement States can fund their regulatory programs using other mechanisms, such as licensing fees.

However, Section 274i does authorize the NRC to provide training, with or without charge, to employees of Agreement States. The NRC provides indirect assistance by supporting certain activities of outside organizations, such as the Conference of Radiation Control Program Directors, which provide assistance to State radiation control programs. The NRC also provides funding for Agreement State employees to participate in NRC workgroups. The NRC can provide technical assistance to Agreement States to support their activities. Management Directive (MD) 5.7 "Technical Assistance to Agreement States" (ML14014A059) describes the types of NRC technical assistance available to Agreement States and the steps that the NRC staff follows to determine the appropriate type of response for Agreement State requests for technical assistance. Technical assistance provided to the Agreement States under MD 5.7 is almost always at no cost to the State.

¹ See, Joint Committee on Atomic Energy Report of the Bill, Senate Report Number 870, Amendment to the Atomic Energy Act of 1954, as amended, With Respect to Cooperation with the States.

C. Boyd

- 2 -

Thank you for sharing your concerns on this matter. The NRC would also be interested in hearing of alternative ways that the NRC could support the New York City Department of Health and Mental Hygiene's radiation control program that do not involve direct funding.

Sincerely,

/RA/

Bradley W. Jones
Assistant General Counsel
for Reactors and Materials Rulemaking
Office of the General Counsel

C. Boyd

- 2 -

Thank you for sharing your concerns on this matter. The NRC would also be interested in hearing of alternative ways that the NRC could support the New York City Department of Health and Mental Hygiene's radiation control program that do not involve direct funding.

Sincerely,

/RA/

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