

# DEPARTMENT OF NUCLEAR SAFETY

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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

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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

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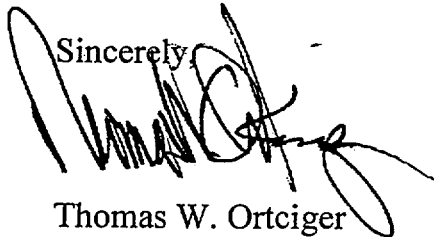
25 mrem/year standard is adequate if NRC is concerned that a more stringent cleanup standard would escalate program costs.

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,



Thomas W. Ortziger  
Director

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Enclosures

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