

To: Lohaus, STP

OFFICE OF THE SECRETARY
CORRESPONDENCE CONTROL TICKET

Date Printed: Aug 28, 2000 13:22

PAPER NUMBER: LTR-00-0549 LOGGING DATE: 08/28/2000

ACTION OFFICE: EDO ✓

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AFFILIATION:

ADDRESSEE: CHRM Richard Meserve

SUBJECT: Concerns results of the survey of the Agreement States regarding the legal definitions of "radioactive material" in each of the states

ACTION: Appropriate

DISTRIBUTION: RF

LETTER DATE: 08/17/2000

ACKNOWLEDGED No

SPECIAL HANDLING:

NOTES:

FILE LOCATION: ADAMS

DATE DUE:

DATE SIGNED:

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Organization of Agreement States

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August 17, 2000

Mr. Richard A. Meserve
Chairman
U.S. Nuclear Regulatory Commission
Washington, DC 20555

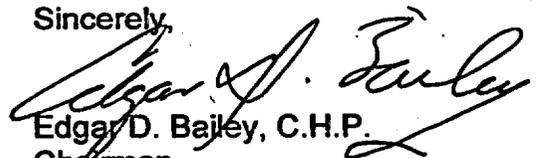
Dear Chairman Meserve:

The purpose of this letter is twofold. First, I want to thank you personally and on behalf of the Organization of Agreement States for the opportunity to brief you and the other Commissioners of the Nuclear Regulatory Commission (NRC) on issues and concerns of the Agreement States.

Secondly, I want to provide you with the results of the survey of the Agreement States regarding the legal definitions of "radioactive material" in each of the states. Attached are the results of that survey. With 100% of the Agreement States responding, the survey shows that there is an extremely high degree of uniformity between the states. While the wording may be slightly different, the meaning and the materials covered are the same except for the definition from Florida. The Florida definition carves out "radioactive wastes regulated pursuant to the federal Resource Conservation and Recovery Act of 1976...". If the NRC were to get legal authority to regulate "radioactive material", it is hoped that dual regulation by NRC and the Environmental Protection Agency would not continue.

As was expressed at the briefing, the OAS stands ready to support the NRC and to provide you with any additional information or answer any questions you may have.

Sincerely,


Edgar D. Bailey, C.H.P.
Chairman

Enclosure

cc: Mr. Paul Lohaus, Acting Director
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OAS Board

AGREEMENT STATE DEFINITIONS OF RADIOACTIVE MATERIAL

The following information is based upon a survey of all of the Agreement States requesting each state's definition of "radioactive material". This information was requested by the Chairman and Commissioners of the Nuclear Regulatory Commission at the Annual Organization of Agreement States briefing to them in June 2000.

1. "Radioactive material" means any material which emits radiation spontaneously.

Three (3) states (California, New Mexico, North Dakota) use this definition.

2. Kansas has a variation of this definition: "Radioactive material" means any material, in any chemical or physical form, which emits radiation spontaneously.
3. "Radioactive material" means any solid, liquid, or gas which emits radiation spontaneously.

Thirteen (13) states (Alabama, Colorado, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Mississippi, Nevada, Oregon, Utah) use this definition.

4. A slight variation: "Radioactive material" means any material (or materials), solid, liquid, or gaseous (gas), that emit (which emits) radiation spontaneously.

Nine (9) states (Arizona, Louisiana, New Hampshire, New York, North Carolina, Rhode Island, South Carolina, Tennessee, Washington) use one of the variants of this definition.

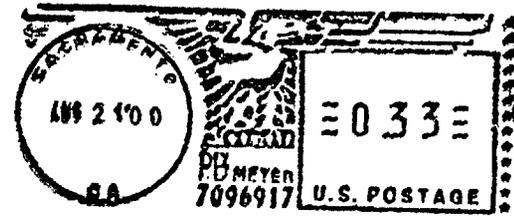
5. A further amplification occurs in Arkansas: "Radioactive material" - Any material, solid, liquid, or gas which emits radiation spontaneously, including any natural radioactive material such as Radium.
6. Ohio's definition is similarly amplified: "Radioactive material" means any solid, liquid, or gaseous material that emits ionizing radiation spontaneously. Radioactive material includes accelerator-produced and naturally occurring materials and by-product, source, and special nuclear material.
7. Florida places a restriction in its definition: "Radioactive material" means any solid, liquid, or gas which emits ionizing radiation spontaneously; however, this definition does not include radioactive wastes regulated pursuant to the hazardous waste management sections of the federal Resource Conservation and Recovery Act of 1976 or the Department of Environmental Protection's assumption of that program.

8. Nebraska has expanded upon the definition in #4 above: "Radioactive material" means any material whether solid, liquid, or gas, which emits ionizing radiation spontaneously. Radioactive material includes, but is not limited to, accelerator-produced material, byproduct material, naturally occurring material, source material, and special nuclear material.
9. Texas, of course, also has a variant of the definition: "Radioactive material" means a naturally occurring or artificially produced solid, liquid, or gas that emits radiation spontaneously.

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