

DECEMBER 5, 1949.

HON. HARRY C. HARPER,  
*Commissioner of Labor and Industry,*  
State House,  
Trenton, N. J.

## FORMAL OPINION—1949. No. 111.

MY DEAR COMMISSIONER:

This is in response to your request for an opinion relative to the jurisdiction of the Department of Labor and Industry over certain operations involving the use of radioactive substances and radio isotopes. The facts are as follows:

The United States Government has contracted with a New Jersey Laboratory to assay and analyze certain material for the Atomic Energy Commission. The work is performed on property located in New Jersey but owned and operated by the Federal Government. In furtherance of this project the Federal Government has also contracted with a New York Warehousing Company to supply the necessary labor. The material which is analyzed and tested must be crushed and ground to a fine state in order to carry on this work. This is "primarily a way station and no processing of any kind is carried out." The material is then shipped to other locations "probably outside of the State, for further use."

It is our considered opinion that nowhere in Title 34 of the Revised Statutes (Labor Laws) is there any authority vested in the Department of Labor and Industry to exercise supervisory jurisdiction over the operations in question.

Chapter 6 of Title 34 deals with the Inspection and Regulation of Factories, Mines, Workshops and other Industries. While the term "workshop" is not defined anywhere in the chapter it is significant that every reference to it is in connection with "a place where the manufacture of goods of any kind is carried on." Thus the Legislative intent to use the word, "workshop," in its generic sense is obvious. It cannot be said that the highly technological processes involved in the operations under consideration were within the contemplation of the Legislature.

Consideration has likewise been given to Article 4 of Title 34 of the Revised Statutes which deals with occupational diseases. This article sets forth and defines especially dangerous processes and specifically limits their scope to work or processes exposing employees to lead dusts, lead fumes or lead solutions. It does not and cannot, by inference or projection, be deemed to apply to radioactive substances and/or radio isotopes.

Very truly yours,

THEODORE D. PARSONS,  
*Attorney General.*

By: GRACE J. FORD,  
*Ass't Deputy Attorney General.*