

Joel C. Smith, Administrator
Office of Air Quality & Solid Waste
Department of Water & Natural Resources
Joe Foss Building
523 East Capitol
Pierre, South Dakota 57501-3181

24 MAY 1985

South Dakota
2

Dear Mr. Smith:

Thank you for your April 24, 1985 letter in which you request information about the resources necessary to become an agreement state with NRC.

I am enclosing several information packets that will assist you in determining South Dakota's needs in order to attain either a full or a partial agreement.

The enclosures are:

1. Summary of the NRC's Program for Transfer of Regulatory Authority to States
2. Section 274 of the Atomic Energy Act, as amended
3. Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement (Federal Register Notices of January 23, July 16, and July 21, 1981)
4. Agreement between NRC and the State of Utah
5. NRC Policy Statement on Evaluation of Agreement State Radiation Control Programs (Federal Register Notice of December 4, 1981)
6. Guidance on Limited State Agreements for Regulation of Low-Level Radioactive Waste Disposal (December 1984)
7. Model State Legislation edited for Low-Level Waste only
8. List of Low-Level Waste Regulatory Guides and Technical Positions

In Enclosure No. 6, you will find estimates of the personnel resources necessary to license and regulate a low-level radioactive waste disposal site. In Enclosure No. 5, you will find what the NRC considers an acceptable staffing

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Joel Smith

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24 MAY 1985

level for a state with full agreement. A minimum of two professionals would be necessary to assure continued coverage.

Based on our experience, it normally takes a state that is actively pursuing an agreement 1 to 2 years to reach the point in the process where a formal request is sent to NRC. The NRC's evaluation of that request normally takes another 3 months.

The licensing process for a low-level waste site officially begins when an application for a license is received, is found to be complete, and is docketed. Regarding your question on the licensing schedule, we are gathering information in order to answer that in as much detail as possible and will send it to you separately.

We and the Office of State Programs stand ready to meet with you to discuss in more detail the process of entering into an agreement. Please call me if you would like us to arrange such a meeting. My telephone number is (817) 860-8139.

Sincerely,

"Original Signed by:
R. J. DODA"

Robert J. Doda, Chief
State and Governmental Affairs Staff

bcc w/enclosures:
South Dakota File

bcc w/o enclosures:
R. Martin
P. Check
W. Brown
R. Doda
G. Sanborn
R. Heyer
C. Wisner
R. Bangart
R. Smith (URFO)
G. Kerr, OSP
✓ D. Nussbaumer, OSP

Public Law 86-373
86th Congress, S. 2568
September 23, 1959
As Amended by the
Uranium Mill Tailings
Radiation Control Act of
1978

Public Law 95-604
and Further Amended by NRC's
FY 1980 Authorization Act
Public Law 96-295
and
Public Law 97-415
January 4, 1983

To amend the Atomic Energy Act of 1954, as amended,
with respect to cooperation with States.

Be it enacted by the Senate and House of Representatives
of the United States of America in Congress assembled, That
the following section be added to the Atomic Energy Act of
1954, as amended: "

Atomic Energy
Act of 1954,
amendments.
68 Stat. 919.
42 USC 2011
note.

"Sec. 274. Cooperation With States.--

"a. It is the purpose of this section--

"(1) to recognize the interests of the States in the
peaceful uses of atomic energy, and to clarify the
respective responsibilities under this Act of the States
and the Commission with respect to the regulation of
byproduct, source, and special nuclear materials;

"(2) to recognize the need, and establish programs
for, cooperation between the States and the Commission
with respect to control of radiation hazards associated
with use of such materials;

"(3) to promote an orderly regulatory pattern
between the Commission and State governments with
respect to nuclear development and use and regulation
of byproduct, source, and special nuclear materials;

"(4) to establish procedures and criteria for discontinuance of certain of the Commission's regulatory responsibilities with respect to byproduct, source, and special nuclear materials, and the assumption thereof by the States:

73 STAT. 688.
73 STAT. 689.

"(5) to provide for coordination of the development of radiation standards for the guidance of Federal agencies and cooperation with the States; and

"(6) to recognize that, as the States improve their capabilities to regulate effectively such materials, additional legislation may be desirable.

"b. Except as provided in subsection c, the Commission is authorized to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission under chapters 6, 7, and 8, and section 161 of this Act, with respect to any one or more of the following materials within the State.--

Agreements with
States.

42 USC 2071-
2112, 2201.

"(1) byproduct materials as defined in section 11
e (1),

"(2) byproduct materials as defined in section 11
e (2);

"(3) source materials;

"(4) special nuclear materials in quantities not sufficient to form a critical mass.

During the duration of such an agreement it is recognized that the State shall have authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards.

"c. No agreement entered into pursuant to subsection b. shall provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of--

"(1) the construction and operation of any production or utilization facility;

"(2) the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

"(3) the disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

"(4) the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission. The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material as defined in section 11 e (2).

Notwithstanding any agreement between the Commission and any State pursuant to subsection b, the Commission is authorized by rule, regulation, or order to require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license issued by the Commission.

"d. The Commission shall enter into an agreement under Conditions. subsection b. of this section with any State if--

"(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

"(2) the Commission finds that the State program is in accordance with the requirements of subsection o. and in all other respects compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

"e. (1) Before any agreement under subsection b. is signed by the Commission, the terms of the proposed agreement and of proposed exemptions pursuant to subsection f. shall be published once each week for four consecutive weeks in the Federal Register; and such opportunity for comment by interested persons on the proposed agreement and exemptions shall be allowed as the Commission determines by regulation or order to be appropriate.

Publication in
F. R.

73 STAT. 689.
73 STAT. 690.

"(2) Each proposed agreement shall include the proposed effective date of such proposed agreement or exemptions. The agreement and exemptions shall be published in the Federal Register within thirty days after signature by the Commission and the Governor.

"f. The Commission is authorized and directed, by regulation or order, to grant such exemptions from the licensing requirements contained in chapters 6, 7, and 8, and from its regulations applicable to licensees as the Commission finds necessary or appropriate to carry out any agreement entered into pursuant to subsection b. of this section.

Licensing re-
quirements.
Exemptions.

"g. The Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

"h. There is hereby established a Federal Radiation Council, consisting of the Secretary of Health, Education and Welfare, the Chairman of the Atomic Energy Commission, the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, or their designees, and such other members as shall be appointed by the President. The Council shall consult qualified scientists and experts in radiation matters, including the President of the National Academy of Sciences, the Chairman of the National Committee on Radiation Protection and Measurement, and qualified experts in the field of biology and medicine and in the field of health physics.* The Special Assistant to the President for Science and Technology, or his designee, is authorized to attend meetings, participate in the deliberations of, and to advise the Council. The Chairman of the Council shall be designated by the President, from time to time, from among the members of the Council. The Council shall advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States. The Council shall also perform such other functions as the President may assign to it by Executive Order.

Federal Radiation Council.

"i. The Commission in carrying out its licensing and regulatory responsibilities under this Act is authorized to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate. The Commission is also authorized to provide training, with or without charge, to employees of, and such other assistance to, any State or political subdivision thereof or group of States as the Commission deems appropriate. Any such provision or assistance by the Commission shall take into account the additional expenses that may be incurred by a State as a consequence of the State's entering into an agreement with the Commission pursuant to subsection b.

Inspections.

"j. (1) The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State with which an agreement under subsection b. has become effective, or upon request of the Governor of such State, may terminate or suspend all or part of its agreement with the State and reassert the licensing and regulatory authority vested in it under this Act, if the Commission finds that (1) such termination or suspension is required to protect the public health and safety or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

Termination
of agreement.

73 STAT. 690.
73 STAT. 691.

"(2) The Commission, upon its own motion or upon request

94 STAT. 787

of the Governor of any State, may, after notifying the Governor,
temporarily suspend all or part of its agreement with the State
without notice or hearing if, in the judgment of the Commission:

"(A) an emergency situation exists with respect
to any material covered by such an agreement creating
danger which requires immediate action to protect the
health or safety of persons either within or outside
the State, and

"(B) the State has failed to take steps necessary
to contain or eliminate the cause of the danger within
a reasonable time after the situation arose.

A temporary suspension under this paragraph shall remain
in effect only for such time as the emergency situation
exists and shall authorize the Commission to exercise its
authority only to the extent necessary to contain or eliminate
the danger."

"k. Nothing in this section shall be construed to affect
the authority of any State or local agency to regulate activities
for purposes other than protection against radiation hazards.

"l. With respect to each application for Commission license
authorizing an activity as to which the Commission's authority
is continued pursuant to subsection c., the Commission shall
give prompt notice to the State or States in which the activity
will be conducted of the filing of the license application;
and shall afford reasonable opportunity for State representatives
to offer evidence, interrogate witnesses, and advise the

Notice of
filing.

Commission as to the application without requiring such representatives to take a position for or against the granting of the application.

"m. No agreement entered into under subsection b., and no exemption granted pursuant to subsection f., shall affect the authority of the Commission under subsection 161 b. or i. to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material. For purposes of subsection 161i., activities covered by exemptions granted pursuant to subsection f. shall be deemed to constitute activities authorized pursuant to this Act; and special nuclear material acquired by any person pursuant to such an exemption shall be deemed to have been acquired pursuant to section 53.

42 USC 2201.

42 USC 2073.

"n. As used in this section, the term 'State' means any State, Territory, or possession of the United States, the Canal Zone, Puerto Rico, and the District of Columbia. As used in this section, the term 'agreement' includes any amendment to any agreement.

"o. In the licensing and regulation of byproduct material, as defined in section 11 e. (2) of this Act, or of any activity which results in the production of byproduct material as so defined under an agreement entered into pursuant to subsection b., a State shall require--

"(1) compliance with the requirements of subsection b. of section 83 (respecting ownership of byproduct material and land), and

"(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 83, 84, and 275, and

"(3) procedures which--

"(A) in the case of licenses, provide procedures under State law which include--

. "(i) an opportunity, after public notice, for written comments and a public hearing, with a transcript,

"(ii) an opportunity for cross examination, and

(iii) a written determination which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

"(B) in the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

"(C) require for each license which has a significant impact on the human environment a written analysis (which shall be available to the public before the commencement of any such proceedings) of the impact of such license, including any activities conducted pursuant thereto, on the environment, which analysis shall include--

"(i) an assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;

"(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;

"(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

"(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any product material, as defined by section 11 e. (2); and

"(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C).

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 83 b. of this Act, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be sufficient to ensure compliance with the standards established by the Commission pursuant to section 161 x. of this Act. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings, conducted by the Commission. In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements, adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the

environment from radiological and nonradiological hazards
associated with such sites, which is equivalent to, to the
extent practicable, or more stringent than the level which
would be achieved by standards and requirements adopted and
enforced by the Commission for the same purpose and any final
standards promulgated by the Administrator of the Environmental
Protection Agency in accordance with section 275. Such
alternative State requirements may take into account local or
regional conditions, including geology, topography, hydrology
and meteorology."

Approved September 23, 1959

Amendment Approved November 8, 1978

Amendment Approved June 30, 1980

Amendment Approved January 4, 1983



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

July, 1984

SUMMARY OF
THE NUCLEAR REGULATORY COMMISSION'S PROGRAM FOR
TRANSFER OF REGULATORY AUTHORITY TO STATES

Prior to enactment of the Atomic Energy Act of 1954, nuclear energy activities in the United States were largely confined to the Federal Government. The Act made it possible for private commercial firms to enter the field for the first time. Because of the hazards associated with nuclear materials, Congress determined that these activities should be regulated under a Federal licensing system to protect the health and safety of workers in the nuclear industry and the public. The Nuclear Regulatory Commission is the Federal agency charged with this responsibility.

Although protection of the public's health and safety has traditionally been a State responsibility, the Atomic Energy Act of 1954 did not specify such a role for the States in nuclear matters. This policy was changed in 1959 when Congress enacted Section 274 of the Atomic Energy Act. Section 274 spells out a State role and provides a statutory basis under which the Federal Government can relinquish to the States portions of its regulatory authority. The 1959 amendment made it possible for the States to license and regulate byproduct material (radioisotopes),¹ source material (the raw materials of atomic energy), and small quantities of special nuclear material. The Commission is required, however, to retain regulatory authority over the licensing of nuclear facilities such as reactors, exports and imports of nuclear materials and facilities, larger quantities of fissionable material, consumer products and certain types of radioactive wastes. The Atomic Energy Act was amended in 1978 by the passage of the Uranium Mill Tailings Radiation Control Act of 1978 which requires Agreement States regulating uranium and thorium tailings resulting from recovery operations to adopt certain technical and procedural requirements. The 1978 amendment also requires NRC to periodically review Agreement State programs for adequacy and compatibility.

Section 274j of the Atomic Energy Act provides that the NRC may terminate its agreement with a State if the Commission finds that such termination is necessary to protect the public health and safety. In 1980, Section 274j was amended to authorize the Commission to

¹ In 1978, Congress enacted the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) which, among other things, added to the category of byproduct material "tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content."

temporarily suspend all or part of an agreement with a State in the case of an emergency situation where the State failed to take necessary action. Such suspensions may remain in effect only for the duration of the emergency. A copy of Section 274 of the Act, as amended, is enclosed (Enclosure 1).

The mechanism for the transfer of NRC authority to a State to regulate the radiological health and safety aspects of nuclear materials is an agreement between the Governor of the State and the Commission. Criteria for such agreements have been published by NRC as a Policy Statement in the Federal Register (Enclosure 2). A copy of the most recent agreement, with Utah, is enclosed for illustration (Enclosure 3). Before actually signing the document, the Commission, by statute, must determine that the State's radiation control program is compatible with the Commission's, meets the applicable parts of Section 274 and that it is adequate to protect the public health and safety. For its part, the State establishes its authority to enter such an agreement by passing enabling legislation.

At present, twenty-seven States have entered into such Agreements with NRC.² These States now regulate about 60% of the licensees for byproduct, source material, and special nuclear material in the United States. In 1981 the Commission determined that qualified States may also enter into limited agreements for regulation of low-level waste in permanent disposal facilities.

Each agreement provides that the State will use its best efforts to maintain continuing compatibility with the NRC's program. The NRC maintains a continuing relationship with each Agreement State to assure continued compatibility of the State's regulatory program and its adequacy to protect health and safety. This relationship includes: exchange of information on a current basis covering regulations, licensing, inspection and enforcement data; consultation on special licensing, inspection, enforcement and other regulatory problems; and an annual meeting of all Agreement States to consider regulatory matters of common interest. Special technical assistance is routinely provided to the States upon request.

As mandated by the Atomic Energy Act, NRC conducts on-site, in-depth program reviews periodically of each Agreement State in which organizational, administrative, personnel, regulatory, licensing, compliance and enforcement program areas are reviewed. Selected licensing and compliance casework is reviewed in detail. State inspectors are accompanied by NRC staff on selected inspections of State licensees. A copy of the guidelines which the NRC uses in conducting such reviews have been published in the Federal Register as a Commission policy statement (Enclosure 4).

² Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Kansas, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, New York, North Carolina, North Dakota, Oregon, Rhode Island, South Carolina, Tennessee, Texas, Utah and Washington.

When program deficiencies are identified specific recommendations for improvements are developed and formally transmitted to the State for action. Follow-up reviews are made as necessary.

NRC provides a wide spectrum of training for State personnel. Examples are short-term courses in health physics, radiography radiation safety, nuclear medicine, inspection procedures, program management, and control of uranium mill tailings. Travel costs and per diem for these training sessions are paid by NRC.

Although other Federal agencies, such as the Environmental Protection Agency, the Food and Drug Administration, and the Department of Transportation are also involved in the control of radiation hazards, NRC's Agreement State Program serves as a focal point for Federal-State cooperation in radiation control. The NRC State Agreement Program is implemented by the NRC regional offices in accordance with established policies and procedures developed and maintained by the Office of State Programs.

The staffs of the Office of State Programs and the Regional Offices are ready to meet with representatives of Governors, State agencies, State legislative committees, State advisory groups and others to explain fully the NRC Agreement program. They can provide descriptive materials about these programs and model State acts for regulatory legislation and will also arrange meetings with other NRC staff members on specialized subjects as appropriate.

What are the advantages for a State that takes over the Commission's regulatory authority as described above? The principal advantages are the following:

- (a) NRC's authority does not include regulation of x-ray machines and other radiation producing equipment,³ accelerator-produced radioactive materials, and radium. Regulation of these sources for radiation protection is, and always has been, primarily the responsibility of the States. Many States now exercise surveillance over these sources of radiation which, in the aggregate, are responsible for over 75% of the public's exposure to radiation, other than from background. Thus, by assuming the authority which the NRC is authorized to relinquish, a State is able to have, as part of its public health system, a complete and comprehensive program for radiation safety.
- (b) Many facilities, including medical institutions and physicians, use radioisotopes as well as x-ray machines and radium. A State regulatory system which covers all such radiation sources enables most users to deal with a single agency rather than with a Federal agency for a part and the State for the remainder.
- (c) An agreement with NRC enables a State to make its own licensing decisions and in doing so, to take into account local conditions.

³ NRC does regulate radium to the extent it occurs in uranium or thorium mill tailings, see footnote 1, p. 1.

- (d) The proximity of licensed users of radioactive materials to the regulating agency has been cited as having significant advantages for both the users and the agency.
- (e) Entering into such an agreement with NRC would be consistent with a serious interest of a State in being knowledgeable about all sources of radiation located within its boundaries.
- (f) An agreement with NRC enhances the core of knowledgeable people at the State level who can respond to inquiries and incidents.

Administrative costs that are incurred by a State becoming an Agreement State vary from State to State, depending, among other factors, upon whether or not the State already has a radiation control program covering sources of radiation not regulated by the NRC, i.e., x-ray machines, accelerator-produced radioactive materials and radium. Where this is the case, the incremental costs would be less than if the State previously had only a limited or voluntary radiation control program. As a rule of thumb, 1.0-1.5 staff-years per 100 licenses is needed to effectively administer the program assumed from the NRC. This is a rather general index and actual staffing needs will vary according to the particular circumstances in any given State. Further, those States which have major licensed facilities in their State, such as low level burial grounds and uranium mills, will need additional resources. NRC staff can provide further guidance on staffing requirements for regulating in these areas.

NRC charges most of its licensees license application and inspection fees. Whether or not an Agreement State charges fees is a matter of choice for the State. NRC does not provide funding to States for routine program costs. Some Agreement States fund their programs out of general revenues and plan to continue doing so. The majority of the Agreement States, however, have authorized collection of user fees as a means of assuring an adequate funding base. As a result of these States' fees and those of NRC, over two-thirds of the licensees in the United States are licensed by agencies authorized to charge user fees. NRC has prepared model State legislation which includes authorization for a fee system. NRC staff can assist States in developing fee systems.

The Agreement State experience since 1962, the year of the first Agreement, has been that the States generally conduct effective radiation control programs. When major program deficiencies are noted by NRC, technical advice, assistance and training is offered by NRC (within its resources). The main area of concern is maintaining adequate staffing levels, a reflection of State salary structures and funding. On the other hand, Agreement States typically excel in having highly trained staff and by conducting more frequent inspections than NRC.

Enclosures:

1. Section 274 of the Act,
as amended
2. 46 FR 7540 and 36969,
and 48 CFR 33376
3. Agreement with the
State of Utah
4. 46 FR 59341

Licensing of
Government
agencies.
42 U.S.C.
sec. 2020.

Cooperation
with States.
42 U.S.C.
sec. 2021.

Agreements
with States.

commerce shall be subject to the regulatory provisions of the Federal Power Act.

"SEC. 273. LICENSING OF GOVERNMENT AGENCIES.— Nothing in this Act shall preclude any Government agency now or hereafter authorized by law to engage in the production, marketing, or distribution of electric energy from obtaining a license under section 103, if qualified under the provisions of section 103, for the construction and operation of production or utilization facilities for the primary purpose of producing electric energy for disposition for ultimate public consumption.

"SEC. 274. COOPERATION WITH STATES.²⁰⁵—

"a. It is the purpose of this section—

"(1) to recognize the interests of the States in the peaceful uses of atomic energy, and to clarify the respective responsibilities under this Act of the States and the Commission with respect to the regulation of byproduct, source, and special nuclear materials;

"(2) to recognize the need, and establish programs for cooperation between the States and the Commission with respect to control of radiation hazards associated with use of such materials;

"(3) to promote an orderly regulatory pattern between the Commission and State governments with respect to nuclear development and use and regulation of byproduct, source, and special nuclear materials;

"(4) to establish procedures and criteria for discontinuance of certain of the Commission's regulatory responsibilities with respect to byproduct, source, and special nuclear materials, and the assumption thereof by the States;

"(5) to provide for coordination of the development of radiation standards for the guidance of Federal agencies and cooperation with the States; and

"(6) to recognize that, as the States improve their capabilities to regulate effectively such materials, additional legislation may be desirable.

"b. Except as provided in subsection c., the Commission is authorized to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission under chapters 6, 7, and 8, and section 161 of this Act, with respect to any one or more of the following materials within the State—

"(1) by product materials as defined in section 11e.
(1);²⁰⁶

"(2) byproduct materials as defined in section 11e.
(2);²⁰⁷

"(3) source materials;

"(4) special nuclear materials in quantities not sufficient to form a critical mass.

²⁰⁵Public Law 86-373 (73 Stat. 688) (1959), sec. 1, added sec. 274.

²⁰⁶Public Law 95-604 (92 Stat. 3036) (1978), sec. 204(a), amended sec. 274(b)(1) by adding "as defined in section 11e. (1)" after the words "byproduct materials."

²⁰⁷Public Law 95-604 (92 Stat. 3037) (1978), sec. 204(a), renumbered paragraphs (2) and (3) as paragraphs (3) and (4), and added a new paragraph (2).

During the duration of such an agreement it is recognized that the State shall have authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards.

"c. No agreement entered into pursuant to subsection b. shall provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of—

"(1) the construction and operation of any production or utilization facility;

"(2) the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;

"(3) the disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;

"(4) the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission. The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material, as defined in section 11e. (2).²⁰⁸

42 U.S.C. 2014

Notwithstanding any agreement between the Commission and any State pursuant to subsection b., the Commission is authorized by rule, regulation, or order to require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license issued by the Commission.

Conditions.

"d. The Commission shall enter into an agreement under subsection b. of this section with any State if—

"(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

"(2) the Commission finds that the State program is in accordance with the requirements of subsection o. and in all other respects²⁰⁹ compatible with the Commission's program for regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

"e. (1) Before any agreement under subsection b. is signed by the Commission, the terms of the proposed

Publication in F.R.

²⁰⁸Public Law 95-604 (92 Stat. 3038) (1978), sec. 204(f), added a new sentence after paragraph (4).

²⁰⁹Public Law 95-604 (92 Stat. 3037) (1978), sec. 904(b), amended sec. 274(d)(2) by inserting the words "in accordance with the requirements of subsection o. and in all other respects" before the word "compatible".

agreement and of proposed exemptions pursuant to subsection f. shall be published once each week for four consecutive weeks in the Federal Register; and such opportunity for comment by interested persons on the proposed agreement and exemptions shall be allowed as the Commission determines by regulation or order to be appropriate.

"(2) Each proposed agreement shall include the proposed effective date of such proposed agreement or exemptions. The agreement and exemptions shall be published in the Federal Register within thirty days after signature by the Commission and the Governor.

Licensing
requirements
Exemptions.

"f. The Commission is authorized and directed, by regulation or order, to grant such exemptions from the licensing requirements contained in chapters 6, 7, and 8, and from its regulations applicable to licensees as the Commission finds necessary or appropriate to carry out any agreement entered into pursuant to subsection b. of this section.

"g. The Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

Federal
Radiation
Council.

"h. There is hereby established a Federal Radiation Council, consisting of the Secretary of Health, Education, and Welfare, the Chairman of the Atomic Energy Commission, the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, or their designees, and such other members as shall be appointed by the President. The Council shall consult qualified scientists and experts in radiation matters, including the President of the National Academy of Sciences, the Chairman of the National Committee on Radiation Protection and Measurement, and qualified experts in the field of biology and medicine and in the field of health physics. The Special Assistant to the President for Science and Technology, or his designee, is authorized to attend meetings, participate in the deliberations of, and to advise the Council. The Chairman of the Council shall be designated by the President, from time to time, from among the members of the Council. The Council shall advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States. The Council shall also perform such other functions as the President may assign to it by Executive order.

Inspections.

"i. The Commission in carrying out its licensing and regulatory responsibilities under this Act is authorized to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate. The

²⁰⁰Public Law 95-604 (92 Stat. 3037) (1978), sec. 904(b), amended sec. 274(d)(2) by inserting the words "in accordance with the requirements of subsection o, and in all other respects" before the word "compatible".

Commission is also authorized to provide training, with or without charge, to employees of, and such other assistance to, any State or political subdivision thereof or group of States as the Commission deems appropriate. Any such provision or assistance by the Commission shall take into account the additional expenses that may be incurred by a State as a consequence of the State's entering into an agreement with the Commission pursuant to subsection b.

"j. (1)²¹⁰ The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State with which an agreement under subsection b. has become effective, or upon request of the Governor of such State, may terminate or suspend all or part of²¹¹ its agreement with the State and reassert the licensing and regulatory authority vested in it under this Act, if the Commission finds that (1)²¹² such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of this section. 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.²¹³

Termination
of agreement.

"(2) The Commission, upon its own motion or upon request of the Governor of any State, may, after notifying the Governor, temporarily suspend all or part of its agreement with the State without notice or hearing if, in the judgment of the Commission:

"(A) an emergency situation exists with respect to any material covered by such an agreement creating danger which requires immediate action to protect the health or safety of persons either within or outside of the State, and

"(B) the State has failed to take steps necessary to contain or eliminate the cause of the danger within a reasonable time after the situation arose.

A temporary suspension under this paragraph shall remain in effect only for such time as the emergency situation exists and shall authorize the Commission to exercise its authority only to the extent necessary to contain or eliminate the danger."²¹⁴

"k. Nothing in this section shall be construed to affect the authority of any State or local agency to regulate activities for purposes other than protection against radiation hazards.

"l. With respect to each application for Commission license authorizing an activity as to which the Commission's authority is continued pursuant to subsection c., the Commission shall give prompt notice to the State or

Notice of
filing.

²¹⁰Public Law 96-295 (94 Stat. 787) (1980), sec. 205, inserted "(1)" after "j."

²¹¹Public Law 95-604 (92 Stat. 3037) (1978), sec. 204(d)(1), amended sec. 274j by adding the words "all or part of" after "suspend"

²¹²Public Law 95-604 (92 Stat. 3037) (1978), sec. 204(d)(2), amended sec. 274j by inserting "(1)" after "finds that"

²¹³Public Law 95-604 (92 Stat. 3037) (1978), sec. 204(d)(3), amended sec. 274j by adding at the end before the period, "or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section"

²¹⁴Public Law 96-295 (94 Stat. 787) (1980), sec. 205 added new subsec. "j. (2)".

States in which the activity will be conducted of the filing of the license application; and shall afford reasonable opportunity for State representatives to offer evidence, interrogate witnesses, and advise the Commission as to the application without requiring such representatives to take a position for or against the granting of the application.

"m. No agreement entered into under subsection b., and no exemption granted pursuant to subsection f., shall affect the authority of the Commission under subsection 161 b. or i. to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material. For purposes of subsection 161 i., activities covered by exemptions granted pursuant to subsection f. shall be deemed to constitute activities authorized pursuant to this Act; and special nuclear material acquired by any person pursuant to such an exemption shall be deemed to have been acquired pursuant to section 53.

Definition.

"n. As used in this section, the term 'State' means any State, Territory, or possession of the United States, the Canal Zone, Puerto Rico, and the District of Columbia. As used in this section, the term 'agreement' includes any amendment to any agreement.²¹⁵

"Agreement."

"o. In the licensing and regulation of byproduct material, as defined in section 11 e. (2) of this Act, or of any activity which results in the production of byproduct material as so defined under an agreement entered into pursuant to subsection b., a State shall require—

"(1) compliance with the requirements of subsection b. of section 83 (respecting ownership of byproduct material and land), and

"(2) compliance with standards which shall be adopted by the State for the protection of the public health, safety, and the environment from hazards associated with such material which are equivalent, to the extent practicable, or more stringent than, standards adopted and enforced by the Commission for the same purpose, including requirements and standards promulgated by the Commission and the Administrator of the Environmental Protection Agency pursuant to sections 83, 84, and 275, and

*Amr. p. 3033.
Posi. p. 3039.*

"(3) procedures which—

"(A) in the case of licenses, provide procedures under State law which include—

"(i) an opportunity, after public notice, for written comments and a public hearing, with a transcript,

"(ii) an opportunity for cross examination, and

"(iii) a written determination which is based upon findings included in such determination and upon the evidence presented during the public comment period and which is subject to judicial review;

²¹⁵Public Law 95-604 (92 Stat. 3037) (1978), sec. 204(c), added last sentence to sec. 274n.

"(B) in the case of rulemaking, provide an opportunity for public participation through written comments or a public hearing and provide for judicial review of the rule;

"(C) require for each license which has a significant impact on the human environment a written analysis (which shall be available to the public before the commencement of any such proceedings) of the impact of such license, including any activities conducted pursuant thereto, on the environment, which analysis shall include—

"(i) an assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;

"(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;

"(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

"(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined by section 11 e. (2); and

"(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C).

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 83 b. of this Act, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be sufficient to ensure compliance with the standards established by the Commission pursuant to section 161 x. of this Act. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission.²¹⁶

Anne. p. 3033

42 U.S.C. 2201

"In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their radioactive material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the

42 U.S.C. 2014

²¹⁶Public Law 95-604 (92 Stat. 3037) (1978), sec. 204(e), added a new subsec. d.

Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology."²¹⁷

42 U.S.C. 2022.

"SEC. 275. HEALTH AND ENVIRONMENTAL STANDARDS for URANIUM MILL TAILINGS.—

42 U.S.C. 2022.

Rule

"a. As soon as practicable, but not later than October 1, 1982,²¹⁸ the Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the 'Administrator') shall, by rule, promulgate standards of general application (including standards applicable to licenses under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978) for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials (as defined in section 101 of the Uranium Mill Tailings Radiation Control Act of 1978) located at inactive uranium mill tailings sites and depository sites for such materials selected by the Secretary of Energy, pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978. Standards promulgated pursuant to this subsection shall, to the maximum extent practicable, be consistent with the requirements of the Solid Waste Disposal Act, as amended. In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.²¹⁹ The Administrator may periodically revise any standard promulgated pursuant to this subsection.

42 U.S.C. 7911.

"After October 1, 1982, if the Administrator has not promulgated standards in final form under this subsection, any action of the Secretary of Energy under title I of the Uranium Mill Tailings Radiation Control Act of 1978 which is required to comply with, or be taken in accordance with, standards of the Administrator shall comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form."²²⁰

²¹⁶Public Law 95-604 (92 Stat. 3037) (1978), sec. 204(e), added a new subsec. c.

²¹⁷Public Law 97-415 (96 Stat. 2067) (1983), sec. 19 added this paragraph.

²¹⁸Public Law 97-415 (96 Stat. 2067) (1983), sec. 18 substituted "October 1, 1982" for "one year after the date of enactment of this section."

²¹⁹Public Law 97-415 (96 Stat. 2067) (1983), sec. 22 added this language to sec. 275a.

²²⁰Public Law 97-415 (96 Stat. 2067) (1983), sec. 18 substituted this language for "one year after enactment of this section."

National Advisory Committee on Occupational Safety and Health: Full Committee Meeting and Subgroup Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on February 25-27, 1981 at the Frances Perkins Department of Labor Building, Room N4437, Third Street and Constitution Avenue, N.W., Washington, D.C. The meetings will begin at 9:00 a.m. the public is invited to attend.

The National Advisory Committee was established under Section 7(a) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) to advise the Secretary of Labor and the Secretary of Health, Education and Welfare on matters relating to the administration of the Act.

Wednesday, February 25, 1981 will be devoted to Subgroup meetings. The subgroups will discuss:

1. Reproductive Hazards.
2. Safety and Health Effects of New Energy Technologies.
3. Information Systems for NIOSH/OSHA Priority Setting.

The agenda for February 26 and 27 will include reports on OSHA and NIOSH activities, a discussion of regulations, and discussions of other safety and health matters relating to OSHA and NIOSH.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee to the extent which time permits.

For additional information contact Lawrence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, 3rd Street and Constitution Avenue, N.W., Rm. N3635, Washington, D.C. 20210. Telephone 202/523-8024.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C. this 16th day of January 1981.

Elia Bingham,

Assistant Secretary of Labor.

(FR Doc. 81-2835 Filed 1-21-81; 815-001)
BILLING CODE 4510-28-00

NUCLEAR REGULATORY COMMISSION

Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Statement of Policy.

SUMMARY: The Nuclear Regulatory Commission has revised its statement of policy regarding criteria for guidance of States and NRC in discontinuance of NRC regulatory authority and assumption of regulatory authority by States through agreement. This action is necessary to make editorial changes to update the policy statement, to allow States to enter into agreements for low-level waste only, and to incorporate the provisions and requirements of the Uranium Mill Tailings Radiation Control Act of 1978. Adoption of this policy will allow interested States to enter into agreements with the NRC and regulate low-level waste sites only. Additionally, those States that meet the criteria for the regulation of uranium mills and tailings may exercise regulatory authority over these sources as provided by the Uranium Mill Tailings Radiation Control Act of 1978, as amended.

The revised statement of policy reflects the following principal changes:

1. Modification of Criterion 27 to allow a State to seek an agreement for the regulation of low-level waste as a separate category.

2. Inclusion of additional criteria for States wishing to continue regulating uranium and thorium processors and mill tailings after November 8, 1981.

3. Editorial and clarifying changes to make the statement current.

DATE: This policy statement is effective January 23, 1981.

FOR FURTHER INFORMATION CONTACT: John F. Kendig, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: 301-452-7767.

SUPPLEMENTARY INFORMATION

1. These criteria were developed to implement a program authorized by Pub. L. 86-373 which was enacted in the form of a new section to the Atomic Energy Act (Section 274) and approved by the President on September 23, 1959

and amended by Pub. L. 95-604 approved November 8, 1978. These criteria are intended to indicate factors which the Commission intends to consider in approving new or amended agreements. They are not intended to limit Commission discretion in viewing individual agreements or amendments. In accordance with these statutory provisions, when an agreement between a State and the NRC is effected, the Commission will discontinue its regulatory authority within that State over one or more of the following materials: byproduct material as defined in Section 112(1) of the Act (radioisotopes), byproduct material as defined in Section 112(2) of the Act (mill tailings or wastes), source material (uranium and thorium), special nuclear material (uranium 233, uranium 235 and plutonium) in quantities not sufficient to form a critical mass and permanent disposal of low-level waste containing one or more of the materials stated above but not including mill tailings.

2. An agreement may be effected between a State and NRC: (1) upon certification by the Governor that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement; and the State desires to assume regulatory responsibility for such materials; and (2) after a finding by the Commission that the State program is in accordance with the requirements of subsection c of section 274 and in all other respects compatible with the Commission's program for the regulation of such materials, and is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement. It is also necessary that the State have enabling legislation authorizing its Governor to enter into such an agreement.

3. The original criteria were published on March 24, 1961 (26 FR 3537) after discussions with various State officials and other State representatives, to provide guidance and assistance to the States and the AEC (now NRC) in developing a regulatory program which would be compatible with that of the NRC. The criteria were circulated among States, Federal agencies, labor and industry, and other interested groups for comment.

4. The criteria require that the State authority consider the total accumulated occupational radiation exposure of individuals. To facilitate such an approach, it is the view of the NRC that an overall radiation protection program is desirable. The maximum scope of

each State's radiation protection program is not, however, a necessary or appropriate subject for coverage in the criteria. Consequently, the criteria are silent on the question of whether a State should have a total regulatory program covering all sources of radiation, including those not subject to control by the NRC under the Atomic Energy Act, such as x-rays, radium, accelerators, etc.

5. These revised criteria provide for entering into an agreement for a separate category of materials, namely, low-level waste material in permanent disposal facilities. They also provide new criteria for States wishing to continue regulating uranium and thorium processing and the wastes resulting therefrom under the provisions of the Uranium Mill Tailings Radiation Control Act of 1978 (Pub. L. 95-604) after November 6, 1981. The revised criteria also contain a number of editorial changes such as changing AEC to NRC where appropriate to conform to present practice and law.

6. Inquiries about details of the criteria or other aspects of the NRC Federal-State Relations Program should be addressed to the Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Criteria¹

Objectives

1. *Protection.* A State regulatory program shall be designed to protect the health and safety of the people against radiation hazards.

Radiation Protection Standards²

2. *Standards.* The State regulatory program shall adopt a set of standards for protection against radiation, which shall apply to byproduct, source and special nuclear materials in quantities not sufficient to form a critical mass.

3. *Uniformity in Radiation Standards.* It is important to strive for uniformity in technical definitions and terminology, particularly as related to such things as units of measurement and radiation dose. There shall be uniformity on maximum permissible doses and levels of radiation and concentrations of radioactivity, as fixed by Part 20 of the NRC regulations based on officially approved radiation protection guides.

4. *Total Occupational Radiation Exposure.* The regulatory authority shall consider the total occupational radiation

exposure of individuals, including that from sources which are not regulated by it.

5. *Surveys, Monitoring.* Appropriate surveys and personnel monitoring under the close supervision of technically competent people are essential in achieving radiological protection and shall be made in determining compliance with safety regulations.

6. *Labels, Signs, Symbols.* It is desirable to achieve uniformity in labels, signs and symbols, and the posting thereof. However, it is essential that there be uniformity in labels, signs, and symbols affixed to radioactive products which are transferred from person to person.

7. *Instruction.* Persons working in or frequenting restricted areas³ shall be instructed with respect to the health risks associated with exposure to radioactive materials and in precautions to minimize exposure. Workers shall have the right to request regulatory authority inspections as per 10 CFR 19, section 19.16 and to be represented during inspections as specified in section 19.14 of 10 CFR 19.

8. *Storage.* Licensed radioactive material in storage shall be secured against unauthorized removal.

9. *Waste Disposal.* The standards for the disposal of radioactive materials into the air, water, and sewers, and burial in the soil shall be in accordance with Part 20. Holders of radioactive material desiring to release or dispose of quantities in excess of the prescribed limits shall be required to obtain special permission from the appropriate regulatory authority.

10. *Regulations Governing Shipment of Radioactive Materials.* The State shall to the extent of its jurisdiction promulgate regulations applicable to the shipment of radioactive materials, such regulations to be compatible with those established by the U.S. Department of Transportation and other agencies of the United States whose jurisdiction over interstate shipment of such materials necessarily continues. State regulations regarding transportation of radioactive materials must be compatible with 10 CFR Part 71.

11. *Records and Reports.* The State regulatory program shall require that holders and users of radioactive materials (a) maintain records covering personnel radiation exposures, radiation

surveys, and disposals of materials; (b) keep records of the receipt and transfer of the materials; (c) report significant incidents involving the materials, as prescribed by the regulatory authority; (d) make available upon request of a former employee a report of the employee's exposure to radiation; (e) at request of an employee advise the employee of his or her annual radiation exposure; and (f) inform each employee in writing when the employee has received radiation exposure in excess of the prescribed limits.

12. *Additional Requirements and Exemptions.* Consistent with the overall criteria here enumerated and to accommodate special cases or circumstances, the State regulatory authority shall be authorized in individual cases to impose additional requirements to protect health and safety, or to grant necessary exemption which will not jeopardize health and safety.

Prior Evaluation of Uses of Radioactive Materials

13. *Prior Evaluation of Hazards and Uses, Exceptions.* In the present state of knowledge, it is necessary in regulating the possession and use of byproduct, source and special nuclear materials that the State regulatory authority require the submission of information on, and evaluation of, the potential hazards and the capability of the user or possessor prior to his receipt of the materials. This criterion is subject to certain exceptions and to continuing reappraisal as knowledge and experience in the atomic energy field increase. Frequently there are, and increasingly in the future there may be, categories of materials and uses as to which there is sufficient knowledge to permit possession and use without prior evaluation of the hazards and the capability of the possessor and user. These categories fall into two groups—those materials and uses which may be completely exempt from regulatory controls, and those materials and uses in which sanctions for misuse are maintained without pre-evaluation of the individual possession or use. In authorizing research and development or other activities involving multiple uses of radioactive materials, where an institution has people with extensive training and experience, the State regulatory authority may wish to provide a means for authorizing broad use of materials without evaluating each specific use.

14. *Evaluation Criteria.* In evaluating a proposal to use radioactive materials the regulatory authority shall determine the adequacy of the applicant's facilities

¹ The criteria were first adopted in February 1981 (35 FR 2007, March 24, 1961, and amended in November 1985 (30 FR 13044, December 4, 1965). Minor editorial changes were made in June 1986 to reflect the authority of the U.S. Department of Transportation and Organization change in NCRP.

² Suggested State regulations and State legislation will give content to all criteria enumerated.

³ "Restricted area" means any area access to which is controlled by the licensee for the purpose of radiation protection of individuals from exposure to radiation and radioactive materials. "Restricted area" shall not include any area used as residential quarters, although a separate room or rooms in a residential building may be set apart as a restricted area.

and safety equipment, his training and experience in the use of the materials for the purpose requested, and his proposed administrative controls. States should develop guidance documents for use by license applicants; this guidance should be consistent with NRC licensing and regulatory guides for various categories of licensed activities.

13. Human Use. The use of radioactive materials and radiation on or in humans shall not be permitted except by properly qualified persons (normally licensed physicians) possessing prescribed minimum experience in the use of radioisotopes or radiation.

Inspection

15. Purpose, Frequency. The possession and use of radioactive materials shall be subject to inspection by the regulatory authority and shall be subject to the performance of tests, as required by the regulatory authority. Inspection and testing is conducted to determine, and to assist in obtaining, compliance with regulatory requirements.

Frequency of inspection shall be related directly to the amount and kind of material and type of operation licensed, and it shall be adequate to insure compliance.

17. Inspections Compulsory. Licensees shall be under obligation by law to provide access to inspectors.

18. Notification of Results of Inspection. Licensees are entitled to be advised of the results of inspections and to notice as to whether or not they are in compliance.

Enforcement:

19. Enforcement. Possession and use of radioactive materials should be amenable to enforcement through legal sanctions, and the regulatory authority shall be equipped or assisted by law with the necessary powers for prompt enforcement. This may include, as appropriate, administrative remedies looking toward issuance of orders requiring affirmative action or suspension or revocation of the right to possess and use materials, and the impounding of materials, the obtaining of injunctive relief, and the imposing of civil or criminal penalties.

Personnel

20. Qualifications of Regulatory and Inspection Personnel. The regulatory agency shall be staffed with sufficient trained personnel. Prior evaluation of applications for licenses or authorizations and inspection of licensees must be conducted by persons possessing the training and experience relevant to the type and level of

radioactivity in the proposed use to be evaluated and inspected. This requires competency to evaluate various potential radiological hazards associated with the many uses of radioactive material and include concentrations of radioactive materials in air and water, conditions of shielding, the making of radiation measurements, knowledge of radiation instruments—their selection, use and calibration—laboratory design, contamination control, other general principles and practices of radiation protection, and use of management controls in assuring adherence to safety procedures. In order to evaluate some complex cases, the State regulatory staff may need to be supplemented by consultants or other State agencies with expertise in geology, hydrology, water quality, radiobiology and engineering disciplines.

To perform the functions involved in evaluation and inspection, it is desirable that there be personnel educated and trained in the physical and/or life sciences, including biology, chemistry, physics and engineering, and that the personnel have had training and experience in radiation protection. For example, the person who will be responsible for the actual performance of evaluation and inspection of all of the various uses of byproduct, source and special nuclear material which might come to the regulatory body should have substantial training and extensive experience in the field of radiation protection. It is desirable that such a person have a bachelor's degree or equivalent in the physical or life sciences, and specific training-radiation protection.

It is recognized that there will also be persons in the program performing a more limited function in evaluation and inspection. These persons will perform the day-to-day work of the regulatory program and deal with both routine situations as well as some which will be out of the ordinary. These persons should have a bachelor's degree or equivalent in the physical or life sciences, training in health physics, and approximately two years of actual work experience in the field of radiation protection.

The foregoing are considered desirable qualifications for the staff who will be responsible for the actual performance of evaluation and inspection. In addition, there will probably be trainees associated with the regulatory program who will have an academic background in the physical or life sciences as well as varying amounts of specific training in radiation protection but little or no actual work

experience in this field. The background and specific training of these persons will indicate to some extent their potential role in the regulatory program. These trainees, of course, could be used initially to evaluate and inspect those applications of radioactive materials which are considered routine or more standardized from the radiation safety standpoint, for example, inspection of industrial gauges, small research programs, and diagnostic medical programs. As they gain experience and competence in the field, trainees could be used progressively to deal with the more complex or difficult types of radioactive material applications. It is desirable that such trainees have a bachelor's degree or equivalent in the physical or life sciences and specific training in radiation protection. In determining the requirement for academic training of individuals in all of the foregoing categories proper consideration should be given to equivalent competency which has been gained by appropriate technical and radiation protection experience.

It is recognized that radioactive materials and their uses are so varied that the evaluation and inspection functions will require skills and experience in the different disciplines which will not always reside in one person. The regulatory authority should have the composite of such skills either in its employ or at its command, not only for routine functions, but also for emergency cases.

Special Nuclear Material, Source Material and Tritium

21. Conditions Applicable to Special Nuclear Material, Source Material and Tritium. Nothing in the State's regulatory program shall interfere with the duties imposed on the holder of the materials by the NRC, for example, the duty to report to the NRC, on NRC prescribed forms (1) transfers of special nuclear material, source material and tritium, and (2) periodic inventory data.

22. Special Nuclear Material Defined. Special nuclear material, in quantities not sufficient to form a critical mass, for present purposes means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium 233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of

such ratios for all of the kinds of special nuclear material in combination should not exceed "1" (i.e., unity). For example,

$$\frac{175 \text{ (grams contained U-235)}}{150} + \frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} = 1$$

(This definition is subject to change by future Commission rule or regulation.)

Administration

23. State practices for assuring the fair and impartial administration of regulatory law, including provision for public participation where appropriate, should be incorporated in procedures for:

- a. Formulation of rules of general applicability;
- b. Approving or denying applications for licenses or authorization to possess and use radioactive materials; and
- c. Taking disciplinary actions against licensees.

Arrangements For Discontinuing NRC Jurisdiction

24. *State Agency Designation.* The State should indicate which agency or agencies will have authority for carrying on the program and should provide the NRC with a summary of that legal authority. There should be assurances against duplicate regulation and licensing by State and local authorities, and it may be desirable that there be a single or central regulatory authority.

25. *Existing NRC Licenses and Pending Applications.* In effecting the discontinuance of jurisdiction, appropriate arrangements will be made by NRC and the State to ensure that there will be no interference with or interruption of licensed activities or the processing of license applications, by reason of the transfer. For example, one approach might be that the State, in assuming jurisdiction, could recognize and continue in effect, for an appropriate period of time under State law, existing NRC licenses, including licenses for which timely applications for renewal have been filed, except where good cause warrants the earlier reexamination or termination of the license.

26. *Relations With Federal Government and Other States.* There should be an interchange of Federal and State information and assistance in connection with the issuance of regulations and licenses or authorizations, inspection of licensees, reporting of incidents and violations, and training and education problems.

27. Coverage, Amendments.

Reciprocity. An agreement providing for

the following quantities in combination would not exceed the limitation and are within the formula, as follows:

discontinuance of NRC regulatory authority and the assumption of regulatory authority by the State may relate to any one or more of the following categories of materials within the State, as contemplated by Public Law 86-373 and Public Law 95-604:

- 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;
- d. Special nuclear materials in quantities not sufficient to form a critical mass;
- e. Low-level wastes in permanent disposal facilities, as defined by statute or Commission rules or regulations containing one or more of the materials stated in a, c, and d above but not including byproduct material as defined in Section 11e(2) of the Act but must relate to the whole of such category or categories and not to a part of any category. * If less than the five categories are included in any discontinuance of jurisdiction, discontinuance of NRC regulatory authority and the assumption of regulatory authority by the State of the others may be accomplished subsequently by an amendment or by a later agreement.

The agreement may incorporate by reference provisions of other documents, including these criteria, and the agreement shall be deemed to incorporate without specific reference the provisions of Pub. L. 86-373 and Pub. L. 95-604 and the related provisions of the Atomic Energy Act.

Arrangements should be made for the reciprocal recognition of State licenses and Federal licenses in connection with out-of-the-jurisdiction operations by a State or Federal licensee.

28. *NRC and Department of Energy Contractors.* The State should provide exemptions for NRC and DOE contractors which are substantially equivalent to the following exemptions:

- a. Prime contractors performing work

* A State which does not wish to continue regulation of uranium and thorium processors and byproduct material, as defined in Section 11e(2) of the Atomic Energy Act as amended, after November 2, 1981 pursuant to Pub. L. 95-604 may obtain authority over all source material licensees within the State except for uranium or thorium processors.

for the DOE at U.S. Government-owned or controlled sites:

- b. Prime contractors performing research in, or development, manufacture, storage, testing, or transportation of atomic weapons or components thereof;
- c. Prime contractors using or operating nuclear reactors or other nuclear devices in a U.S. Government-owned vehicle or vessel; and
- d. Any other prime contractor or subcontractor of DOE or NRC when the State and the NRC jointly determine (i) that, under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety and (ii) that the exemption of such contractor or subcontractor is authorized by law.

Additional Criteria for States Regulating Uranium or Thorium Processors and Wastes Resulting Therefrom After November 2, 1981

Statutes

29. State statutes or duly promulgated regulations should be enacted, if not already in place, to make clear State authority to carry out the requirements of Public Law 95-604, Uranium Mill Tailings Radiation Control Act (UMTRCA) as follows:

- a. Authority to regulate the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content.

b. That an adequate surety (under terms established by regulation) will be provided by the licensee to assure the completion of all requirements established by the (cite appropriate State agency) for the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with the generation or disposal of such byproduct material.

c. If in the States' licensing and regulation of byproduct material or of any activity which produces byproduct material, the State collects funds from the licensee or its surety for long-term surveillance and maintenance of such material, the total amount of the funds collected by the State shall be transferred to the U.S. if custody of the byproduct material and its disposal site is transferred to the Federal Government upon termination of the State license. (See 10 CFR 150.32.) If no default has occurred and the reclamation or other bonded activity has been performed, funds for the purpose

are not to be transferred to the Federal Government. The funds collected by the State shall be sufficient to ensure compliance with the regulations the Commission establishes pursuant to Section 161X of the Atomic Energy Act.

d. In the issuances of licenses, an opportunity for written comments, public hearing (with transcript) and cross examination is required.

e. In the issuances of licenses, a written determination of the action to be taken based upon evidence presented during the public comment period and which is subject to judicial review is required.

f. A ban on major construction prior to completion of the aforementioned stipulations.

g. An opportunity shall be provided for public participation through written comments, public hearings, and judicial review of rules.

30. In the enactment of any supporting legislation, the State should take into account the reservations of authority to the U.S. in LMTRCA as stated in 10 CFR 150.13a and summarized by the following:

a. The establishment of minimum standards governing reclamation, long-term surveillance or maintenance, and ownership of the byproduct material.

b. The determination that prior to the termination of a license, the licensee has complied with decontamination, decommissioning and reclamation standards, and ownership requirements for sites at which byproduct material is present.

c. The requirement that prior to termination of any license for byproduct material, as defined in Section 11a.(2), of the Atomic Energy Act or for any activity that results in the production of such material, title to such byproduct material and the disposal site be transferred to the Federal Government or State at the option of the State, provided such option is exercised prior to termination of the license.

d. The authority to require such monitoring, maintenance, and emergency measures after the license is terminated as necessary to protect the public health and safety for those materials and property for which the State has assumed custody pursuant to Pub. L. 95-604.

e. The authority to permit use of the surface or subsurface estate, or both of the land transferred to the United States or State pursuant under provision of the Uranium Mill Radiation Tailings Control Act.

f. The authority to exempt land ownership transfer requirements of Section 83(b)(1)(A).

31. It is preferable that State statutes contain the provisions of Section 6 of the Model Act. But the following may be accomplished by adoption of either procedures by regulation or technical criteria. In any case, authority for their implementation should be adequately supported by statute, regulation or case law as determined by the State Attorney General.

In the licensing and regulation of ores processed primarily for their source material content and for the disposal of byproduct material, procedures shall be established which provide a written analysis of the impact on the environment of the licensing activity. This analysis shall be available to the public before commencement of hearings and shall include:

a. An assessment of the radiological and nonradiological public health impacts;

b. An assessment of any impact on any body of water or groundwater;

c. Consideration of alternatives to the licensed activities; and

d. Consideration of long-term impacts of licensed activities (see item 36b.(1)).

Regulations

32. State regulations should be reviewed for regulatory requirements, and where necessary incorporate regulatory language which is equivalent to the extent practicable or more stringent than regulations and standards adopted and enforced by the Commission, as required by Section 274c (see 10 CFR 40 and 10 CFR 150.31(b)).

Organizational Relationships Within the States

33. Organizational relationships should be established which will provide for an effective regulatory program for uranium mills and mill tailings.

a. Charts should be developed which show the management organization and lines of authority. This chart should define the specific lines of supervision from program management within the radiation control group and any other department within the State responsible for contributing to the regulation of uranium processing and disposal of tailings. When other State agencies or regional offices are utilized, the lines of communication and administrative control between the agencies and/or regions and the Program Director should be clearly drawn.

b. Those States that will utilize personnel from other State Departments

or Federal agencies in preparing the environmental assessment should designate a lead agency for supervising and coordinating preparation of this environmental assessment. It is normally expected that the radiation control agency in Agreement States will be the lead agency. The basic premise is that the lead agency is required to prepare the environmental assessment. Utilization of an applicant's environmental report in lieu of a lead agency assessment of the proposed project is not adequate or appropriate. However, the lead agency may prepare an environmental assessment based upon an applicant's environmental report. Other credible information may be utilized by the State as long as such information is verified and documented by the State.

c. When a lead agency is designated, that agency should coordinate preparation of the statement. The other agencies involved should provide assistance with respect to their areas of jurisdiction and expertise. Factors relevant in obtaining assistance from other agencies include the applicable statutory authority, the time sequence in which the agencies become involved, the magnitude of their involvement, and relative expertise with respect to the project's environmental effects.

In order to bring an environmental assessment to a satisfactory conclusion, it is highly recommended that an initial scoping document be developed which clearly delineates the area and scope of work to be performed by each agency, within a given time constraint.

d. For those areas in the environmental assessment where the State cannot identify a State agency having sufficient expertise to adequately evaluate the proposal or prepare an assessment, the State should have provisions for obtaining outside consulting services. In those instances where non-governmental consultants are utilized, procedures should be established to avoid conflict of interest consistent with State law and administrative procedures.

Medical consultants recognized for their expertise in emergency medical matters, such as the Oak Ridge and Hanford National Laboratories, relating to the intake of uranium and its diagnosis thereof associated with uranium mining and milling should be identified and available to the State for advice and direct assistance.

During the budget preparation, the State should allow for funding costs incurred by the use of consultants. In addition, consultants should be available for any emergencies which

*It is strongly recommended that a 30-day period be provided for public review.

may occur and for which their expertise would be needed immediately.

Personnel

34. Personnel needed in the processing of the license application can be identified or grouped according to the following skills: Technical; Administrative; and Support.

a. Administrative personnel are those persons who will provide internal guides, policy memoranda, reviews and managerial services necessary to assure completion of the licensing action. Support personnel are those persons who provide secretarial, clerical support, legal, and laboratory services. Technical personnel are those individuals who have the training and experience in radiation protection necessary to evaluate the engineering and radiological safety aspects of a uranium concentrator. Current indications are that 2 to 2.75 total professional person years' effort is needed to process a new conventional mill license, in situ license, or major renewal to meet the requirements of UMTRCA. This number includes the effort for the environmental assessment and the in-plant safety review. It also includes the use of consultants. Heap leach applications may take less time and is expected to take 1.0 to 1.5 professional staff years' effort, depending on the circumstances encountered. Current indications are that the person years effort for support and legal services should be one secretary for approximately 2 conventional mills and 1/2 staff years for legal services for each noncontested mill case. The impact on environmental monitoring laboratory support services is difficult to estimate but should be added into the personnel requirements.

In addition, consideration should be given to various miscellaneous post-licensing ongoing activities including the issuance of minor amendments, inspections, and environmental surveillance. It is estimated that these activities may require about 0.5 to 1 person years effort per licensed facility per year, the latter being the case for a major facility. These figures do not include manpower for Title I activities of UMTRCA.

b. In evaluating license applications the State shall have access to necessary specialties, e.g., radiological safety, hydrology, geology and dam construction and operation.

In addition to the personnel qualifications listed in the "Guide for Evaluation of State Radiation Control Programs," Revision 1, February 1, 1980, the regulatory staff involved in the regulatory process (Radiation) should

have additional training in Uranium Mill Health Physics and Environmental Assessment.

c. Personnel in agencies other than the lead agency are included in these total person year numbers. If other agencies are counted in these numbers then it shall be demonstrated that these personnel will be available on a routine and continuing basis to a degree claimed as necessary to successfully comply with the requirements of UMTRCA and these criteria. The arrangements for making such resources available shall be documented, such as an interagency memorandum of understanding and confirmed by budgetary cost centers.

Functions To Be Covered

35. The States should develop procedures for licensing, inspection, and preparation of environmental assessments.

a. Licensing

(1) Licensing evaluations or assessments should include in-plant radiological safety aspects in occupational or restricted areas and environmental impacts to populations in unrestricted areas from the plant.

(2) It is expected that the State will review, evaluate and provide documentation of these evaluations. Items which should be evaluated are:

- (a) Proposed activities;
- (b) Scope of proposed action;
- (c) Specific activities to be conducted;
- (d) Administrative procedures;
- (e) Facility organization and radiological safety responsibilities, authorities, and personnel qualifications;

(f) Licensee audits and inspections;

(g) Radiation safety training programs for workers;

(h) Radiation safety program, control and monitoring;

(i) Restricted area markings and access control;

(j) At existing mills, review of monitoring data, exposure records, licensee audit and inspection records, and other records applicable to existing mills;

(k) Environmental monitoring;

(l) Emergency procedures.

radiological:

(m) Product transportation; and

(n) Site and physical decommissioning procedures, other than tailings.

(o) Employee exposure data and bioassay programs.

b. Environmental Assessment

(1) The environmental evaluation should consist of a detailed and documented evaluation of the following items:

- (a) Topography;

(b) Geology;

(c) Hydrology and water quality;

(d) Meteorology;

(e) Background radiation;

(f) Tailings retention system;

(g) Interim stabilization, reclamation, and Site Decommissioning Program;

(h) Radiological Dose Assessment;

(1) Source terms;

(2) Exposure pathway;

(3) Dose commitment to individuals;

(4) Dose commitment to populations;

(5) Evaluation of radiological impacts to the public to include a determination of compliance with State and Federal regulations and comparisons with background values;

(6) Occupational dose;

(7) Radiological impact to biota other than man;

(8) Radiological monitoring programs, pre-occupational and operational;

(i) Impacts to surface and groundwater, both quality and quantity;

(j) Environmental effects of accidents and

(k) Evaluation of tailings management alternatives in terms of regulations.

(2) The States are encouraged to examine the need to expand the scope of the assessment into other areas such as:

(a) Ecology;

(b) Environmental effects of site preparation and facility construction on environment and biota;

(c) Environmental effects of use and discharge of chemicals and fuels; and

(d) Economic and social effects.

c. Inspections

(1) As a minimum, items which should be inspected or included during the inspection of a uranium mill should adhere to the items evaluated in the in-plant safety review. The principal items recommended for inspection are:

(a) Administration;

(b) Mill circuit, including any

additions, deletions, or circuit changes;

(c) Accidents/incidents;

(d) Part 19 or equivalent requirements of the State;

(e) Action taken on previous findings;

(f) A mill tour to determine compliance with regulations, and license conditions;

(g) Tailings waste management in accordance with regulations and license conditions (see NRC Reg. Guide 3.12.1);

(h) Records;

(i) Respiratory protection in accordance with license conditions or 19 CFR Part 20;

(j) Effluent and environmental monitoring;

(k) Training programs;

(l) Transportation and shipping;

(m) Internal review and audit by management;

(2) Exit interview; and
(c) Final written report documenting the results of the inspection and findings on each item.

(2) In addition, the inspector should perform the following:

(a) Independent surveys and sampling.

(3) Additional guidance is contained in appropriate NRC regulatory and inspection guides. A complete inspection should be performed at least once per year.

c. Operational Data Review

(1) In addition to the reporting requirements required by the regulations or license conditions, the licensee will submit in writing to the regulatory agency within 60 days after January 1 and July 1 of each year, reports specifying the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous six months of operation. This data shall be reported in a manner that will permit the regulatory agency to confirm the potential annual radiation doses to the public.

(2) All data from the radiological and non-radiological environmental monitoring program will also be submitted for the same time periods and frequency. The data will be reported in a manner that will allow the regulatory agency to confirm the dose to receptors.

Instrumentation

36. The State should have available both field and laboratory instrumentation sufficient to ensure the licensee's control of materials and to validate the licensee's measurements.

a. The State will submit its list of instrumentation to the NRC for review. Arrangements should be made for calibrating such equipment.

b. Laboratory-type instrumentation should be available in a State agency or through a commercial service which has the capability for quantitative and qualitative analysis of radionuclides associated with natural uranium and its decay chain, primarily: U-238, Ra-226, Th-230, Pb-210, and Rn-222, in a variety of sample media such as will be encountered from an environmental sampling program.

Analysis and data reduction from laboratory analytical facilities should be available to the licensing and inspection authorities in a timely manner.

Normally, the data should be available within 30 days of submittal. State acceptability of quality assurance (QA) programs should also be established for the analytical laboratories.

c. Arrangements should also be completed so that a large number of

samples in a variety of sample media resulting from a major accident can be analyzed in a time frame that will allow timely decisions to be made regarding public health and safety.

d. Arrangements should be made to participate in the Environmental Protection Agency quality assurance program for laboratory performance.

Dated at Washington, D.C. this 15th day of January, 1981.

For the Nuclear Regulatory Commission,
John C. Hoyte,

Assistant Secretary of the Commission.

(FR Doc. 80-2028 Filed 1-23-81; 804-001)
BILLING CODE 7550-01-0

Advisory Committee on Reactor Safeguards: Proposed Meetings

In order to provide advance information regarding proposed meeting, of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published Dec. 21, 1980 (45 FR 84182). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the February 1981 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634-3257, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., Eastern Time.

ACRS Subcommittee Meetings

*Fort St. Vrain, January 27, 1981, at site, near Longmont, CO. The

Subcommittee will review operating experience, degree of success in eliminating the core power fluctuations, core performance (fuel and structural), plans for testing and operation at levels above 70% of rated power and plans for future operations, modifications, refueling, and shift manning requirements. Notice of this meeting was published Jan. 12.

*Safety Philosophy, Technology and Criteria, January 28, 1981, Los Angeles, CA. The Subcommittee will discuss requirements for new (beyond Near-Term Construction Permit) reactor plants. Notice of this meeting was published Jan. 14.

*Extreme External Phenomena, January 29-30, 1981, Los Angeles, CA. The Subcommittee will discuss the status of the Seismic Safety Margins Program. Notice of this meeting was published Jan. 14.

*San Onofre 2 and 3, January 31, 1981, Los Angeles, CA. The Subcommittee will meet to review the seismology and geology related items for San Onofre Units 2 and 3 for an Operating License. Notice of this meeting was published Jan. 15.

*Regulatory Activities, February 3, 1981, Washington, DC. The Subcommittee will discuss proposed Regulatory Guides and Regulations. Notice of this meeting was published Jan. 19.

*Plant Features Important to Safety, February 3, 1981, Washington, DC. The Subcommittee will discuss the NRC definitions of the terms "safety grade", "safety related" and "important to safety" as developed for testimony related to the Three Mile Island Unit 1 restart, as well as review the generic implications of the use of these definitions in the licensing process. Notice of this meeting was published Jan. 19.

*NRC Safety Research Program, February 4, 1981, Washington, DC. The Subcommittee will discuss NRC's long-range safety research plan and ACRS comments on the Office of Nuclear Regulatory Research response to ACRS recommendations in NUREG-0696. Notice of this meeting was published Jan. 21.

*Safety Philosophy, Technology and Criteria, February 4, 1981, Washington, DC. The Subcommittee will discuss the proposed Near-Term Construction Permit. Notice of this meeting was published Jan. 21.

*Reactor Radiological Effects, February 5, 1981 (1:00 p.m.), Washington, DC. The Subcommittee is to review and comment on the NRC Staff's paper to the NRC Commissioners on the current status of thinking and

main component of the operating rules and procedures are adequate for the safe operation of passenger trains over this district. (R-81-69).

Railroad: Head-on Collision Between Baltimore & Ohio Railroad Company Train No. 85 and the Brunswick Helper 7035-7545 Near Germantown, Maryland, February 9, 1991 (NTSB-RAR-81-6).—Recommendations issued June 23 to—

Baltimore & Ohio Railroad Company: Establish a train reporting procedure at Rocks and similar locations, that will enable each train dispatcher and the tower operator, in advance and to the rear of the train, to have a record of the times trains pass the reporting point. (R-81-70)

Evaluate the workloads carried by the Old Main Line and the Baltimore Terminal dispatchers to determine if they are manageable. If either is not, adjust the workloads so that each dispatcher has a manageable assignment. (R-81-71)

Redesign the Baltimore train dispatcher's office to provide facilities based on good human engineering principles and to eliminate the current distractions and uncomfortable environment. (R-81-72)

Upgrade the radio system to eliminate the marginal coverage area between Barnesville and Gaithersburg. (R-81-73)

Federal Railroad Administration: Establish regulations that would require all trains operating on main track to be equipped with an operable radio. (R-79-73) (This reiterated recommendation is still in "open" status.)

Note.—Single copies of Board reports are available without charge as long as limited supplies last. Copies of recommendation letters, responses and related correspondence are also free of charge. All requests must be in writing, identified by recommendation or report number. Address request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of Board reports may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22161.

(49 U.S.C. 1933(a)(2), 1936)

Margaret L. Fisher,

Federal Register Liaison Officer.

July 10, 1981.

(FR Doc. 81-22712 Filed 7-15-81; 8:45 am)

BILLING CODE 4910-56-M

NUCLEAR REGULATORY COMMISSION

Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement; Statement of Policy
AGENCY: Nuclear Regulatory Commission.

ACTION: Revision of Criterion 29f.

SUMMARY: In a Federal Register document published on January 23, 1981

(46 FR 7540-7546, FR Doc. 81-2428), the NRC published Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement. As published at 46 FR 7544, Col. 1, Criterion 29f, which states "ban on major construction prior to completion of the aforementioned stipulations," is inaccurate. This document corrects the text of Criterion 29 by revising paragraph f. to read as follows:

"f. A ban on major construction prior to completion of the written environmental analysis stipulated in Criterion 31."

FOR FURTHER INFORMATION CONTACT: John F. Kendig, Office of State Programs, Nuclear Regulatory Commission, Washington, D.C. 20555, (301) 492-9891.

Dated at Washington, D.C. this 10th day of July 1981.

For the Nuclear Regulatory Commission,
Samuel J. Chilk,

Secretary of the Commission.

(FR Doc. 81-22601 Filed 7-15-81; 8:45 am)

BILLING CODE 7590-01-M

[Docket Nos. 50-458 and 50-459]

Gulf States Utilities Co., Cajun Electric Power Cooperative; Receipt of Antitrust Information

Gulf States Utilities Company, on behalf of itself and Cajun Electric Power Cooperative, has filed antitrust information for their application for operating licenses for the River Bend Station, Units 1 and 2. This information was filed pursuant to Part 2.101 of the Commission Rules and Regulations and is in connection with the owners' plans to operate two boiling water reactors in West Feliciana Parish, Louisiana. The application contains antitrust information for review pursuant to NRC Regulatory Guide 9.3 to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage. The remainder of the application for operating licenses is currently undergoing acceptance review. Following docketing, a notice will be published in the Federal Register.

Following completion of staff antitrust review of the above-named application, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Atomic Energy Act. A copy of this finding will be published in the Federal Register and will be sent to the Washington and local public document rooms and to those persons providing comments or information in response to

this notice. If the initial finding concludes that there have not been any significant changes, request for reevaluation may be submitted for a period of 60 days after the date of the Federal Register notice. The results of any reevaluations that are requested will also be published in the Federal Register and copies sent to the Washington and local public document rooms.

A copy of the application for operating licenses and the antitrust information submitted are available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555 and in the local public Document Rooms at the Audubon Library, West Feliciana Branch, Ferdinand Street, St. Francisville, Louisiana and at the Louisiana State University, Government Document Department, Baton Rouge, Louisiana.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the applicant's activities since the construction permit antitrust reviews for the above-named plant should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Utility Finance Branch, Office of Nuclear Reactor Regulation, on or before September 14, 1981.

Dated at Bethesda, Maryland, this 30th day of June 1981.

For the Nuclear Regulatory Commission,
A. Schwenger,
Chief, Licensing Branch No. 2, Division of Licensing.

(FR Doc. 81-22652 Filed 7-15-81; 8:45 am)

BILLING CODE 7590-01-M

[Docket No. 50-382]

Louisiana Power & Light Co.; Availability of Safety Evaluation Report; Waterford Steam Electric Station, Unit 3

Notice is hereby given that the Office of Nuclear Reactor Regulation has published its Safety Evaluation Report relating to the proposed operation of the Waterford Steam Electric Station, Unit 3, to be located in St. Charles Parish, Louisiana. Notice of receipt of the application by the Louisiana Power & Light Company to operate the Waterford Steam Electric Station, Unit 3 was published in the Federal Register on January 2, 1979 (44 FR 125).

devices and has chosen one for further development.

American Public Works Association: Apr. 29: P-78-5. Will inform its members of the circumstances of the accident in Portales, New Mexico, on June 25, 1982, and will urge them to cooperate with the pipeline operator in determining the extent of damage when pipeline facilities have been damaged.

Mountain Bell: Apr. 7: P-82-45 and -49: All contractors performing work for Mountain Bell must sign Bell System Practices and Contract Documents, which apply to both Mountain Bell employees and contract workers and which are strictly enforced.

The Gas Service Company (Kansas City, Missouri): Apr. 5: P-78-66, -63, and -73: Issued written policy in April 1979 concerning: (1) the need to establish and maintain lines of communication with cities and others relative to public works projects; (2) paying strict attention to requests for facility locations and keeping proper records; (3) maintaining field contact with contractors doing excavating work, along with continued field observation of work progress, so as to maintain integrity of markers, etc.; and (4) requiring that on-site inspections in areas of excavation include being sure previously installed markers are visible and accessible. Introduced a new "Request to Locate Form" to provide a record of requests for locations in May 1981. P-78-70: Continually stresses that proper records must be kept so as to document any work effort. P-78-71 and -75: A procedure was written into the Operation, Maintenance and Inspection Manual in May 1979 regarding repairs, especially regarding the need to consider downward a revision of pressures and/or the shutdown of a piping system so as to accomplish a repair. Also specified was the need to train workmen as to how to properly install various repair fittings and to periodically check repair fitting stock to be sure of continued property so as to be ready for use. P-78-72: A revised emergency plan format was issued in May 1980 which meets the requirements of 49 CFR 192.515. Company Claims Department personnel present audiovisual programs to fire departments, along with dispensing handout-type information. P-78-74: Has required the use of flame-retardant clothing since December 1979.

U.S. Research and Special Programs Administration: Mar. 21: P-73-53; P-73-3, -37, and -50; P-74-29 and -38; P-75-1, -7, and -6; P-76-3, -10-15, -43, -44, -45, and -66; P-77-34, -35, and -38; P-78-11, -44, -50, -55, -59, -60, and -61; P-79-30; P-80-29, -47, -59, -69, -72, -74, -69, and -90; P-81-8, and -14; and P-83-1: Response letter summarizes the actions taken by the Dept. of Transportation to improve the public safety in the pipeline transportation of natural gas and liquid hazardous materials; and the relationship between these actions and the 38 recommendations listed.

Railroad—National Railroad Passenger Corporation (Amtrak): Mar. 31: R-82-59: Modifications have placed the original equipment strobe lights on the battery side of the "protector" of all AEM-7 locomotives so that the lights will remain on after a battery protector trip. R-82-60: Original equipment of the AEM-7 includes a DC current meter in

the battery charging system which is located in the locomotive machine room at a main control panel. There is also a fault light indicating no battery charge in the engineer's cab. R-82-61: AEM-7 locomotives had only three critical systems connected to the battery side of the battery voltage protector relay, and have been modified to add the white and red strobe lights to the battery side of the voltage protector. R-82-62: Modified the wording of the Format "Q" Train Order to include the maximum permissible speed in the body of the train order, and lowered that speed from "reduced" to "restricted." R-82-63: Believes recommendation that the maximum allowable speed of a locomotive be posted in a conspicuous location adjacent to the operating position is not warranted because all locomotives operating within the Northeast Corridor have maximum allowable speeds which are governed by their operating configuration and which are subject to track speed restrictions. R-82-64: Believes that the provisions of 49 CFR 218.37 as reflected in rule 99 of Amtrak's operating rules are adequate to provide protection against following moves in automatic block territory. R-82-65 and -66: Holds a 5-day training class for transportation supervisors and train dispatchers that focuses directly on the proper interpretation of operating rules and instructions, and holds a 6-week review program in transportation management for trainmasters and road foremen. Will increase the length of its annual operating rules requalification classes for train and engine personnel. R-82-67: Believes that the format and structure of the Northeast Corridor Timetable is not unduly complex considering that, although it may in total be a "formidable document," its schedules are arranged by division, and although the Special Instructions are arranged in relationship to the operating rules and to subject matter, a code system is used to identify on which division or divisions a given instruction applies. Apr. 15: R-82-5: Revised switch inspection and test report.

New Jersey Department of Transportation: Apr. 14: R-82-107: Electric lock mechanisms for faring point switches have been requested in the FY 84 Capital Program.

The Atchafalaya, Topeka and Santa Fe Railway Company: Apr. 18: R-82-4: Reevaluated its practices and procedures in the inspection and maintenance of special track areas.

Note.—Single copies of these response letters are available on written request to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Please include respondent's name, date of letter, and recommendation number(s) in your request. The photocopies will be billed at a cost of 20 cents per page (52 minimum charge).

H. Ray Smith, Jr.,
Federal Register Liaison Officer
July 15, 1983.

[FR Doc. 83-19595 Filed 7-17-83; 8:45 am]
BILLING CODE 4910-68-M

NUCLEAR REGULATORY COMMISSION

Discontinuance of NRC Authority and Assumption Thereof by States Through Agreement: Criteria for Cancellation of States and NRC

Adoption: Nuclear Regulatory Commission.

ACTION: Statement of policy; Revision.

SUMMARY: Criterion 9 of the NRC's Policy for Discontinuance of Authority dated January 23, 1981 appearing at 46 FR 7540-7548, deals with waste disposal. It states that the standards for disposal into air, water and sewer, and burial in soil shall be in accordance with 10 CFR Part 20. The Commission's regulation 10 CFR Part 61, which became effective December 27, 1982, provides licensing procedures, performance objectives, technical requirements and financial assurance requirements for the issuance of licenses by NRC for the land disposal of most wastes that are commonly referred to as low-level waste. In addition, the Nuclear Waste Policy Act of 1982 requires that the NRC and the Agreement States provide and approve certain stated financial arrangements prior to issuance of a license for low-level radioactive waste disposal or in the case of licenses in effect, prior to termination of such licenses. The financial arrangements are to cover completion of all requirements for the decontamination, decommissioning, site closure and reclamation of sites, structures and equipment used in conjunction with low-level waste disposal.

The Commission believes that States seeking an agreement pursuant to Section 274b of the Atomic Energy Act of 1954, as amended, to regulate land disposal of radioactive waste should establish standards for disposal which are in accord with the applicable technical definitions, performance objectives, technical requirements, and financial assurance requirements of 10 CFR Part 61 and the waste transfer and manifest system prescribed in 10 CFR Part 20. For the waste manifest system to function effectively on a national basis, it is necessary for all licensees, both NRC and Agreement States, to follow the same system. Thus, the Agreement States are expected to adopt and implement this system for their licensees.

Therefore, the NRC is revising Criterion 9 to include reference to the performance objectives, technical requirements and financial assurance requirements contained in Part 61 and the waste transfer and manifest system.

contained in Part 20. The revision also satisfies the provisions of the Nuclear Waste Policy Act of 1982. Criterion 9 will be used in judging the adequacy and compatibility of that aspect of a State's regulatory program for regulating land disposal of low-level radioactive waste. No additional revisions to the criteria are considered necessary at this time to enter into an agreement with a State which includes authority to regulate low-level radioactive waste disposal.

For Agreement States currently regulating operating burial sites, NRC has been and will continue to work with the States to implement Part 61 provisions on a case-by-case basis, to the extent practicable. The waste transfer and manifest system, 10 CFR 20.311 becomes effective December 27, 1983. On an interim basis, arrangements are being made with the Agreement States regulating the existing burial sites to implement the waste classification system and waste transfer and manifest system through the burial site licensees.

FOR FURTHER INFORMATION CONTACT: Kathleen N. Schneider, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone: 301-492-9893.

SUPPLEMENTARY INFORMATION: Criterion 9 is revised to read as follows:

9. Radioactive Waste Disposal.

(a) Waste disposal by material users. The standards for the disposal of radioactive materials into the air, water and sewer, and burial in the soil shall be in accordance with 10 CFR Part 20. Holders of radioactive material desiring to release or dispose of quantities or concentrations of radioactive materials in excess of prescribed limits shall be required to obtain special permission from the appropriate regulatory authority.

Requirements for transfer of waste for the purpose of ultimate disposal at a land disposal facility (waste transfer and manifest system) shall be in accordance with 10 CFR 20.

The waste disposal standards shall include a waste classification scheme and provisions for waste form, applicable to waste generators, that is equivalent to that contained in 10 CFR Part 61.

(b) Land disposal of waste received from other persons. The State shall promulgate regulations containing licensing requirements for land disposal of radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical

requirements and applicable supporting sections set forth in 10 CFR Part 61. Adequate financial arrangements (under terms established by regulation) shall be required of each waste disposal site licensee to ensure sufficient funds for decontamination, closure and stabilization of a disposal site. In addition, Agreement State financial arrangements for long-term monitoring and maintenance of a specific site must be reviewed and approved by the Commission prior to relieving the site operator of licensed responsibility (section 151(a)(2), Pub. L. 97-425).

Commissioner Roberts, in disapproving, stated "Given the states' and the public's interest in all aspects of our waste disposal regulations and guidance, this revision should go out for public comments."

Dated at Washington, D.C. this 14th day of July, 1983.

For the Nuclear Regulatory Commission,
Samuel J. Chilk.

Secretary of the Commission.

[FR Doc. 83-15710 Filed 7-20-83; 8:43 am.]

BILLING CODE 7590-01-M

[Docket No. 50-366]

Georgia Power Co. et al.; Confirming Licensee Commitments on Pipe Crack Related Issues

The Georgia Power Company (GPC or the licensee) and three other co-owners are the holders of Facility Operating License NPF-5 which authorizes operation of the Edwin I. Hatch Nuclear Plant, Unit 2 (Hatch or the facility) at steady state reactor power levels not in excess of 2436 megawatts thermal. The facility is a boiling water reactor located at the licensee's site in Appling County, Georgia.

II

During the current 1983 refueling outage at Hatch Unit 2, augmented inservice inspection was performed on the recirculation reactor heat removal and reactor water cleanup system piping in accordance with Office of Inspection and Enforcement Bulletin 83-02. The original sample size was expanded to 108 welds after ultrasonic indications were reported on welds in the original sampling. Welds most likely to crack were selected for the expanded inspection. Overall, out of a total of 108 welds inspected, a total of 39 were found to show linear indications which consist of 23 12-inch riser welds, four 22-inch manifold end cap welds, nine 28-inch recirculation welds, two residual heat removal system 20-inch welds and

one residual heat removal system 24-inch weld. All indications were reported to be parallel to the weld in the heat-affected-zone. The deepest indication reported in the 12-inch riser welds is 32% of wall thickness. The deepest indication in the large-size pipe welds is 42% of the wall thickness in a 22-inch manifold end cap weld.

Evaluation by the licensee, submitted by letters dated May 26 and June 8, 1983 indicates that the projected crack sizes, due to intergranular stress corrosion cracking (IGSCC) and fatigue crack growth, in the 12 large-diameter defective welds at the end of an 18-month fuel cycle would be within the ASME Code limits.

The licensee's evaluation also showed that the 23 12-inch riser welds and the four 22-inch manifold end cap welds required repair for continued service because their calculated projected cracks would exceed the Code limits at the end of an 18-month fuel cycle.

All 23 of the defective 12-inch riser welds and three of the four defective end cap welds were repaired using a weld overlay process. The remaining end cap was replaced. The licensee's evaluation showed that each weld overlay was designed such that the weld joint meets the ASME Code Section III requirements, including fatigue. The predicted ultimate failure load based on tearing modulus approach was calculated for each overlay design. The ultimate failure load was shown to be at least three times the normal applied loads, which provides a safety margin larger than that inherent in the Code.

The staff has reviewed the licensee's submittals including analysis of weld overlay design and the calculation of IGSCC crack growth, based on current crack growth data, to support the continuing service for an 18-month fuel cycle with the 25 overlay repaired 12-inch riser and 22-inch manifold end cap welds, and the 12 unrepaired large-diameter defective welds.

The staff has performed independent calculations of crack growth, also based on current crack growth data, on the worst circumferential crack among the 12 large-diameter defective welds. Our calculated final crack depth at the end of an 18-month period meets the Code limit with adequate margin. Therefore, based on the staff's calculations and review of the licensee's analyses using current crack growth data, we conclude that the continuous service of the 12 large-diameter defective welds without repair for one 18-month fuel cycle would be acceptable because the Code design margin is maintained. However, recent field experience has indicated that the

AGREEMENT
BETWEEN THE
UNITED STATES NUCLEAR REGULATORY COMMISSION
AND THE
STATE OF UTAH
FOR
DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY
AND
RESPONSIBILITY WITHIN THE STATE PURSUANT TO
SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

WHEREAS, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to by-product materials as defined in sections 11e.(1) and (2) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

WHEREAS, The Governor of the State of Utah is authorized under Utah Code Annotated 26-1-29 to enter into this Agreement with the Commission; and

WHEREAS, The Governor of the State of Utah certified on November 14, 1983, that the State of Utah (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by this Agreement, and that the State desires to assume regulatory responsibility for such materials; and

WHEREAS, The Commission found on March 12, 1984, that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

WHEREAS, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

WHEREAS, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemptions from licensing of those materials subject to this Agreement; and

WHEREAS, This Agreement is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended;

NOW, THEREFORE, It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

ARTICLE I

Subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Agreement, the regulatory authority of the Commission in the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

- A. Byproduct materials as defined in section 11e.(1) of the Act;
- B. Source materials; and
- C. Special nuclear materials in quantities not sufficient to form a critical mass.

ARTICLE II

This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:

- A. The construction and operation of any production or utilization facility;
- B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;
- C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;
- D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission;

- E. The land disposal of source, byproduct and special nuclear material received from other persons; and
- F. The extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material.

ARTICLE III

This Agreement may be amended, upon application by the State and approval by the Commission, to include the additional area(s) specified in Article II, paragraph E or F, whereby the State can exert regulatory control over the materials stated therein. -

ARTICLE IV

Notwithstanding this Agreement, the Commission may from time to time by rule, regulation, or order, require that the manufacturer, processor, or producer of any equipment, device, commodity, or other product containing source, byproduct, or special nuclear material shall not transfer possession or control of such product except pursuant to a license or an exemption from licensing issued by the Commission.

ARTICLE V

This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to

protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

ARTICLE VI

The Commission will use its best efforts to cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

ARTICLE VII

The Commission and the State agree that it is desirable to provide reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any Agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ARTICLE VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission may also, pursuant to section 274j. of the Act, temporarily suspend all or part of this agreement if, in the judgment of the Commission, an emergency situation exists requiring immediate action to protect public health and safety and the State has failed to take necessary steps. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with section 274 of the Act.

ARTICLE IX

This Agreement shall become effective on April 1, 1984, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Salt Lake City, Utah, in triplicate, this 29th day of March, 1984.

FOR THE UNITED STATES
NUCLEAR REGULATORY COMMISSION

Nunzio J. Palladino, Chairman

FOR THE STATE OF UTAH

Scott M. Matheson, Governor

hereby given that the following meeting of the Humanities Panel will be held at 806 15th Street NW., Washington, D.C. 20506:

Date: December 18, 1981.

Time: 9:00 a.m. to 5:30 p.m.

Room: 314.

Program: This meeting will review applications for Summer Stipends in English Literature I, submitted to the Division of Fellowships and Seminars, for projects beginning after May 1, 1982.

The proposed meeting is for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meeting will consider information that is likely to disclose:

- (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (2) Information on a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and
- (3) Information the disclosure of which would significantly frustrate implementation of proposed agency action.

Pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724-9367.

Stephen McCleary,

Advisory Committee Management Officer.

[FR Doc. 81-34858 Filed 12-3-81; 8:15 am]

BILLING CODE 7536-01-48

NUCLEAR REGULATORY COMMISSION

Evaluation of Agreement State Radiation Control Programs; General Statement of Policy

AGENCY: Nuclear Regulatory Commission.

ACTION: Final general statement of policy.

SUMMARY: The Nuclear Regulatory Commission is adopting as a general statement of policy the recently revised "Guidelines for NRC Review of Agreement State Radiation Control Programs." This statement of policy is being issued to inform the States and the public of the criteria and guidelines which the Commission intends to use in its periodic evaluations of Agreement State Programs.

EFFECTIVE DATE: This general statement of policy is effective on December 4, 1981.

FOR FURTHER INFORMATION CONTACT: Donald A. Nussbaumer, Assistant Director for State Agreements Program, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: 301-492-7767.

SUPPLEMENTARY INFORMATION: On October 3, 1980, the NRC published in the Federal Register as a proposed General Statement of Policy its "Guide for Evaluation of Agreement State Radiation Control Programs." (45 FR 65726-65734). Interested persons were invited to submit written comments and suggestions on the proposed policy statement during the comment period which expired on December 22, 1980 (45 FR 80937, December 8, 1980). Based on the comments received and the Commission's own evaluation, a number of changes have been made to the policy statement.

This document is organized in much the same manner as the former "Guide." It contains six major sections, each of which deals with a separate program element. These sections are: Legislation and Regulations, Organization, Management and Administration, Personnel, Licensing, and Compliance. As in the former "Guide" each program element contains "Indicators" which address specific functions within the program element. A number of recommended "Guidelines" are listed under each "Indicator." The "Guidelines" replace the former "Guides for Acceptable Practice."

The indicator "Legal Authority" has been taken out of the Organization section and combined with Regulations to form a new section, Legislation and Regulations. The underlying authority granted the radiation control program in State legislation together with implementing regulations form the foundation of any regulatory program and are essential to the effectiveness of that program. A new indicator "Status of Regulations" has replaced "Compatibility." The guidelines under the indicator "Status of Regulations" indicate that certain State regulations must be essentially identical to NRC

regulations and that other regulations must have a high degree of uniformity with NRC regulations. This is basically what is meant by compatibility as it is applied to regulations.

With regard to the Organization section, the only significant change was the moving of the indicator Legal Authority, to a new section.

The section on Management and Administration has been revised in a number of areas. The guidelines under Budget have been revised to list the specific program areas we feel require budgetary support. A specific dollar range, however, has been deleted. With the growing complexity of radiation control programs, (e.g., the additional requirement on States licensing uranium mills), inflation, and other considerations, it is becoming increasingly difficult to establish specific funding levels which could be useful in comparing State programs. A number of points should be stressed: (1) There have been a number of occasions in the past where States have not met the NRC's recommended guidelines and yet the overall program has functioned satisfactorily; (2) The States utilize a variety of accounting techniques and it has been difficult to develop a guideline that would be generally applicable to all States; (3) Past experience has shown that there is not a strong correlation between budget problems and problems in other program areas. For example, in most States, salaries constitute a major part of the radiation control program budget. There have been a number of cases where a State's overall budget was within the recommended guideline but yet the salaries were too low to recruit and retain adequate staff. Conversely, States with more than adequate salaries have had an overall budget below the recommended guideline. Our conclusion is that the diversity of State programs and the variety of accounting techniques employed by the State makes the use of specific budget level guidelines of little value. Other editorial changes have been made to the Management and Administration section.

The indicator "Duties" has been changed to "Staff Supervision" which we feel more accurately expresses the subject of the guidelines. We have eliminated "salaries" as a separate indicator, and have placed it under a new indicator "Staff Continuity." Salary levels are important only from the standpoint of being able to recruit and retain staff. The indicator "Recruiting" has been eliminated. The guideline relating to job descriptions has been moved to "Qualifications." The

guideline regarding vacancy notification procedures has been eliminated since, as pointed out by one commenter, State recruitment practices vary according to State personnel office procedures. Based on our experience, there does not appear to be any reason for recommending one recruitment practice over another.

Only minor changes have been made to the Licensing section. Under "Licensing Procedures" the guideline pertaining to the preliminary review of applications within 30 days of receipt has been eliminated. The time needed to review an initial license application is a purely administrative matter. An artificial time limit serves no useful purpose. It is the quality of the licensing action that has a bearing on public health and safety. The timely review of licensee renewal applications may, however, be important. The recommended guideline pertaining to the issuance of license expiration notices to licensees 30-60 days prior to expiration has also been eliminated. License renewal is the responsibility of the licensee. The issuance of expiration notices by the State is a purely administrative matter.

No significant changes have been made to the Compliance section.

A number of changes have been made to the Categories assigned to various indicators. Category III has been eliminated. All guidelines previously included in Category III indicators were considered to be more appropriately identified as Category II. A separate Category III is no longer needed.

The "Guidelines for NRC Review of Agreement State Radiation Control Programs" will be used by the NRC staff during its onsite reviews of Agreement State programs. Such reviews are conducted at approximately 18 month intervals or less if deemed necessary. As a result of the review of a State program, the NRC determines that the Agreement State's program is either:

- (1) Adequate to protect the public health and safety; or
- (2) Inadequate to protect the public health and safety.

A program may be adequate to protect the public health and safety although in need of improvement in specified areas. In some cases, the NRC may be unable to make a finding at the time of the review because of unresolved items or inadequate information necessitating a follow-up review. In such cases, NRC follows up on these matters by correspondence, follow-up onsite reviews or at the time of the next regular scheduled review. No significant items will be left unresolved over a prolonged period.

A determination is also made that the program is either:

- (1) Compatible with the NRC Regulatory program in areas related to the public health and safety; or
- (2) Incompatible with the NRC Regulatory program; or
- (3) NRC is unable to make a finding at the time of the review because of unresolved items or inadequate information.

A dispositive finding of adequacy and compatibility is made at the time the staff submits a consolidated assessment to the Commission in an annual report on all Agreement States.

In making a finding of adequacy, the NRC considers areas of the State program which are critical to its primary function, i.e., protection of the public health and safety. For example, a State that does not have qualified personnel, fails to take adequate licensing actions or has no inspection program, would not be considered to have a program adequate to protect the public health and safety. Basic radiation protection standards, such as exposure limits, also directly affect the States' ability to protect public health and safety. The NRC feels that it is important to strive for a high degree of uniformity in technical definitions and terminology, particularly as related to units of measurement and radiation dose. Maximum permissible doses and levels of radiation and concentrations of radioactivity in unrestricted areas as specified in 10 CFR Part 20 are considered to be important enough to require States to be essentially equivalent in this area in order to protect public health and safety. Certain administrative procedures, such as those involving the licensing of products containing radioactive material intended for interstate commerce, also require a high degree of uniformity. If no serious performance problems are found in an Agreement State program and if its standards and program procedures are compatible with the NRC program, a finding of adequacy and compatibility is made. In a case where a State has not formally updated radiation standards in important areas, but other areas of the program are not deficient, a State could be found to be adequate but not compatible with the NRC program. It is also possible that a State program could have up-to-date regulations, all proper procedures, and adequate staff, but still fail to perform the necessary work. In this case, a program could be found to be inadequate to protect the public health and safety, yet compatible with the Commission's program. In the worst case, a program can be found to be both

inadequate and incompatible with the NRC program.

Guidelines for NRC Review of Agreement State Radiation Control Programs

1981.

Prepared by Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Introduction

Section 274 of the Atomic Energy Act was enacted by the Congress in 1959 to recognize the interests of the States in atomic energy, to clarify the respective responsibilities of State and Federal Governments, and to provide a mechanism for States to enter into formal agreements with the Atomic Energy Commission (AEC), and later the Nuclear Regulatory Commission (NRC), under which the States assume regulatory authority over byproduct, source, and small quantities of special nuclear materials, collectively referred to as agreement materials. The mechanism by which the NRC discontinues and the States assume regulatory authority over agreement materials is an agreement between the Governor of a State and the Commission. Before entering into an Agreement, the Governor is required to certify that the State has a regulatory program that is adequate to protect the public health and safety. In addition, the Commission must perform an independent evaluation and make a finding that the State's program is adequate from the health and safety standpoint and compatible with the Commission's regulator program.

Current Guidelines

In 1980, the NRC staff initiated a major revision of the guide for review of Agreement State programs (two earlier revisions reflected primarily minor and editorial changes). This was necessitated by changes in NRC licensing and compliance policy, the Uranium Mill Tailings Radiation Control Act of 1978 and inflationary impacts on budgeting. In view of increased public interest in radiation control matters and the Agreement State program, the Commission has published these Guidelines, which constitute Commission policy in the form of a document entitled "Guidelines for NRC Review of Agreement State Radiation Control Programs." This document provides guidance for evaluation of operating Agreement State programs based on 20 years of combined AEC-NRC experience in administering the Agreement State program. The

document will be used by the NRC in its continuing program of evaluating Agreement State programs.

The "Guidelines" contain six sections, each dealing with one of the essential elements of a radiation control program (RCP) which are: Legislation and Regulations, Organization, Management and Administration, Personnel, Licensing, and Compliance. Each section contains (a) a summary of the general significance of the program elements, (b) indicators which address specific functions within the program element, (c) categories which denote the relative importance of each indicator, and (d) guidelines which delineate specific objectives or operational goals.

Categories of Indicators

The indicators listed in this document cover a wide range of program functions, both technical and administrative. It should be recognized that the indicators, and the guidelines under each indicator, are not of equal importance in terms of the fundamental goal of a radiation control program, i.e. protecting the public health and safety. Therefore, the indicators are categorized in terms of their importance to the fundamental goal of protecting the public health and safety. Two categories are used.

Category I—Direct Bearing on Health and Safety. Category I Indicators are:

- Legal Authority.
- Status of Regulations.
- Quality of Emergency Planning.
- Technical Quality of Licensing

Actions.

- Adequacy of Product Evaluations.
- Status of Inspection Program.
- Inspection Frequency.
- Inspectors' Performance and

Capability.

- Response to Actual and Alleged Incidents.
- Enforcement Procedures.

These indicators address program functions which directly relate to the State's ability to protect the public health and safety. If significant problems exist in several Category I indicator areas, then the need for improvements may be critical. Legislation and regulations together form the foundation for the entire program, establishing the framework for the licensing and compliance programs. The technical review of license applications is the initial step in the regulatory process. The evaluation of applicant qualifications, facilities, equipment, and procedures by the regulatory agency is essential to assure protection of the public from radiation hazards associated with the proposed activities. Assuring that licensees fulfill

the commitments made in their applications and that they observe the requirements set forth in the regulations is the objective of the compliance program. The essential elements of an adequate compliance program are (1) the conduct of onsite inspections of licensee activities, (2) the performance of these inspections by competent staff, and (3) the taking of appropriate enforcement actions. Another very important factor is the ability to plan for, respond effectively to, and investigate radiation incidents.

Category II—Essential Technical and Administrative Support. Category II Indicators are:

- Updating of Regulations.
- Location of Radiation Control Program Within State Organization.
- Internal Organization of Radiation Control Program.
- Legal Assistance.
- Technical Advisory Committees.
- Budget.
- Laboratory Support.
- Administrative Procedures.
- Management.
- Office Equipment and Support Services.

These indicators address program functions which provide essential technical and administrative support for the primary program functions. Good performance in meeting the guidelines for these indicators is essential in order to avoid the development of problems in one or more of the principal program areas, i.e. those that fall under Category I indicators. Category II indicators frequently can be used to identify underlying problems that are causing, or contributing to, difficulties in Category I indicators.

It is the NRC's intention to use these categories in the following manner. In reporting findings to State management, the NRC will indicate the category of each comment made. If no significant Category I comments are provided, this will indicate that the program is adequate to protect the public health and safety. If at least one significant Category I comment is provided, the State will be notified that the program deficiency may seriously affect the State's ability to protect the public health and safety and should be addressed on a priority basis. When

more than one significant Category I comment is provided, the State will be notified that the need of improvement in the particular program areas is critical. The NRC would request an immediate response, and perform a follow-up review of the program within six months. If the State program has not improved or if additional deficiencies have developed, the NRC may institute proceedings to suspend or revoke all or part of the Agreement. Category II comments would concern functions and activities which support the State program and therefore would not be critical to the State's ability to protect the public. The State will be asked to respond to these comments and the State's actions will be evaluated during the next regular program review.

It should be recognized that the categorization pertains to the significance of the overall indicator and not to each of the guidelines within that indicator. For example, "Technical Quality of Licensing Actions" is a Category I indicator. The review of license applications for the purpose of evaluating the applicant's qualifications, facilities, equipment, and procedures is essential to assuring that the public health and safety is being protected. One of the guidelines under this indicator concerns preclicensing visits. The need for such visits depends on the nature of the specific case and is a matter of judgment on the part of the licensing staff. The success of a State program in meeting the overall objective of the indicator does not depend on literal adherence to each recommended guideline.

As a matter of policy, the Commission supports the development of more specific objective measures of Agreement State regulatory performance. The difficulties of implementing this policy are also recognized (e.g., lack of adequate data, lack of cause and effect relationships between State radiation control programs and radiation exposure data, cost of collecting data). Nonetheless, the Commission believes there is potential merit in using objective rather than subjective measures where appropriate. NRC will work toward establishing more quantitative measures on a State-by-State basis to improve the quality and consistency of NRC reviews. Recognition will be given to State unique factors, the difficulty in comparing one State to another, and the availability and cost of data collection. NRC solicits State assistance and suggestions in identifying objective performance indicators.

General NRC Policy

The "Guidelines for NRC Review of Agreement State Radiation Control Programs" will be used by the NRC staff during its onsite reviews of Agreement State programs. Such reviews are conducted at approximately 18 month intervals, or less if deemed necessary. As a result of the review of a State program, the NRC determines that the Agreement State's program is either:

- (1) Adequate to protect the public health and safety; or
- (2) Inadequate to protect the public health and safety.

A program may be adequate to protect the public health and safety although in need of improvement in specified areas. In some case, the NRC may be unable to make a finding at the time of the review because of unresolved items or inadequate information necessitating a follow-up review. In such cases, NRC follows up on these matters by correspondence, follow-up onsite reviews or at the time of the next regularly scheduled review. No significant items will be left unresolved over a prolonged period.

A determination is also made that the program is either:

- (1) Compatible with the NRC Regulatory program in areas related to the public health and safety; or
- (2) Incompatible with the NRC Regulatory program; or NRC is unable to make a finding at the time of the review because of unresolved items or inadequate information. A dispositive finding is made at the time the staff submits a consolidated assessment to the Commission in an annual report on all Agreement States.

In making a finding of adequacy, the NRC considers areas of the State program which are critical to its primary function, i.e., protection of the public health and safety. For example, a State that does not have qualified personnel, fails to take licensing actions or has no inspection program, would not be considered to have a program adequate to protect the public health and safety. Basic radiation protection standards, such as exposure limits, also directly affect the States' ability to protect public health and safety. The NRC feels that it is important to strive for a high degree of uniformity in technical definitions and terminology, particularly as related to units of measurement and radiation dose. Maximum permissible doses and levels of radiation and concentrations of radioactivity in unrestricted areas as specified in 10 CFR Part 20 are considered to be important enough to require States to be essentially equivalent in this area in order to

protect public health and safety. Certain administrative procedures, such as those involving the licensing of products containing radioactive material intended for interstate commerce, also require a high degree of uniformity. If no serious performance problems are found in an Agreement State program and if its standards and program procedures are compatible with the NRC program, a finding of adequacy and compatibility is made. In a case where a State has not formally updated radiation standards in important areas, but other areas of the program are not deficient, a State could be found to be adequate but not compatible with the NRC program. It is also possible that a State program could have up-to-date regulations, all proper procedures, and adequate staff, but still fail to perform the necessary work. In this case, a program could be found to be inadequate to protect the public health and safety, yet compatible with the Commission's program. In the worst case, a program can be found to be both inadequate and incompatible with the NRC program.

Guidelines—Legislation and Regulations

The effectiveness of any State radiation control program (RCP) is dependent upon the underlying authority granted the RCP in State legislation, and implemented in the State regulations. Regulations provide the foundation upon which licensing, inspection, and enforcement decisions are made. Regulations also provide the standards and rules within which the regulated must operate. Periodic revisions are necessary to reflect changing technology, improved knowledge, current recommendations by technical advisory groups, and consistency with NRC regulations. Procedures for providing input to the NRC on proposed changes to NRC regulations are necessary to assure consideration of the State's interests and requirements. The public and, in particular, affected classes of licensees should be granted the opportunity and time to comment on rule changes.

Indicators	Category	Guidelines
Legal Authority	I	Clear statutory authority should exist, designating a State radiation control agency and providing for promulgation of regulations, licensing, inspection and enforcement.

Indicators	Category	Guidelines
Status of Regulations.	I	States requesting uranium or thorium recovery and associated wastes pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) must have statutes enacted to establish clear authority for the State to carry out the requirements of UMTRCA. Where regulatory responsibilities are divided between State agencies, clear understandings should exist as to division of responsibilities and requirements for coordination.
	II	The State must have regulations essentially identical to 10 CFR Part 18, Part 20 (radiation dose standards and effluent limits), and those required by UMTRCA, as implemented by Part 40.
Updating of Regulations.	I	The State should adopt other regulations to maintain a high degree of uniformity with NRC regulations.
	II	The RCP has established procedures for effecting appropriate amendments to State regulations in a timely manner, normally within 3 years of adoption by NRC. For those regulations deemed a matter of compatibility by NRC, State regulations should be amended as soon as practicable but no later than 3 years. Opportunity should be provided for the public to comment on proposed regulation changes. (Required by UMTRCA for uranium mill regulation.) Pursuant to the terms of the Agreement, opportunity should be provided for the NRC to comment on draft changes in State regulations.

Organization

The effectiveness of any State RCP may be dependent upon its location within the overall State organizational structure. The RCP should be in a position to compete effectively with other health and safety programs for budget and staff. Program management must have access to individuals or groups which establish health and safety program priorities. The RCP should be organized to achieve a high degree of efficiency in supervision, work functions, and communications.

Indicators	Category	Guidelines
Location of Radiation Control Program Within State Organization.	II	The RCP should be located in a State organization parallel with comparable health and safety programs. The Program Director should have access to appropriate levels of State management.
Internal Organization of Radiation Control Program.	II	The RCP should be organized with the view toward achieving an acceptable degree of staff efficiency, place appropriate emphasis on major program functions, and provide specific lines of supervision from program management for the execution of program policy. Where regional offices are utilized, the lines of communication and administrative control between the regions and the central office (Program Director) should be clearly drawn to provide uniformity in inspection policy, procedures and supervision.
Legal Assistance	II	Legal staff should be assigned to assist the RCP or procedures should exist to obtain legal assistance expeditiously. Legal staff should be knowledgeable regarding the RCP program, statutes and regulations.

Indicators	Category	Guidelines
Technical Advisory Committees.	II	Technical Committees, Federal Agencies, and other resource organizations should be used to extend staff capabilities for unique or technically complex problems. A State Medical Advisory Committee should be used to provide broad guidance on the use of radioactive drugs in or on humans. The Committee should represent a wide spectrum of medical disciplines. The Committee should advise the RCP on policy matters and regulations related to use of radionuclides in or on humans. Procedures should be developed to avoid conflict of interest, even though Committees are advisory. This does not mean that representatives of the regulated community should not serve on advisory committees or not be used as consultants.

Management and Administration

State RCP management must be able to meet program goals through strong, direct leadership at all levels of supervision. Administrative procedures are necessary to assure uniform and appropriate treatment of all regulated parties. Procedures for receiving information on radiological incidents, emergency response, and providing information to the public are necessary. Procedures to provide feedback to supervision on status and activities of the RCP are necessary. Adequate facilities, equipment and support services are needed for optimum utilization of personnel resources.

Laboratory support services should be administered by the RCP or be readily available through established administrative procedures.

In order to meet program goals, a State RCP must have adequate budgetary support. The total RCP budget must provide adequate funds for salaries, travel costs associated with the compliance program, laboratory and survey instrumentation and other equipment, and other administrative costs. The program budget must reflect annual changes in the number and complexity of applications and licenses, and the increase in costs due to normal inflation.

Indicators	Category	Guidelines
Quality of Emergency Planning.	I	The State RCP should have a written plan for response to such incidents as spills, overexposures, transportation accidents, fire or explosion, theft, etc. The Plan should define the responsibilities and actions to be taken by State agencies. The Plan should be specific as to persons responsible for initiating response actions, conducting operations and cleanup. Emergency communication procedures should be adequately established with appropriate local, county and State agencies. Plans should be distributed to appropriate persons and agencies. NRC should be provided the opportunity to comment on the Plan while in draft form. The plan should be reviewed annually by Program staff for adequacy and to determine that content is current. Periodic drills should be performed to test the plan.

Indicators	Category	Guidelines	Indicators	Category	Guidelines	Indicators	Category	Guidelines
Budget	II	Operating funds should be sufficient to support program needs such as staff travel necessary to the conduct of an effective compliance program, including routine inspections, followup or special inspections (including pre-licensing visits and responses to incidents and other emergencies, instrumentation and other equipment to support the RCP, administrative costs in operating the program including rental charges, printing costs, laboratory services, computer and/or word processing support, preparation of correspondence, office equipment, hearing costs, etc. as appropriate. Principal operating funds should be from sources which provide continuity and reliability, i.e., general tax, license fees, etc. Supplemental funds may be obtained through contracts, cash grants, etc.	Management	II	high degree of uniformity and continuity in regulatory practices. These procedures should address internal processing of license applications, inspection policies and procedures, decommissioning, and other functions required of the program. Program management should receive periodic reports from the staff on the status of regulatory actions (backlogs, problem cases, inquiries, regulation revisions). RCP management should periodically assess workload trends, resources and changes in legislative and regulatory responsibilities to forecast needs for increased staff, equipment, services and fundings. Program management should perform periodic reviews of selected license cases handled by each reviewer and document the results. Complex licenses (major manufacturers, large scope—Type A Broad, potential for significant releases to environment) should receive second party review (supervisory committee, consultant). Supervisory review of inspections, reports and enforcement actions should also be performed. The RCP should have adequate secretarial and clerical support. Automatic typing and Automatic Data Processing	Public Information	II	and retrieval capability should be available to larger (>300-400 licenses) programs. Similar services should be available to regional offices, if utilized. Inspection and licensing files should be available to the public consistent with State administrative procedures. Opportunity for public hearings should be provided in accordance with UMTRCA and applicable State administrative procedure laws.
Laboratory Support	II	The RCP should have the capacity in-house, or readily available through established procedures, laboratory support to conduct bioassays, analyze environmental samples, analyze samples collected by inspectors, etc. on a priority established by the RCP.						
Administrative Procedures	II	The RCP should establish written internal procedures to assure that staff performs its duties as required and to provide a	Office Equipment and Support Services	II				

Personnel

The RCP must be staffed with a sufficient number of trained personnel. The evaluation of license applications and the conduct of inspections require staff with in-depth training and experience in radiation protection and related subjects. The staff must be adequate in number to assure licensing, inspection, and enforcement actions of appropriate quality to assure protection of the public health and safety. Periodic training of existing staff is necessary to maintain capabilities in a rapidly changing technological environment. Program management personnel must be qualified to exercise adequate supervision in all aspects of a State radiation control program.

Indicators	Category	Guide for acceptable practice
Qualifications of Technical Staff	II	Professional staff should have bachelor's degree or equivalent training in the physical and/or life sciences. Additional training and experience in radiation protection for senior personnel should be commensurate with the type of licenses issued and inspected by the State.

Indicators	Category	Guide for acceptable practice	Indicators	Category	Guide for acceptable practice
Staffing Level	I	Written job descriptions should be prepared so that professional qualifications needed to fill vacancies can be readily identified. Staffing level should be approximately 1-1.5 person-year per 100 licenses in effect. RCP must not have less than two professionals available with training and experience to operate RCP in a way which provides continuous coverage and continuity. For States regulating uranium mills and mill tailings, current indications are that 2-2.75 professional person-years of effort, including consultants, are needed to process a new mill license (including initial mill) or major renewal, to meet requirements of Uranium Mill Tailings Radiation Control Act of 1978. This effort must include expertise in radiological matters, hydrology, geology, and structural engineering. ¹	Staff Continuity	I	Inspection procedures, medical practices and industrial radiography practices. (For mill States, mill training should also be included.) The RCP should have a program to utilize specific short courses and workshops to maintain appropriate level of staff technical competence in areas of changing technology. Staff turnover should be minimized by combinations of opportunities for training, promotions, and competitive salaries. Salary levels should be adequate to recruit and retain persons of appropriate professional qualifications. Salaries should be comparable to similar employment in the geographical area. The RCP organization structure should be such that staff turnover is minimized and program continuity maintained through opportunities for promotion. Promotion opportunities should exist from junior level to senior level or supervisory positions. There also should be opportunity for periodic salary increases commensurate with experience and responsibility.
Staff Supervision	I	Supervisory personnel should be adequate to provide guidance and review the work of senior and junior personnel. Senior personnel should review applications and inspect licenses independently, monitor work of junior personnel, and participate in the establishment of policy. Junior personnel should be initially limited to reviewing license applications and inspecting small programs under close supervision.			
Training	I	Senior personnel should have attended NRC core courses in licensing orientation.			

¹ Additional guidance is provided in the Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.

Licensing

It is necessary in licensing by product, source, and special nuclear materials that the State regulatory agency obtain information about the proposed use of nuclear materials, facilities and equipment, training and experience of personnel, and operating procedures

appropriate for determining that the applicant can operate safely and in compliance with the regulations and license conditions. An acceptable licensing program includes: preparation and use of internal licensing guides and policy memoranda to assure technical quality in the licensing program (when appropriate, such as in small programs, NRC Guides may be used); prelicensing inspection of complex facilities; and the implementation of administrative procedures to assure documentation and maintenance of adequate files and records.

Indicators	Category	Guidelines
Technical Quality of Licensing Actions	I	The RCP should assure that essential elements of applications have been submitted to the agency, and which meet current regulatory guidance for describing the isotopes and quantities to be used, qualifications of persons who will use material, facilities and equipment, and operating and emergency procedures sufficient to establish the basis for licensing actions. Prelicensing visits should be made for complex and major licensing actions. Licenses should be clear, complete, and accurate as to isotopes, forms, quantities, authorized uses, and permissive or restrictive conditions. The RCP should have procedures for reviewing licenses prior to renewal to assure that supporting information in the file reflects the current scope of the licensed program. RCP evaluations of manufacturer's or distributor's data on sealed sources and devices outlined in NRC, State, or appropriate ANSI Guides, should be sufficient to assure integrity and safety for users.
Adequacy of Product Evaluations	I	

Indicators	Category	Guidelines
Licensing Procedures.	II	The RCP should review manufacturer's information at labels and brochures relating to radiation health and safety, assay, and calibration procedures for adequacy.
		Approve documents for sealed source or device designs should be clear, complete and accurate as to isotopes, forms, quantities, uses, drawing identifications, and permissive or restrictive conditions.
		The RCP should have internal licensing guides, checklist, and policy memoranda consistent with current NRC practice.
		License applicants (including applicants for renewals) should be furnished copies of RCP's guides and regulatory positions.
		The present compliance status of licensees should be considered in licensing actions.
		Under the NRC Exchange-of-Information program, evaluation sheets, service licenses, and licenses authorizing distribution to general licensees and persons exempt from licensing should be submitted to NRC on a timely basis.
		Standard license conditions comparable with current NRC standard license conditions should be used to expedite and provide uniformity in the licensing process.
		Fees should be maintained in an orderly fashion to allow fast, accurate retrieval of information and documentation of discussions and visits.

Compliance

Periodic inspections of licensed operations are essential to assure that activities are being conducted in compliance with regulatory requirements and consistent with good safety practices. The frequency of inspections depends on the amount and the kind of material, the type of operation licensed, and the results of previous inspections. The capability of maintaining and retrieving statistical data on the status of the compliance program is necessary. The regulatory agency must have the necessary legal authority for prompt enforcement of its regulations. This may include, as appropriate, administrative remedies, orders requiring corrective action, suspension or revocation of licenses, the impounding of materials, and the imposing of civil or criminal penalties.

Indicators	Category	Guidelines
Status of Inspection Program.	I	State RCP should maintain an inspection program adequate to assess licensee compliance with State regulations and license conditions.
		The RCP should maintain statistics which are adequate to permit Program Management to assess the status of the inspection program on a periodic basis, information showing the number of inspections conducted, the number overdue, the length of time overdue and the priority categories should be readily available.
		At least semiannual inspection planning for number of inspections to be performed, assignments to senior vs. junior staff, assignments to regions, identification of special needs and periodic status reports.

Indicators	Category	Guidelines
Inspection Frequency.	I	The RCP should establish an inspection priority system. The specific frequency of inspections should be based upon the potential hazards of licensed operations, e.g., major processors, broad licensees, and industrial radiographers should be inspected approximately annually—smaller or less hazardous operations may be inspected less frequently. The minimum inspection frequency should be consistent with the NRC system.
Inspectors' Performance and Capability.	I	Inspectors should be competent to evaluate health and safety problems and to determine compliance with State regulations. Inspectors must demonstrate an understanding of regulations, inspection guides, and policies prior to independently conducting inspections.
		The compliance supervisor (may be RCP manager) should conduct annual field evaluations of each inspector to assess performance and assure application of appropriate and consistent policies and guides.
Response to Actual and Alleged Incidents.	I	Inquiries should be promptly made to evaluate the need for onsite investigations.
		Onsite investigations should be promptly made of incidents requiring reporting to the Agency in less than 30 days (10 CFR 20.403 types.)
		For those incidents not requiring reporting to the Agency in less than 30 days, investigations should be made during the next scheduled inspection.

Indicators	Category	Guidelines	Indicators	Category	Guidelines	Indicators	Category	Guidelines
Enforcement Procedures		Onsite investigations should be promptly made of non-reportable incidents which may be of significant public interest and concern, e.g., transportation accidents. Investigations should include in-depth reviews of circumstances and should be completed on a high priority basis. When appropriate, investigations should include reenactments and time-study measurements (normally within a few days). Investigation (or inspection) results should be documented and enforcement action taken when appropriate. State licensees and the NRC should be notified of pertinent information about any incident which could be relevant to other licensed operations (e.g., equipment failure, improper operating procedures). Information on incidents involving failure of equipment should be provided to the agency responsible for evaluation of the device for an assessment of possible generic design deficiency. The RCP should have access to medical consultants when needed to diagnose or treat radiation injuries. The RCP should use other technical consultants for special problems when needed.	Inspection Procedures		Enforcement letters should be issued within 30 days following inspections and should employ appropriate regulatory language clearly specifying all items of noncompliance and health and safety matters identified during the inspection and referencing the appropriate regulation or license condition being violated. Enforcement letters should specify the time period for the licensee to respond indicating corrective actions and actions taken to prevent re-occurrence (normally 20-30 days). The inspector and compliance supervisor should review licensee responses. Licensee responses to enforcement letters should be promptly acknowledge as to adequacy and resolution of previously unresolved items. Written procedures should exist for handling escalated enforcement cases of varying degrees. Impounding of material should be in accordance with State administrative procedures. Opportunity for hearings should be provided to assure impartial administration of the radiation control program. Inspection guides, consistent with current NRC guidance, should be used by inspectors to assure uniform and complete inspection practices and provide technical guidance in the inspection of licensed programs. The NRC Agreement States Guide may be used if properly supplemented by policy memoranda, agency interpretations, etc.	Inspection Reports		Written inspection policies should be issued to establish a policy for conducting unannounced inspections, obtaining corrective action, following up and closing out previous violations, assuring all interviews with management, and issuing appropriate notification of violations of health and safety problems. Procedures should be established for maintaining licensee compliance histories. Oral briefing of supervisors or the senior inspector should be performed upon return from nonroutine inspections. For States with separate licensing and inspection staffs, procedures should be established for feedback of information to license reviewers. Findings of inspections should be documented in a report describing the scope of inspections, substantiating all items of noncompliance and health and safety matters, describing the scope of licensee programs, and indicating the substance of discussions with licensee management and licensee's response. Reports should uniformly and adequately document the results of inspections and identify areas of the licensee's program which should receive special attention at the next inspection. Reports should show the status of previous noncompliance and the independent physical measurements made by the inspector.
		Enforcement Procedures should be sufficient to provide a substantial deterrent to licensee noncompliance with regulatory requirements. Provisions for the levying of monetary penalties are recommended.						

Indicators	Category	Guidelines
Independent Measurements	1	<p>Independent measurements should be sufficient in number and type to ensure the licensee's control of materials and to validate the licensee's measurements.</p> <p>RCP instrumentation should be adequate for surveying licensee operations (e.g., survey meters, air samplers, lab counting equipment for aerosols, identification of isotopes, etc.).</p> <p>GM Survey Meter: 0-20 mR/hr Ion Chamber Survey Meter: several 1/4 hr Neutron Survey Meter: Fast & Thermal Alpha Survey Meter: 0-100,000 cpm Air Samplers: Hi and Lo Volume Lab Counters: Detect 0.001 µCi/wipe Velometers Smoke tubes Lupel Air samplers</p> <p>Instrument calibration services or facilities should be readily available and appropriate for instrumentation used. Licensee equipment and facilities should not be used unless under a service contract. Exceptions for other State Agencies, e.g., a State University, may be made. Agency instruments should be calibrated at intervals not greater than that required to licensees being inspected.</p>

Commission's Office of Nuclear Reactor Regulation related to the proposed operation of the Byron Station, Units 1 and 2, by the Commonwealth Edison Company. The site for this station is located in Rockvale Township, Ogle County, Illinois, approximately seventeen miles southwest of Rockford, Illinois.

The Draft Environmental Statement (DES) addresses the aquatic, terrestrial, radiological, social and economic costs and benefits associated with normal station operation. Also considered are station accidents, their likelihood of occurrence or their consequences. Finally, the statement presents an update discussion of a need for the facility since the construction permit application.

This DES is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the Rockford Public Library, 215 N. Wymen Street, Rockford, Illinois 61103. The DES is also being made available at the State Clearinghouse, Bureau of the Budget, Lincoln Tower Plaza, 524 S. Second Street, Room 315, Springfield, Illinois 62706. Request for copies of the DES (NUREG-0648) should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Technical Information and Document Control.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the DES (local agencies may obtain these documents upon request).

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, D.C. and in the Rockford Public Library, 215 N. Wymen Street, Rockford, Illinois 61103.

After consideration of comments submitted with respect to the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the Federal Register. Comments are due by January 18, 1982.

Comments on this report from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of November 1981.

For the Nuclear Regulatory Commission.
B. J. Youngblood,
Chief, Licensing Branch No. 1, Division of Licensing.
(FR Doc. 81-34886 Filed 12-3-81; 8:45 am)
BILLING CODE 7590-01-M

[Docket No. 50-369]

Duke Power Co.; Issuance of Amendment, Facility Operating License No. NPF-9

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina. This amendment revises the minimum reactor coolant system flow rate to permit an option for operation at a reduced flow rate (95%) in conjunction with a reduced power level (90%). The amendment is effective as of its date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Duke Power Company letter dated November 11, 1981, (2) Amendment No. 9 to Facility Operating License No. NPF-9 with Appendix A Technical Specification page changes, and (3) the Commission's related Safety Evaluation.

All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of items 2 and 3 may be obtained upon request addressed to the U. S. Nuclear Regulatory Commission, Washington.

Dated at Washington, DC this 30th day of November 1981.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.
(FR Doc. 81-34700 Filed 12-3-81; 8:45 am)
BILLING CODE 7590-01-M

[Docket Nos. STN 50-454 and STN 50-455]

Availability of Draft Environmental Statement for Byron Station, Units 1 and 2

Notice is hereby given that a Draft Environmental Statement (NUREG-0648) has been prepared by the

D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 23rd day of November 1981.

For the Nuclear Regulatory Commission.

Elmor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing, NRR.

[FR Doc. 81-34889 Filed 12-3-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-414]

Duke Power Co., et al.; Issuance of Amendment to Construction Permit

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Construction Permit No. CPPR-117. The amendment reflects the addition of Piedmont Municipal Power Agency as a new co-owner of the Catawba Nuclear Station, Unit 2 (the facility) along with present owners Duke Power Company and North Carolina Municipal Power Agency Number One. Duke Power Company has sole responsibility for the design and construction of the facility, which is located in York County, South Carolina.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amendment.

Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for the amendment dated April 8, 1981, (2) Amendment No. 2 to Construction Permit No. CPPR-117, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina. In addition, a copy of the above items (2) and (3) may be obtained upon request, addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland the 24th day of November 1981.

For the Nuclear Regulatory Commission.

Elmor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 81-34870 Filed 12-3-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-244]

Rochester Gas and Electric Corp.; Issuance of Amendment to Provisional Operating License

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 46 to Provisional Operating License No. DPR-18 for the R. E. Ginna Nuclear Power Plant to Rochester Gas and Electric Corporation (the licensee). The Ginna Plant is located in Wayne County, New York. The amendment is effective as of the date of issuance and is to be implemented within 60 days of Commission approval in accordance with provisions of 10 CFR 73.55(b)(4).

The amendment adds a license condition to include the Commission-approved Guard Training and Qualification Plan as part of the license.

The licensee's filing, as revised, which has been handled by the Commission as an application, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filings dated May 4, 1981, and July 30, 1981, are being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to disclosure in accordance with the provisions of 10 CFR 9.12.

For further details with respect to this action, see (1) Amendment No. 46 to License No. DPR-18, and (2) the Commission's related letter to the licensee dated November 30, 1981. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington,

D.C., and at the Rochester Public Library, 115 South Avenue, Rochester, New York 14627. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 30th day of November, 1981.

For the Nuclear Regulatory Commission.

Thomas V. Wambach,

Acting Chief, Operating Reactors Branch No. 5, Division of Licensing.

[FR Doc. 81-34871 Filed 12-3-81; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 37 to Facility Operating License No. DPR-54, issued to Sacramento Municipal Utility District (the licensee), which revised the license for operation of the Rancho Seco Nuclear Generating Station (the facility) located in Sacramento County, California. The amendment is effective as of its date of issuance.

The amendment modifies the license to include revisions to the previously approved Physical Security Plan for the facility.

The licensee's filing, which is being handled by the Commission as an application, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

The licensee's filing dated June 10, 1981, as revised September 22, 1981, is being withheld from public disclosure pursuant to 10 CFR 2.790(d). The withheld information is subject to

GUIDANCE ON LIMITED STATE AGREEMENTS FOR REGULATION
OF LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

The Low-Level Radioactive Waste Policy Act of 1980, Public Law 96-573, established national policy that each State is responsible for providing for the availability of capacity either within or outside the State for the disposal of low-level radioactive waste generated within its border (except for waste generated as a result of defense activities or Federal research and development activities), and that low-level radioactive waste can be most safely and efficiently managed on a regional basis. The Act sanctioned regional solutions to waste management by way of interstate compacts. The National Governors' Association and the State Planning Council on Radioactive Waste Management have endorsed this policy of State responsibility for providing the capacity for disposal of such wastes and the regional implementation of such facilities.

In conjunction with the current widespread interest and activity in establishing interstate compacts and planning for regional waste disposal facilities, interest has also been expressed that a State which does not now regulate radioactive materials under an agreement with the Nuclear Regulatory Commission may wish to regulate the disposal of low-level radioactive waste as host State for a regional disposal facility.

Section 274b of the Atomic Energy Act provides for the discontinuance of Nuclear Regulatory Commission regulatory authority over certain radioactive materials and the assumption thereof by the States through

agreements. The materials subject to these agreements are source material (natural uranium and thorium which are raw materials of atomic energy), byproduct material (reactor produced radioisotopes) and small quantities of special nuclear (fissionable) materials. Twenty-six of the State Agreements now in effect include authority to regulate disposal of these materials as low-level waste.* Subsection 274.b provides that the Commission shall enter into an agreement with a State if (1) the Governor certifies that the State has a program for control of radiation hazards adequate to protect the public health and safety with respect to the materials covered by the proposed agreement and that the State desires to assume regulatory responsibility for such materials and (2) the Commission finds that the State program is compatible with the Commission's program for regulation of such materials and is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

In January 1981, the Commission updated and republished its criteria for guidance of the States and the Commission in entering into agreements under section 274 of the Atomic Energy Act. On July 21, 1983 the criteria were revised to reflect recent changes in low-level waste regulations (Reference 1). Criterion number 27 now designates low-level radioactive wastes in permanent disposal facilities as a separate category of transferable authority. A State may, if it desires, seek authority for regulating such waste facilities without seeking authority for the other radioactive materials which are customarily included in

*Utah signed an Agreement on March 29, 1984 which did not include the authority to regulate disposal of these materials.

these agreements. An agreement for transfer of authority only for such waste disposal is referred to as a limited agreement. Annotations on applicability of the January 23, 1981 criteria to limited agreements for low-level waste disposal are contained in Appendix 1, and additional guidance applicable to waste disposal to supplement the criteria is contained in Appendix 2.

The Council of State Governments' SUGGESTED STATE LEGISLATION - PROGRAM FOR 1961 included a model State Radiation Control Act which a number of States have used as a framework of legislative authority for developing comprehensive radiation control programs. In 1983 a complete updating of this model act was published (Reference 2). (Copies available from the Office of State Programs.) A further edited revision of the model act (Reference 3) has been prepared for specific applicability to States which desire to enter into limited agreements with the Commission for regulating low-level radioactive waste disposal only.

Parts A, C, D, J and M of the Suggested State Regulations for Control of Radiation* (Reference 4) are applicable to regulating waste disposal while parts B, E, F, G, H and I are not applicable. Particular attention

*Prepared by the Conference of Radiation Control Directors, Inc., the Nuclear Regulatory Commission, the Environmental Protection Agency and the Bureau of Radiological Health of the Department of Health and Human Services.

is invited to section M.9 of these regulations which provides that a license will not be issued to receive radioactive material from other persons for disposal on land not owned by a State or the Federal Government.

The final 10 CFR Part 61 was published in the Federal Register on December 28, 1982 (Reference 5). This regulation prescribes performance objectives for land disposal of waste; technical requirements for site selection, design, operation and closure of a near-surface disposal facility; technical requirements on form for waste to be disposed of by land burial; classification of waste; institutional requirements for State ownership and proprietary responsibilities; financial requirements; requirements for submitting applications for licenses to conduct waste burial activities and procedures which the Commission will follow in the issuance of such licenses.

Criterion 9 of the criteria applies the technical criteria contained in Part 61 in judging the adequacy and compatibility of a State's proposal to regulate low-level waste disposal pursuant to an agreement under section 274.b of the Atomic Energy Act. Certain technical portions of the rule such as waste classification and manifest recordkeeping will not work unless these standards are adopted by the States.

The procedural requirements of Part 61 on how an application will be processed, including the opportunity for public hearings on licensing proceedings and the preparation of written environmental impact analyses

Commission practice in its own licensing of low-level waste disposal and, while encouraged for Agreement States, such provisions are not made a matter of compatibility.

Adequate financial arrangements shall be required for decontamination, closure and stabilization of a disposal site. In addition, Section 151(a)(2), Nuclear Waste Policy Act, P.L. 97-425 requires NRC to review and approve financial arrangements for long-term monitoring and maintenance of a site prior to the State relieving the site operator of licensed responsibility.

NRC has developed guides and technical position papers to support implementation of 10 CFR Part 61. A listing of those available through Office of State Programs can be found in Reference 6.

The Office of State Programs is prepared to provide and arrange for consultation and assistance by NRC staff and its contractors to the Agreement States in evaluating waste disposal programs. This assistance can include furnishing computer modeling programs for use by the State, computer analyses of data submitted by the State and assistance in the preparation of environmental analyses. Arrangements for assistance should be made with the State Agreements staff of the Office of State Programs.

For further specific guidance or to discuss a State's interest in considering and preparing for an Agreement for transfer of regulatory authority, contact the Office of State Programs, Nuclear Regulatory

Commission, Washington DC 20555, telephone (301) 492-8170 or the appropriate Regional Administrator of the Commission.

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Appendices

1. Annotations on Applicability of Criteria to Waste Disposal
2. Guidance for States in Regulating the Disposal of LLRW

References

(Copies available from the Office of State Programs)

1. Criteria for NRC State Agreements, January 23, 1981 as amended.
2. Suggested State Legislation 1983 vol. 42 Council of State Governments
3. Model State Legislation Edited for Low-Level Waste Only
4. Suggested State Regulations for Control of Radiation
5. 10 CFR Part 61
6. Listing of Regulatory Guides and Technical Positions

APPENDIX 1
ANNOTATIONS ON CRITERIA FOR NRC-STATE AGREEMENTS FOR
APPLICABILITY TO LOW-LEVEL RADIOACTIVE WASTE DISPOSAL

The Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement which were originally published in 1961 were republished in the Federal Register, with additions, on January 23, 1981. Criterion 27 provides that a State and the Commission may enter into an agreement which is limited to regulation of low-level radioactive wastes in permanent disposal facilities. A revision to Criterion 9, Radioactive Waste Disposal was published July 21, 1983.

Most of the criteria in the January 23, 1981 publication are applicable to a limited agreement for low-level waste disposal as well as to the usual NRC-State agreements for all of the categories of materials listed in section 274.b of the Atomic Energy Act and in Criterion 27. However, a few of the criteria are not applicable to waste disposal, vis., Criterion 15 which applies to medical uses of radioactive materials and Criteria 29 through 36 which apply to the processing of uranium and thorium. In addition, guidance is provided in Appendix 2 on several new considerations pertaining to low-level waste disposal.

Criterion 9 refers to waste disposal by material users and land disposal of waste received from other persons. For a limited agreement criterion 9 requires promulgation of regulations for land disposal of radioactive waste to be compatible with 10 CFR Part 61.

Criterion 24, State Agency Designation, was written to apply to the State agency or agencies which would regulate the uses of radioactive materials. In the case of waste disposal facilities the State may have both proprietary responsibilities for the selection, ownership, and operation or contracting for operation of the facility and regulatory responsibilities for establishment of standards, licensing, inspection and enforcement of regulatory requirements. In order to avoid the possibility of conflict of interest between these proprietary and regulatory functions, it is important that the two different types of responsibilities not be assigned to the same State agency.

Pursuant to Section 150.10 of the Commission's regulations in 10 CFR Part 150, Federal government agencies are not subject to licensing by Agreement States and Criterion 28 provides for the States to grant exemptions from their regulatory requirements for designated classes of contractors of the Commission and the Department of Energy, including prime contracts at government owned sites such as Hanford, Washington and Savannah River, South Carolina which include among their activities the disposal of radioactive wastes. The Low-Level Radioactive Waste Policy Act provides (in section 3(a)) that compacts established under the Act or actions taken under such compacts shall not be applicable to the transportation, management or disposal of low-level radioactive waste from atomic energy defense activities of the Secretary (of the Department of Energy) or Federal research and development activities.

The legislative history of the Act makes it clear that the legislation was thus drawn to insure that States by compact will not be empowered to

restrict from such States the transportation, management or disposal of wastes from the atomic energy defense activities of the Secretary and from the research and development activities of the Secretary and other Federal departments and agencies. Notwithstanding these prohibitions against State regulation of Federal radioactive waste management, it is permissible, and in fact is customary, for facilities such as power and research reactors, laboratories and hospitals of Federal agencies, other than the Department of Energy, to utilize commercial waste disposal services at licensed burial sites in the same manner as non-government generators of similar wastes.

APPENDIX 2

GUIDANCE TO SUPPLEMENT CRITERIA FOR STATES IN REGULATING THE DISPOSAL OF LOW-LEVEL RADIOACTIVE WASTE

Financial Sureties. The State should have procedures to require that an adequate bond, surety or other financial arrangement will be provided by the licensee to assure the completion of all requirements established by the State radiation control agency for the decontamination, closure, decommissioning and reclamation of sites, structures and equipment used in conjunction with the disposal of low-level radioactive wastes and to ensure that sufficient funds will be available to cover the costs of monitoring and long-term care of the facility by the State after operational and closure activities by the licensee are terminated.

Public Participation and Hearings.* In the case of licenses for the disposal of low-level radioactive waste, the State should provide:

(a) An opportunity, after public notice, for written comments and a public hearing with a transcript, and

(b) A written determination of the action to be taken based upon findings included in such determination and upon evidence presented during the public comment period, with an opportunity for judicial review.

*These guidance items conform to Commission practice in its licensing of low-level radioactive waste disposal and their adoption by the Agreement States is recommended and urged by the Commission.

Environmental Impact Analysis.* For each license for disposal of low-level radioactive waste and for each amendment or renewal of such license which has a significant impact on the human environment, the State should prepare a written analysis (which should be available to the public before commencement of any hearing) of the impact on the human environment of such licensed activity. The analysis should include:

- (a) An assessment of the radiological and nonradiological health impacts;
- (b) An assessment of any impact on any body of water and groundwater;
- (c) Consideration of alternatives to the licensed activity;
- (d) Consideration of long-term impacts, including site closure, decommissioning, decontamination and reclamation; and
- (e) A weighing of the costs and benefits of the proposed activity, considering the available alternatives.

Limitation on Construction.* The State should prohibit any major construction activity prior to the issuance of a record of decision in connection with any proposed licensing action for which an environmental impact analysis is required.

*These guidance items conform to Commission practice in its licensing of low-level radioactive waste disposal and their adoption by the Agreement States is recommended and urged by the Commission.

Personnel and Organization. This guideline supplements Criterion 20 which discusses the qualifications of regulatory and inspection personnel for Agreement State programs. In addition to persons qualified by training and experience to regulate the radiation protection aspects of handling and use of radioactive materials, the regulation of radioactive waste disposal requires capability in the fields of geology, hydrology, ecology and climatology to evaluate and regulate the natural characteristics of a proposed disposal site and the effectiveness of design and operational features of a waste disposal facility to isolate and contain the buried radioactive waste. As a minimum, a State radiation control program should have on its staff or through consultants the capability to make an independent technical analysis that the established performance objectives (e.g., Subpart C of 10 CFR Part 61) will be met and to prepare an environmental impact analysis of the licensed activity.

When it is planned to use consultants from other State agencies, universities or other sources, it is necessary that these persons be available when and to the extent needed. This availability should be assured by appropriate memoranda of understanding, consultant contracts and budgeted funds.

In using consultants from other State agencies or State universities, it is important to consider possible problems if the same persons consult with both the State agency having proprietary responsibility for selection and operation of a disposal site and the regulatory agency.

NRC estimates that the professional staff time required for issuance of a license for low-level waste disposal is about 4 man-years; for renewal of a license, about 2 man-years; and for a major amendment, about 1 man-year.

Post-licensing regulatory activities related to the existing waste burial facilities, including resident inspectors at the operating sites and environmental monitoring, are estimated at about one to five person-years per site per year.

In addition to the technical personnel discussed above and in Criterion 20, a State program for regulating radioactive waste disposal needs to have adequate staffing or support for legal, administrative and clerical aspects of the program.

Instrumentation and Laboratory Facilities. The State should have available both field and laboratory instruments and related equipment for verifying the measurements and environmental monitoring of the licensee and to conduct independent measurements and environmental monitoring.

Laboratory facilities should be available in the radiation control agency, in another State agency or through a commercial service to provide qualitative and quantitative analyses of environmental, operational and possible accidental release samples.

The instruments and laboratory facilities should be described, including their availability and the State's related quality assurance program. If laboratory facilities or services outside the radiation control agency are relied on, information on what contract or other commitments assure their availability on a timely basis should be included.