

April 1, 2003

The Honorable George V. Voinovich, Chairman
Subcommittee on Clean Air, Climate Change and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc: Senator Thomas Carper

April 1, 2003

The Honorable Joe Barton, Chairman
Subcommittee on Energy and Air Quality
Committee on Energy and Commerce
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc: Representative Rick Boucher

April 1, 2003

The Honorable Pete V. Domenici, Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc: Senator Jeff Bingaman

April 1, 2003

The Honorable Pete V. Domenici, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc: Senator Harry Reid

April 1, 2003

The Honorable David L. Hobson, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc: Representative Peter Visclosky

April 1, 2003

The Honorable Susan Collins, Chairman
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Madam Chairman:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc: Senator Joseph I. Lieberman

April 1, 2003

The Honorable Tom Davis, Chairman
Committee on Government Reform
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc: Representative Henry A. Waxman

April 1, 2003

The Honorable Harry Reid
United States Senator
Washington, D.C. 20510

Dear Senator Reid:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable John Ensign
United States Senator
Washington, D.C. 20510

Dear Senator Ensign:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable Jim Gibbons
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Gibbons:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable Shelley Berkley
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Berkley:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable Jon Porter
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Porter:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable Herb Kohl
United States Senate
Washington, D.C. 20510

Dear Senator Kohl:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable Russell D. Feingold
United States Senate
Washington, D.C. 20510

Dear Senator Feingold:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable Paul D. Ryan
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Ryan:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable Tammy Baldwin
United States House of Representatives
Washington, D.C. 20515

Dear Congresswoman Baldwin:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable Ron Kind
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Kind:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable Jerry D. Kleczka
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Kleczka:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable Thomas E. Petri
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Petri:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable David R. Obey
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Obey:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable Mark Green
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Green:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable Jim Sensenbrenner
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Sensenbrenner:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

April 1, 2003

The Honorable George V. Voinovich, Chairman
Subcommittee on Clean Air, Climate Change and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is to inform the Subcommittee that by letter dated August 21, 2002, former Governor McCallum, on behalf of the State of Wisconsin, submitted a proposed Agreement between the U.S. Nuclear Regulatory Commission and the State of Wisconsin under Section 274 of the Atomic Energy Act, as amended.

An announcement of the proposed Agreement, along with a summary of the NRC staff assessment of the proposed Wisconsin program, will be published in the Federal Register. A copy of the Federal Register Notice is enclosed.

We will inform you when the Commission has completed its consideration of the proposed Agreement.

Sincerely,

/RA/

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc: Senator Thomas Carper

Note: Identical Letters sent to the attached list.

Distribution:

DIR RF (200100090)
EDO RF
RVirgilio
Wisconsin State File

(SP07) PDR (YES✓)

*See previous concurrence

Document Name: C:\ORPCheckout\FileNET\ML031000397.wpd

To receive a copy of this document, indicate in the box: "C" = Copy without attachment/enclosure "E" = Copy with attachment/enclosure "N" = No copy

OFFICE	STP	STP:DD	STP:D	OCA:D	
NAME	LBolling:gd	JMPiccone	PHLohaus	DKRathbun	
DATE	03/31/03*	03/31/03*	03/31/03*	04/01/03	

Addressees for the Proposed Wisconsin Agreement

The Honorable George V. Voinovich, Chairman
Subcommittee on Clean Air, Climate Change
and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, DC 20510
cc: Senator Joseph I. Lieberman

The Honorable Joe Barton, Chairman
Subcommittee on Energy and Air Quality
Committee on Energy and Commerce
United States House of Representatives
Washington, DC 20515
cc: Representative Rick Boucher

The Honorable Pete V. Domenici, Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510
cc: Senator Jeff Bingaman

The Honorable Pete V. Domenici, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States Senate
Washington, D.C. 20510
cc: Senator Harry Reid

The Honorable David L. Hobson, Chairman
Subcommittee on Energy and Water Development
Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515
cc: Representative Peter Visclosky

The Honorable Susan Collins, Chairman
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510
cc: Senator Joseph I. Lieberman

The Honorable Tom Davis, Chairman
Committee on Government Reform
United States House of Representatives
Washington, D.C. 20515
cc: Representative Henry A. Waxman

The Honorable Harry Reid
United States Senator
Washington, D.C. 20510

The Honorable John Ensign
United States Senator
Washington, D.C. 20510

The Honorable Jim Gibbons
United States House of Representatives
Washington, D.C. 20515

The Honorable Shelley Berkley
United States House of Representatives
Washington, D.C. 20515

The Honorable Jon Porter
United States House of Representatives
Washington, D.C. 20515

The Honorable Herb Kohl
United States Senate
Washington, D.C. 20510

The Honorable Russell D. Feingold
United States Senate
Washington, D.C. 20510

The Honorable Paul D. Ryan
United States House of Representatives
Washington, D.C. 20515

The Honorable Tammy Baldwin
United States House of Representatives
Washington, D.C. 20515

The Honorable Ron Kind
United States House of Representatives
Washington, D.C. 20515

The Honorable Jerry D. Kleczka
United States House of Representatives
Washington, D.C. 20515

The Honorable Thomas E. Petri
United States House of Representatives
Washington, D.C. 20515

The Honorable David R. Obey
United States House of Representatives
Washington, D.C. 20515

The Honorable Mark Green
United States House of Representatives
Washington, D.C. 20515

The Honorable Jim Sensenbrenner
United States House of Representatives
Washington, D.C. 20515

NUCLEAR REGULATORY COMMISSION

State of Wisconsin: NRC Staff Draft Assessment of a Proposed Agreement
Between the Nuclear Regulatory Commission and the State of Wisconsin

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of a Proposed Agreement with the State of Wisconsin.

SUMMARY: By letter dated August 21, 2002, former Governor Scott McCallum of Wisconsin requested that the U. S. Nuclear Regulatory Commission (NRC) enter into an Agreement with the State as authorized by Section 274 of the Atomic Energy Act of 1954, as amended (Act).

Under the proposed Agreement, the Commission would relinquish, and Wisconsin would assume, portions of the Commission's regulatory authority exercised within the State. As required by the Act, NRC is publishing the proposed Agreement for public comment. NRC is also publishing the summary of a draft assessment by the NRC staff of the Wisconsin regulatory program. Comments are requested on the proposed Agreement and the staff's draft assessment which finds the Program adequate to protect public health and safety and compatible with NRC's program for regulation of Agreement material.

The proposed Agreement would release (exempt) persons who possess or use certain radioactive materials in Wisconsin from portions of the Commission's regulatory authority. The Act requires that NRC publish those exemptions. Notice is hereby given that the pertinent

exemptions have been previously published in the Federal Register and are codified in the Commission's regulations as 10 CFR Part 150.

DATES: The comment period expires (insert date 30 days after date of publication).

Comments received after this date will be considered if it is practical to do so, but the Commission cannot assure consideration of comments received after the expiration date.

ADDRESSES: Written comments may be submitted to Mr. Michael T. Lesar, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Washington, DC 20555-0001. Comments may be submitted electronically at nrcprep@nrc.gov.

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/NRC/ADAMS/index.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr@nrc.gov.

Copies of comments received by NRC may be examined at the NRC Public Document Room, 11555 Rockville Pike, Public File Area O-1-F21, Rockville, Maryland. Copies of the request for an Agreement by the Governor of Wisconsin including all information and documentation submitted in support of the request, and copies of the full text of the NRC Staff Draft Assessment are also available for public inspection in the NRC's Public Document Room

- ADAMS Accession Numbers: ML030160104 and ML030900662.

FOR FURTHER INFORMATION CONTACT: Lloyd A. Bolling, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone (301) 415-2327 or e-mail LAB@nrc.gov.

SUPPLEMENTARY INFORMATION: Since Section 274 of the Act was added in 1959, the Commission has entered into Agreements with 32 States. The Agreement States currently regulate approximately 16,250 agreement material licenses, while NRC regulates approximately 4,900 licenses. Under the proposed Agreement, approximately 260 NRC licenses will transfer to Wisconsin. NRC periodically reviews the performance of the Agreement States to assure compliance with the provisions of Section 274.

Section 274e requires that the terms of the proposed Agreement be published in the Federal Register for public comment once each week for four consecutive weeks. This Notice is being published in fulfillment of the requirement.

I. Background

- (a) Section 274d of the Act provides the mechanism for a State to assume regulatory authority, from the NRC, over certain radioactive materials¹ and activities that involve use of the materials.

In a letter dated August 21, 2002, former Governor McCallum certified that the State of Wisconsin has a program for the control of radiation hazards that is adequate to protect public health and safety within Wisconsin for the materials and activities specified in the proposed Agreement, and that the State desires to assume regulatory responsibility for these materials and activities. Included with the letter was the text of the proposed Agreement, which is shown in Appendix A to this Notice.

The radioactive materials and activities (which together are usually referred to as the “categories of materials”) which the State of Wisconsin requests authority over are:

(1) the possession and use of byproduct materials as defined in Section 11e.(1) of the Act; (2) the possession and use of source materials; and (3) the possession and use of special nuclear materials in quantities not sufficient to form a critical mass, as provided for in regulations or orders of the Commission.

- (b) The proposed Agreement contains articles that:

--Specify the materials and activities over which authority is transferred;

¹The radioactive materials are: (a) byproduct materials as defined in Section 11e.(1) of the Act; (b) byproduct materials as defined in Section 11e.(2) of the Act; (c) source materials as defined in Section 11z. of the Act; and (d) special nuclear materials as defined in Section 11aa. of the Act, restricted to quantities not sufficient to form a critical mass.

- Specify the activities over which the Commission will retain regulatory authority;
- Continue the authority of the Commission to safeguard nuclear materials and restricted data;
- Commit the State of Wisconsin and NRC to exchange information as necessary to maintain coordinated and compatible programs;
- Provide for the reciprocal recognition of licenses;
- Provide for the suspension or termination of the Agreement; and
- Specify the effective date of the proposed Agreement.

The Commission reserves the option to modify the terms of the proposed Agreement in response to comments, to correct errors, and to make editorial changes. The final text of the Agreement, with the effective date, will be published after the Agreement is approved by the Commission, and signed by the Chairman of the Commission and the Governor of Wisconsin.

- (c) Wisconsin currently registers users of naturally-occurring and accelerator-produced radioactive materials. The regulatory program is authorized by law in Section 3145, Subsection 254.34 of the revised Wisconsin Statutes. Subsection 254.335(1) provides the authority for the Governor to enter into an Agreement with the Commission. Wisconsin law (Subsection 254.335(2)) contains provisions for the orderly transfer of regulatory authority over affected licensees from NRC to the State. After the effective date of the Agreement, licenses issued by NRC would continue in effect as Wisconsin licenses until the licenses expire or are replaced by State-issued licenses.

- (d) The NRC staff draft assessment finds that the Wisconsin program is adequate to protect public health and safety, and is compatible with the NRC program for the regulation of agreement materials.

II. Summary of the NRC Staff Draft Assessment of the Wisconsin Program for the Control of Agreement Materials

NRC staff has examined the Wisconsin request for an Agreement with respect to the ability of the Wisconsin radiation control program to regulate agreement materials. The examination was based on the Commission's policy statement "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement" (referred to herein as the "NRC criteria"), (46 FR 7540; January 23, 1981, as amended by policy statements published at 46 FR 36969; July 16, 1981 and at 48 FR 33376; July 21, 1983).

- (a) Organization and Personnel. The agreement materials program will be located within the existing Radiation Protection Section (Program) of the Wisconsin Department of Health and Family Services. The Program will be responsible for all regulatory activities related to the proposed Agreement.

The educational requirements for the Program staff members are specified in the Wisconsin State personnel position descriptions, and meet the NRC criteria with respect to formal education or combined education and experience requirements. All current staff members hold at least bachelor's degrees in physical or life sciences, or have a combination of education and experience at least equivalent to a bachelor's degree. Several staff members hold advanced degrees, and all staff members have had

additional training plus working experience in radiation protection. Supervisory level staff have more than ten years working experience each, in radiation protection.

The Program currently has one staff vacancy, which they are actively recruiting to fill. The Program performed, and NRC staff reviewed, an analysis of the expected Program workload under the proposed Agreement. Based on the NRC staff review of the State's staff analysis, Wisconsin has an adequate number of staff to regulate radioactive materials under the terms of the Agreement. The Program will employ a staff of 9.5 full-time professional/technical and administrative employees for the agreement materials program. The distribution of the qualifications of the individual staff members will be balanced to the distribution of categories of licensees transferred from NRC. Each individual on the staff is qualified in accordance with the Program's training and qualification procedure to function in the areas of responsibility to which the individual is assigned.

- (b) Legislation and Regulations. The Wisconsin Department of Health and Family Services (DHFS) is designated by law in Chapter 254 of the Wisconsin Revised Statutes to be the radiation control agency. The law provides the DHFS the authority to issue licenses, issue orders, conduct inspections, and to enforce compliance with regulations, license conditions, and orders. Licensees are required to provide access to inspectors. The DHFS is authorized to promulgate regulations.

The law requires the DHFS to adopt rules that are compatible with equivalent NRC regulations and that are equally stringent to the equivalent NRC regulations. Wisconsin has adopted HFS 157 Radiation Protection Code effective August 1, 2002. The NRC staff reviewed and forwarded comments on these regulations to the Wisconsin staff. The

NRC staff review verified that, with the comments incorporated, the Wisconsin rules (and legally binding requirements) contain all of the provisions that are necessary in order to be compatible with the regulations of the NRC on the effective date of the Agreement between the State and the Commission. The DHFS has extended the effect of the rules, where appropriate, to apply to naturally occurring radioactive materials and to radioactive materials produced in particle accelerators, in addition to agreement materials. The NRC staff also concludes that Wisconsin will not attempt to enforce regulatory matters reserved to the Commission.

Wisconsin regulations are different from the NRC regulations with respect to the termination of the license. Current NRC regulations permit a license to be terminated when the facility has been decommissioned, i.e., cleaned of radioactive contamination, such that the residual radiation will not cause a total effective dose equivalent greater than 25 millirem per year to an average member of the group of individuals reasonably expected to receive the greatest exposure. Normally, the NRC regulations require that the 25 millirem dose constraint be met without imposing any restrictions regarding the future use of the land or buildings of the facility (“unrestricted release”). Under certain circumstances, NRC regulations in 10 CFR Part 20, Subpart E, allow a license to be terminated if the 25 millirem dose constraint is met with restrictions on the future use (“restricted release”). Wisconsin law does not allow a license to be terminated under restricted release conditions. Wisconsin will instead issue a special “decommissioning-possession only” license as an alternate to license termination under restricted release. NRC staff has concluded that this approach is compatible with NRC regulations.

- (c) Storage and Disposal. Wisconsin has also adopted NRC compatible requirements for the handling and storage of radioactive material. Wisconsin will not seek authority to regulate the land disposal of radioactive material as waste. The Wisconsin waste disposal requirements cover the preparation, classification and manifesting of radioactive waste, generated by Wisconsin licensees, for transfer for disposal to an authorized waste disposal site or broker.

- (d) Transportation of Radioactive Material. Wisconsin has adopted regulations compatible with NRC regulations in 10 CFR Part 71. Part 71 contains the requirements that licensees must follow when preparing packages containing radioactive material for transport. Part 71 also contains requirements related to the licensing of packaging for use in transporting radioactive materials. Wisconsin will not attempt to enforce portions of the regulations related to activities, such as approving packaging designs, which are reserved to NRC.

- (e) Recordkeeping and Incident Reporting. Wisconsin has adopted the sections compatible with the NRC regulations which specify requirements for licensees to keep records, and to report incidents, accidents, or events involving materials.

- (f) Evaluation of License Applications. Wisconsin has adopted regulations compatible with the NRC regulations that specify the requirements which a person must meet in order to get a license to possess or use radioactive materials. Wisconsin has also developed a licensing procedures manual, along with the accompanying regulatory guides, which are adapted from similar NRC documents and contain guidance for the Program staff when evaluating license applications.

- (g) Inspections and Enforcement. The Wisconsin radiation control program has adopted a schedule providing for the inspection of licensees as frequently as the inspection schedule used by NRC. The Program has adopted procedures for the conduct of inspections, the reporting of inspection findings, and the reporting of inspection results to the licensees. The Program has also adopted, by rule based on the Wisconsin Revised Statutes, procedures for the enforcement of regulatory requirements.

- (h) Regulatory Administration. The Wisconsin Department of Health and Family Services is bound by requirements specified in State law for rulemaking, issuing licenses, and taking enforcement actions. The Program has also adopted administrative procedures to assure fair and impartial treatment of license applicants. Wisconsin law prescribes standards of ethical conduct for State employees.

- (i) Cooperation with Other Agencies. Wisconsin law deems the holder of an NRC license on the effective date of the proposed Agreement to possess a like license issued by Wisconsin. The law provides that these former NRC licenses will expire either 90 days after receipt from the radiation control program of a notice of expiration of such license or on the date of expiration specified in the NRC license, whichever is earlier.

Wisconsin also provides for “timely renewal.” This provision affords the continuance of licenses for which an application for renewal has been filed more than 30 days prior to the date of expiration of the license. NRC licenses transferred while in timely renewal are included under the continuation provision. The Wisconsin Radiation Protection Code provides exemptions from the State's requirements for licensing of sources of radiation for NRC and U.S. Department of Energy contractors or subcontractors. The proposed Agreement commits Wisconsin to use its best efforts to cooperate with the NRC and the

other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation and to assure that Wisconsin's program will continue to be compatible with the Commission's program for the regulation of agreement materials. The proposed Agreement stipulates the desirability of reciprocal recognition of licenses, and commits the Commission and Wisconsin to use their best efforts to accord such reciprocity.

III. Staff Conclusion

Subsection 274d of the Act provides that the Commission shall enter into an agreement under subsection 274b with any State if:

- (a) The Governor of the State certifies that the State has a program for the control of radiation hazards adequate to protect public health and safety with respect to the agreement materials within the State, and that the State desires to assume regulatory responsibility for the agreement materials; and
- (b) The Commission finds that the State program is in accordance with the requirements of Subsection 274o, and in all other respects compatible with the Commission's program for the regulation of materials, and that the State program is adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

On the basis of its draft assessment, the NRC staff concludes that the State of Wisconsin meets the requirements of the Act. The State's program, as defined by its statutes, regulations, personnel, licensing, inspection, and administrative procedures, is

compatible with the program of the Commission and adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

NRC will continue the formal processing of the proposed Agreement which includes publication of this Notice once a week for four consecutive weeks for public review and comment.

IV. Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

Dated at Rockville, Maryland, this 2^{8th} day of March, 2003.

For the Nuclear Regulatory Commission.

/RA/

Josephine M. Piccone, Acting Director
Office of State and Tribal Programs