

NUCLEAR REGULATORY COMMISSION

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

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of a proposed agreement with the State of Wisconsin.

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

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

The proposed Agreement would release (exempt) persons who possess or use certain radioactive materials in Wisconsin from portions of the Commission's regulatory authority. The Act requires that NRC publish those exemptions. Notice is hereby given that the pertinent exemptions have been previously published in the **Federal Register** and are codified in the Commission's regulations as 10 CFR part 150.

DATES: The comment period expires May 15, 2003. Comments received after this date will be considered if it is practical to do so, but the Commission cannot assure consideration of comments received after the expiration date.

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

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text

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

Copies of comments received by NRC may be examined at the NRC Public Document Room, 11555 Rockville Pike, Public File Area O-1-F21, Rockville, Maryland. Copies of the request for an Agreement by the Governor of Wisconsin including all information and documentation submitted in support of the request, and copies of the full text of the NRC Staff Draft Assessment are also available for public inspection in the NRC's Public Document Room—ADAMS Accession Numbers: ML030160104 and ML030900662.

FOR FURTHER INFORMATION CONTACT:

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

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

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

I. Background

(a) Section 274d of the Act provides the mechanism for a State to assume regulatory authority, from the NRC, over certain radioactive materials¹ and

activities that involve use of the materials.

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

The radioactive materials and activities (which together are usually referred to as the "categories of materials") which the State of Wisconsin requests authority over are: (1) The possession and use of byproduct materials as defined in section 11e.(1) of the Act; (2) the possession and use of source materials; and (3) the possession and use of special nuclear materials in quantities not sufficient to form a critical mass, as provided for in regulations or orders of the Commission.

(b) The proposed Agreement contains articles that:

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

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

(c) Wisconsin currently registers users of naturally-occurring and accelerator-produced radioactive materials. The regulatory program is authorized by law in section 3145, subsection 254.34 of the revised Wisconsin Statutes. Subsection 254.335(1) provides the authority for the Governor to enter into an Agreement

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