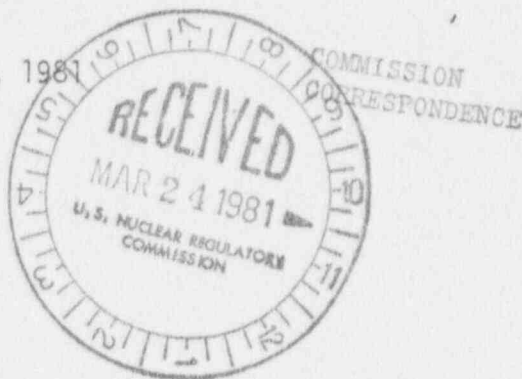




UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

March 17, 1981



The Honorable Edmund G. Brown, Jr.
Governor of California
Sacramento, California 95814

Dear Governor Brown:

California became an Agreement State under Section 274 of the Atomic Energy Act of 1954, as amended, when an agreement between the Atomic Energy Commission (now the NRC) and the State became effective on September 1, 1962. Under the provisions of this Act, California assumed certain regulatory authority over the use of reactor produced isotopes, the source materials uranium and thorium, and small quantities of special nuclear materials.

Under Section 274 of the Atomic Energy Act as amended by the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), Agreement States can continue to regulate uranium mills and mill tailings after November 1981, by entering into an amended agreement with the NRC.

In UMTRCA, the Congress provided for the first time, funds for grants to States to assist them in preparing their revised regulatory program. California applied for and received a grant of \$50,000 under that program, thereby indicating the State's interest in pursuing this additional regulatory authority. Thus, on the continuing presumption that California does wish to have authority for the regulation of mills and mill tailings whenever they are established within the State, it is necessary that the present agreement between AEC (now NRC) and the State be amended. (See Enclosure 1 for proposed amendment). Before it can be amended, we must review California's regulatory program as it relates to mills and mill tailings.

In the summer of 1980, we began an early review of current and potential uranium mill Agreement State programs to provide an early indication of where each State stands in preparing to enter into amended agreements. On July 31, 1980, we wrote to Ms. Beverlee Myers, Director, Health Services, and reported our initial assessment of the California program for regulating uranium mills and mill tailings with respect to the NRC criteria. On September 19, 1980, Mr. Ward, Chief, Radiologic Health Section, furnished us additional information in response to our assessment. Included in this response is reference to State comments on statutes to be transmitted to us at a later date. At this time we have not received such comments, although, with the information provided, we have reassessed the California program. Our findings include an analysis (Enclosure 2) of the California Health and Safety Code as it applies to uranium milling regulation which identifies specific issues needing resolution.

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We note that California has not enacted statutes nor promulgated regulations specific to uranium mills and mill tailings. In order to provide a basis for moving to amend the agreement, the State must adopt statutory and regulatory language which satisfies the following requirements:

1. The UMTRCA of 1978, as amended;
2. 10 CFR 40 Appendix A and 10 CFR 150; and
3. Recently published Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement (Enclosure 3).

We cannot, however, complete a finding regarding California's readiness for an amendment to its agreement unless all criteria have been met, including those for staffing. We suggest, therefore, that California continue to work to put into place the necessary framework and define its organizational relationships, staff requirements, and procedures to meet the requirements.

It will be helpful to receive a timetable outlining California's actions to resolve these issues. We suggest a target date of July 1, 1981 for formal submission by California of the application for amendment.

Since California does not have an active mill nor an imminent likelihood of an application, we understand that staffing to handle mill licensing and regulation has been deferred by the State. In order that all parties can be aware of California's intention to regulate mills and mill tailings in the event a mill is proposed in the State, we propose that if all criteria are met except for staffing, the following statement replace the effective date statement at the end of the enclosed proposed model amendment:

This amendment to the Agreement shall become effective upon certification by the Governor to the Commission that the personnel meeting the specifications in the State's submissions dated _____ have entered on duty with the State and upon a subsequent finding by the Commission that these personnel meet the criteria and that the State program continues to meet the criteria.

We presume that the State will reliably know of forthcoming applications, will obtain the necessary staff, and then request full implementation of the agreement.

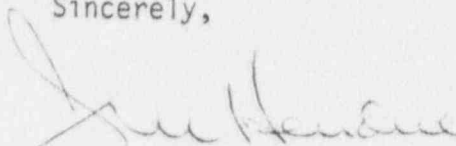
In our opinion, California has much work that needs to be done in order to achieve success in moving towards entering into an amended agreement with NRC and meeting said requirements. We need to know at an early

The Honorable Edmund G. Brown, Jr.

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date how the State plans to complete its actions in this matter. If you have any questions, please have your staff contact Mr. G. Wayne Kerr, Director of NRC's Office of State Programs (301-492-8170).

Sincerely,



Joseph M. Hendrie
Chairman

Enclosures:
As stated

cc: M. Obledo, California, w/encls.
B. Myers, California, w/encls.
J. Ward, California, w/encls.

AMENDMENT TO
AGREEMENT BETWEEN THE
UNITED STATES NUCLEAR REGULATORY COMMISSION
AND THE
STATE OF
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 Atomic Energy Commission^{1/} (hereinafter referred to as the Commission) entered into an Agreement (hereinafter referred to as the Agreement of (date)) with the State of under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), which Agreement became effective on and provided 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 section 11e.(1) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

WHEREAS, it is necessary to enter into this amendment in order to implement new requirements of section 274 of the Act which become fully effective on November 8, 1981; and

^{1/} Under the provisions of the Energy Reorganization Act of 1974, the regulatory functions formerly carried out by the Atomic Energy Commission are now carried out by the Nuclear Regulatory Commission as of January 19, 1975.

Encl. 1

WHEREAS, the Commission found on _____ that the program of the State for the regulation of materials covered by this amendment is in accordance with the requirements of section 274c. of the Act 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; and

WHEREAS, this amendment 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 on behalf of the State, as follows:

Section 1. ARTICLE I of the Agreement of (date) is amended by adding "as defined in section 11e.(1) of the Act;" after the words "byproduct materials" in paragraph A., by redesignating paragraphs B. and C. as paragraphs C. and D., and by inserting the following new paragraph immediately after paragraph A.:

"B. Byproduct materials as defined in section 11e.(2) of the Act;".

Section 2. ARTICLE II of the Agreement of (date) is amended by inserting "A." before the words "This Agreement," by redesignating paragraphs A. through D. as subparagraphs 1. through 4., and by adding the following at the end thereof:

"B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct materials as defined in section 11e.(2) of the 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. 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 surface or subsurface estates, or both, of the land transferred to the United States or the State pursuant to subparagraph B.2.b. of this Article;

"d. 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 the public health and safety, and other actions as the Commission deems necessary; and

"e. 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.".

Section 3. ARTICLE III of the Agreement of (date) is amended by inserting "otherwise licensable by the State under Article I of this Agreement" after the words "special nuclear material."

Section 4. ARTICLE VII of the Agreement of (date) is amended by inserting "all or part of" after the words "terminate or suspend," by inserting "(1)" after the words "finds that," and by adding at the end before the period the following:

", or (2) the State has not complied with one or more of the requirements of section 274 of the Act. The Commission shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with the provisions of section 274 of the Act.".

Section 5. ARTICLE VIII of the Agreement of (date) is amended by redesignating it Article IX and by inserting a new Article VIII as follows:

"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 274c. of the Act. If, in such licensing and regulation, the State requires financial surety arrangements for the reclamation or long term surveillance or 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 State 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."

This amendment shall become effective on

Done at _____, State of _____, in triplicate,
this day of _____.

FOR THE STATE OF

_____, Governor

Done at Washington, D.C., in triplicate, this day of _____.

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION

AMENDED AGREEMENT BETWEEN
THE UNITED STATES ATOMIC ENERGY COMMISSION
AND THE STATE OF _____
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 Atomic Energy 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, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

WHEREAS, The Governor of the State of _____ is authorized under to enter into this Agreement with the Commission; and

WHEREAS, The Governor of the State of _____ certified on that the State of _____ (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 _____ 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^{2/}

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

1/ Under the provisions of the Energy Reorganization Act of 1974, the regulatory functions formerly carried out by the Atomic Energy Commission are now carried out by the Nuclear Regulatory Commission as of January 19, 1975.

2/ The amendment to this Agreement pertaining to byproduct material as defined in section 11e.(2) of the Act contained the following clause:

WHEREAS, the Commission found on _____ that the program of the State for the regulation of materials covered by this amendment is in accordance with the requirements of section 274a. of the Act 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;

WHEREAS, The Commission and the State recognize the desirability of reciprocal recognition of licenses and exemption 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 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:
- B. C. Source materials; and
- D. D. Special nuclear materials in quantities not sufficient to form a critical mass.

ARTICLE II

- A. This Agreement does not provide for discontinuance of any authority and the Commission shall retain authority and responsibility with respect to regulation of:
 - A. 1. The construction and operation of any production or utilization facility;
 - B. 2. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;
 - C. 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;
 - D. 4. 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.

B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct materials as defined in section 11e.(2) of the 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. 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 surface or subsurface estates, or both, of the land transferred to the United States or the State pursuant to subparagraph B.2.b of this Article;
 - d. 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 the public health and safety, and other actions as the Commission deems necessary; and
 - e. 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 otherwise licensable by the State under Article I of this Agreement 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 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 V

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 VI

The Commission and the State agree that it is desirable to provide for 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 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 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 shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with provisions of section 274 of the Act.

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 274b. of the Act. If, in such licensing and regulation, the State requires financial surety arrangements for the reclamation or long term surveillance or 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 State 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 _____ and shall remain in effect unless and until such time as it is terminated pursuant to Article VII.

Done at _____ State of _____ in triplicate, this _____ day of _____.

FOR THE UNITED STATES ATOMIC
ENERGY COMMISSION

FOR THE STATE OF _____

3/ The amendment to this Agreement pertaining to byproduct material as defined in section 11e.(2) of the Act became effective on _____. It was signed at _____, State of _____, in triplicate on _____ by _____ for the State of _____ and signed at Washington, D.C., in triplicate, on _____ by _____ for the United States Nuclear Regulatory Commission.

ENCLOSURE 2

Statutes and Regulations

Enclosure II of the September 19, 1980 letter from Joseph O. Ward, Chief, Radiological Health Section to G. Wayne Kerr, Director, Office of State Programs, states that a supplemental response to our evaluation regarding Statutory Authority will be made under separate cover. As noted, we have not received this response. Secondly, the letter addresses draft regulations planned for December, 1980, which have not as yet been submitted to us.

At the present time, we are unaware of any uranium mill tailings regulations having ever been drafted by the State pursuant to Section 274.o of the Atomic Energy Act. We believe prompt action must be taken to develop these regulations. The statutes and regulations must be promulgated by November 8, 1981 in order for California to regulate uranium milling and mill tailings.

Further, the Uranium Mill Tailings Radiation Control Act (UMTRCA) requires that Agreement States have, as of November 8, 1981, regulations which are equivalent to the extent practicable, or more stringent than Commission regulations on uranium milling. The Commission considers that its regulations, which were recently promulgated, are practicable to implement in Agreement States as they are based upon the analysis in the final Generic Environmental Impact Statement On Uranium Milling, NUREG-0706, which addressed operations in both Agreement and non-Agreement States. Therefore, the Commission regulations constitute minimum national standards.

Existing California regulations do not cover any points in Appendix A to 10 CFR 40, or 10 CFR 150.31(b) of NRC's regulations (which constitute minimum national standards concerning technical, financial, and institutional control aspects of uranium mill tailings disposal under the Atomic Energy Act (AEA) Section 274.o(2), as amended).

We wish to emphasize that UMTRCA states that duplication of proceedings conducted by the Commission is not necessary (last sentence of 274.o of AEA). Because the Commission developed the substantive regulations (45FR65521) on uranium mills through a full and public rulemaking proceeding (NUREG-0706), the State could incorporate the record developed by the NRC and include it as a part of the rulemaking to help expedite any rulemaking that may be necessary under State law.

Preparation of Written Assessments

Title 10 CFR 150.31(b)(3)(iii) specifically states that "an Agreement State shall require for each licensing action which has a significant impact on the human environment a written analysis by the appropriate

State agency..." Article 9 of the California Administrative Code appears to contain adequate authority to require that an environmental assessment of a proposed action be prepared. However, the California Code does not contain language equivalent to the specifics of this requirement. A confirmation should be made that the State, through its Lead Agency, will prepare the written environmental assessment.

It is recommended that the State incorporate in its regulations the language of UMTRCA regarding the impacts to be considered in the environmental assessment. The regulations need to address radiological impacts not presently addressed. Nonradiological impacts which are addressed in Section 15143(a) of the California Code must include the specific considerations required by AEA Section 274.o(3)(c)(i) through 274.o(3)(c)(iv), as amended.

Written environmental assessments should be prepared for all licensing actions having significant impact on the human environment, i.e., new licensing actions, renewals, and major amendments. It appears that Section 15143.1 of the California Code might limit the scope of an assessment prepared in connection with some of the actions referred to above.

Pre-Licensing Construction

The California regulations do not appear to provide for any ban on pre-licensing construction as required by Section 274.o(3)(D) of the AEA and 10 CFR 150.31(b)(3)(iv).

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 repeat violations, 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: Laurence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, 3rd Street and Constitution Avenue, N.W., Rm. N3635, Washington, D.C. 20210. Telephone 202/523-6024.

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.

Eula Bingham.

Assistant Secretary of Labor.

(FR Doc. 81-2835 Filed 1-23-81; 8:43 AM)
BILLING CODE 4810-26-01

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.

DATES: 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: 301-492-7767.

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 11e(1) of the Act (radioisotopes), byproduct material as defined in Section 11e(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 hazard 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 2537) 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

Encl 3

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 exemptions 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 1961 (26 FR 2537, March 24, 1961, and amended in November 1965 (30 FR 15044, December 4, 1965). Minor editorial changes were made in June 1966 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.

15. 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

16. 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 includes 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,

$$\frac{175 \text{ (grams contained U-235)}}{350} + \frac{50 \text{ (grams U-233)}}{200} + \frac{50 \text{ (grams Pu)}}{200} = 1$$

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

Administration

22. 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, b, 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 8, 1981 pursuant to Pub. L. 95-604 may obtain authority over all source material licenses 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 8, 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 UMTRCA 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 11e.(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

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

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

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 $\frac{1}{2}$ 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 3, February 1, 1980, the regulatory staff involved in the regulatory process (Radiation) should

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

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 program 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;

(i) Source terms

(j) Exposure pathway

(k) Dose commitment to individuals

(l) Dose commitment to populations

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

(n) Occupational dose

(o) Radiological impact to biota other than man

(p) Radiological monitoring programs, pre-occupational and operational

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

(r) Environmental effects of accidents; and

(s) 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

be 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 3.11.1);

(h) Records;

(i) Respiratory protection in accordance with license conditions or 10 CFR Part 20.

(j) Effluent and environmental monitoring;

(k) Training programs;

(l) Transportation and shipping;

(m) Internal review and audit by management

(n) Exit interview; and
(o) 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

38. 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 16th day of January, 1981.

For the Nuclear Regulatory Commission,
John C. Hoyle,

Assistant Secretary of the Commission.

(FR Doc. 81-2426 Filed 1-22-81; 8:45 am)

BILLING CODE 7550-01-M

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings 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. 22, 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 202/634-3267, 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, a, 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-0699. 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