

>>> "Bradt, Clayton" <USCCJB@labor.state.ny.us> 11/20/01 04:41PM >>>
Paul,

We have been over this ground before, but I don't think its enough to agree to disagree on an issue so central to the relationship between the Commission and the States. You indicated that you believe that the Atomic Energy Act gives the Commission the authority to oversee the programs of the Agreement States. My first question to you is where?

When I have inquired previously about this, I have been referred to subsections g and j of section 274. 274 j, authorizes the Commission to unilaterally terminate all or part of an agreement if a state's program is inadequate to protect safety and health or if the state fails to comply with one or more of the provisions of section 274. 274 g directs the Commission to cooperate with the States in the formulation of standards for the protection against radiation hazards to assure that State and Commission programs are coordinated and compatible. The argument goes that 274 g requires the State to maintain a compatible program and 274 j says that if the State doesn't the Commission can terminate the agreement.

Is this your understanding of where the alleged oversight authority is derived? Is there more?

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From: Paul Lohaus
Sent: Tuesday, November 20, 2001 5:35 PM
To: USCCJB@labor.state.ny.us
Cc: Cardelia Maupin; Edward Baker; James Lieberman; Patricia Larkins
Subject: Re: NRC Oversight of the States

Clayton:

Thanks for your follow-up on this question.

One section I had in mind during our discussion was Section 274 j. and the language Congress added to Section 274j through Public Law 95-604. Congress added the words: "...The Commission shall periodically review such agreements and actions taken by the States under the agreements to insure compliance with the provisions of this section..." We understand this change was made by Congress to direct NRC to periodically review the agreement state programs.

I hope this helps.

Paul

From: "Bradt, Clayton" <USCCJB@labor.state.ny.us>
To: "Paul Lohaus" <PHL@nrc.gov>
Date: 12/7/01 11:57AM
Subject: RE: NRC Oversight of the States

Paul,

Sorry it has taken me so long to respond. I got distracted by other business. You know how it is.

The new language added to 274 j by UMTRCA was intended to apply to that portion of a State's program related to 11e.(2) material only. This is clear from the House Report set out with the bill (There was no Senate Report.) HR 95-1480 -Part I on page 21 states:

"Subsection (g) [sic. It is actually subsection (d) of PL 95-604] requires the Commission to review the regulatory programs of each Agreement State(s) [sic], as soon as practicable 3 years after the date of enactment of the act, to determine whether the standards applied by the State are at least equivalent to those of the Commission. [The standards referred to here are the standards for regulating uranium mill tailings as contained in subsection 274o of AEA.] If the Commission determines that the State's program does not comply, it may suspend or terminate that part of its agreement with the State under which the State is permitted to license and regulate uranium milling and mill tailings activities."

HR 95-1480- Part II contains the same language on pp. 44-45.

The Commission only has the authority to conduct on-going compatibility reviews on States' 11e.(2) programs. Since New York and most other agreement states don't have an 11e.(2) program, NRC has not reason to conduct its intrusive reviews a la IMPEP.

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