

SEP 21 1999

Mr. Charles N. Jeffress
Assistant Secretary
Occupational Safety & Health
Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Mr. Jeffress:

This is to advise the Department that under Section 274 of the U.S. Atomic Energy Act of 1954, as amended, the Nuclear Regulatory Commission has approved an Agreement with the State of Ohio. This Agreement transfers to the State the Commission's regulatory authority over byproduct material, source material and special nuclear material in quantities not sufficient to form a critical mass. The Agreement became effective August 31, 1999. Enclosed is a copy of the Agreement for your information.

Sincerely,

Original Signed By:
PAUL H. LOHAUS

Paul H. Lohaus, Director
Office of State Programs

Enclosure:
As stated

Distribution:

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Ohio File

DCD (SP07)
PDR (YES✓)

Identical letters sent to:
Angell/DOE; Yellen/CEQ;
Burlington/FDA; Perciasepe/EPA

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 21, 1999

Mr. Charles N. Jeffress
Assistant Secretary
Occupational Safety & Health
Administration
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Mr. Jeffress:

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Sincerely,

A handwritten signature in dark ink, reading "Paul H. Lohaus", is written over the typed name.

Paul H. Lohaus, Director
Office of State Programs

Enclosure:
As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

September 21, 1999

Ms. Janet L. Yellen, Chairman
Council on Environmental Quality
Old Executive Office Building
17th Street and Pennsylvania Avenue
Washington, D.C. 20502

Dear Chairman Yellen:

This is to advise the Council on Environmental Quality that under Section 274 of the U.S. Atomic Energy Act of 1954, as amended, the Nuclear Regulatory Commission has approved an Agreement with the State of Ohio. This Agreement transfers to the State the Commission's regulatory authority over byproduct material, source material and special nuclear material in quantities not sufficient to form a critical mass. The Agreement became effective August 31, 1999. Enclosed is a copy of the Agreement for your information.

Sincerely,

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Paul H. Lohaus, Director
Office of State Programs

Enclosure:
As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 21, 1999

Dr. D. Bruce Burlington
Director
Center for Devices & Radiological Health
Food and Drug Administration
9200 Corporate Boulevard
Rockville, MD 20850-3229

Dear Dr. Burlington:

This is to advise the Food and Drug Administration that under Section 274 of the U.S. Atomic Energy Act of 1954, as amended, the Nuclear Regulatory Commission has approved an Agreement with the State of Ohio. This Agreement transfers to the State the Commission's regulatory authority over byproduct material, source material and special nuclear material in quantities not sufficient to form a critical mass. The Agreement became effective August 31, 1999. Enclosed is a copy of the Agreement for your information.

Sincerely,

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Paul H. Lohaus, Director
Office of State Programs

Enclosure:
As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20585-0001

September 21, 1999

Mr. John C. Angell
Assistant Secretary for Congressional
and Intergovernmental Affairs
U.S. Department of Energy
Washington, D.C. 20585-0800

Dear Mr. Angell:

This is to advise the Department that under Section 274 of the U.S. Atomic Energy Act of 1954, as amended, the Nuclear Regulatory Commission has approved an Agreement with the State of Ohio. This Agreement transfers to the State the Commission's regulatory authority over byproduct material, source material and special nuclear material in quantities not sufficient to form a critical mass. The Agreement became effective August 31, 1999. Enclosed is a copy of the Agreement for your information.

Sincerely,

A handwritten signature in dark ink, reading "Paul H. Lohaus", is written over the typed name.

Paul H. Lohaus, Director
Office of State Programs

Enclosure:
As stated



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 21, 1999

Mr. Robert W. Perciasepe, Assistant
Administrator for Air and Radiation
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dear Mr. Perciasepe:

This is to advise the Environmental Protection Agency that under Section 274 of the U.S. Atomic Energy Act of 1954, as amended, the Nuclear Regulatory Commission has approved an Agreement with the State of Ohio. This Agreement transfers to the State the Commission's regulatory authority over byproduct material, source material and special nuclear material in quantities not sufficient to form a critical mass. The Agreement became effective August 31, 1999. Enclosed is a copy of the Agreement for your information.

Sincerely,

A handwritten signature in cursive script, reading "Paul H. Lohaus", is written over the typed name.

Paul H. Lohaus, Director
Office of State Programs

Enclosure:
As stated

provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Brent L. Brandenburg, Esq., 4 Irving Place, New York, 10003, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing

Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated July 20, 1999, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document room located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Dated at Rockville, Maryland, this 2nd day of September 1999.

For The Nuclear Regulatory Commission,
John L. Minns,
*Project Manager, Decommissioning Section,
Project Directorate IV & Decommissioning
Division of Licensing Project Management,
Office of Nuclear Reactor Regulation.*
(FR Doc. 99-23409 Filed 9-8-99; 8:45 am)

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

State of Ohio: Discontinuance of Certain Commission Regulatory Authority Within the State

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of agreement with the State of Ohio.

SUMMARY: On August 11, 1999, Greta J. Dicus, Chairman of the U.S. Nuclear Regulatory Commission (NRC) and on August 18, 1999, Governor Bob Taft of the State of Ohio signed an Agreement as authorized by section 274b of the Atomic Energy Act. The Agreement provides for the Commission to discontinue its regulatory authority over source, byproduct and special nuclear materials (in quantities not sufficient to form a critical mass) in the State of Ohio, and for Ohio to assume the regulatory authority.

Under the Agreement, a person in Ohio possessing these materials is exempt from certain Commission regulations. The exemptions have been previously published in the **Federal Register** and are codified in the Commission's regulations as 10 CFR part 150. The Agreement is published here as required by section 274e of the Act.

FOR FURTHER INFORMATION CONTACT: Richard L. Blanton, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone (301) 415-2322 or e-mail RLB@NRC.GOV.

The draft Agreement was published in the **Federal Register** for comment once a week for four consecutive weeks (see, e.g. 64 FR 12187, March 11, 1999) as required by the Act. The public comment period ended on April 12, 1999. A total of 25 comment letters were received and were considered by the NRC staff. After considering the comments, the request for an Agreement by the Governor of Ohio, the supporting documentation submitted with the request for an Agreement, and its interactions with the staff of the Ohio Department of Health, Bureau of Radiological Health, the NRC staff completed an assessment of the Ohio program. Based on the staff's assessment, the Commission determined on August 4, 1999, that the proposed Ohio program for the control of radiation hazards is adequate to protect public health and safety and compatible with the Commission's program. NRC will retain jurisdiction over 19 materials licensees including certain Federal facilities and exempt distribution. In addition, NRC will retain jurisdiction over the gaseous diffusion plant in Portsmouth, Ohio and two nuclear power plants near Toledo and Painesville.

Copies of the comment analysis by the NRC staff, the staff assessment, and the Commission's decision may be viewed at the NRC website, <http://www.nrc.gov>. To view the documents, click on the "News and Information" icon, then select "Staff Papers" under the "Commission" heading. The documents are contained in the Commission paper numbered SECY-99-179.

An Agreement Between the United States Nuclear Regulatory Commission and the State of Ohio for the 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 byproduct 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 Ohio is authorized under Chapter 3748, of the Ohio Revised Code to enter into this Agreement with the Commission; and,

Whereas, The Governor of the State of Ohio certified on June 22, 1998, that the State of Ohio (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the health and safety of the public and to protect the environment 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 August 4, 1999 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 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 of the granting of limited 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 of Ohio, acting on behalf of the State, as follows:

Article I

Subject to the exceptions provided in Articles II, III, and IV, 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. 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. The regulation of the land disposal of byproduct, source, or special nuclear waste materials received from other persons; and,

F. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission.

Article II

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

1. The regulation of the construction and operation of any production or utilization facility or any uranium enrichment facility;

2. The regulation of 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 regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in the regulations or orders of the Commission;

4. The regulation of 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 without a license from the Commission.

B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct material as defined in Section 11e.(2) of the Atomic Energy Act:

1. Prior to the termination of a State license for such byproduct material, or for any activity that results in the production of such material, the Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.

2. The Commission reserves the authority to establish minimum standards governing reclamation, long-term surveillance or maintenance, and ownership of such byproduct material and of land used as a disposal site for such material.

Such reserved authority includes:

a. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission; and with ownership

requirements for such materials and its disposal site;

b. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State at the option of the State (provided such option is exercised prior to termination of the license);

c. The authority to permit use of the surface or subsurface estates, or both, of the land transferred to the United States or a State pursuant to paragraph 2.b. in this section in a manner consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, provided that the Commission determines that such use would not endanger public health, safety, welfare, or the environment;

d. The authority to require, in the case of a license (if any) for any activity that produces such byproduct material (which license was in effect on November 8, 1981), transfer of land and material pursuant to paragraph 2.b. in this section, taking into consideration the status of such material and land and interests therein, and the ability of the licensee to transfer title and custody thereof to the United States or the State;

e. The authority to require the Secretary of the Department of Energy, other Federal agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect public health and safety, and other actions as the Commission deems necessary; and

f. The authority to enter into arrangements as may be appropriate to assure Federal long-term surveillance or maintenance of such byproduct material and its disposal site on land held in trust by the United States for any Indian Tribe or land owned by an Indian Tribe and subject to a restriction against alienation imposed by the United States.

Article III

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 IV

This Agreement shall not affect the authority of the Commission under Subsection 161b or 161i 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 V

The Commission will 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 agrees 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 materials covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations, and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

Article VI

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 other Agreement State. Accordingly, the Commission and the State agree to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

Article VII

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 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 judgement 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 actions taken by the State under this Agreement to ensure compliance with Section 274 of the Act which requires a State program to be adequate to protect public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

Article VIII

In the licensing and regulation of byproduct material as defined in Section 11e.(2) of the Act, or of any activity which results in production of such material, the State shall comply with the provisions of Section 274o of the Act. If in such licensing and regulation, the State requires financial surety arrangements for reclamation or long-term surveillance and maintenance of such material,

A. The total amount of funds the State collects for such purposes shall be transferred to the United States if custody of such material and its disposal site is transferred to the United States upon termination of the State license for such material or any activity which results in the production of such material. Such funds include, but are not limited to, sums collected for long-term surveillance or maintenance. Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and

B. Such surety or other financial requirements must be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long-term management of such byproduct material and its disposal site.

Article IX

This Agreement shall become effective on August 31, 1999, and shall remain in effect unless and until such time as it is terminated pursuant to Article VII.

Done at Rockville, Maryland, in triplicate, this 11th day of August, 1999.

For the United States Nuclear Regulatory Commission,
Greta Joy Dicus,
Chairman.

Done at Columbus, Ohio, in triplicate, this 18th day of August, 1999.

For the State of Ohio.
Bob Taft,
Governor.

Dated at Rockville, Maryland, this 2nd day of September, 1999.

For the U.S. Nuclear Regulatory Commission,
Annetie L. Vietti-Cook,
Secretary of the Commission.
[FR Doc. 99-23407 Filed 9-8-99; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION**Public Stakeholder Meeting Concerning The Revision of the Safety Inspection Program for Nuclear Fuel Cycle Facilities**

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of meeting.

SUMMARY: NRC will host a public meeting in Rockville, Maryland to provide the public, those regulated by the NRC, and other stakeholders, with information about and an opportunity to provide views on how NRC plans to revise its safety inspection program for nuclear fuel cycle facilities. Similar to the revisions of the inspection and oversight program for commercial nuclear power plants, NRC has initiated an effort to improve its programs for nuclear fuel cycle facilities. This is described in SECY-99-188 titled, EVALUATION AND PROPOSED REVISION OF THE NUCLEAR FUEL CYCLE FACILITY SAFETY INSPECTION PROGRAM. SECY-99-188 is available in the Public Document Room and on the NRC Web Page at <http://www.nrc.gov/NRC/COMMISSION/SECYS/index.html>.

Purpose: To explain the planned revision of the fuel cycle safety inspection program and obtain stakeholder's views. The baseline safety inspection program applies to nuclear fuel cycle facilities regulated under 10 CFR Parts 40, 70 and 76. The facilities currently include gaseous diffusion plants, highly enriched uranium fuel fabrication facilities, low-enriched uranium fuel fabrication facilities, and a uranium hexafluoride (UF₆) production facility. These facilities possess large quantities of materials that are potentially hazardous (i.e., radioactive, toxic, and/or flammable) to the workers, public, or environment. In revising the inspection program, the goals are to have an inspection program that: (1) Provides earlier and more objective indications of acceptable and changing safety performance, (2) increases stakeholder confidence in the NRC, and