

September 11, 1996

The Honorable Charles S. Robb  
United States Senate  
Washington D.C. 20510-4603

Dear Senator Robb:

Provided below is the background information you requested concerning the Commonwealth of Virginia seeking Agreement State status.

Section 274 of the Atomic Energy Act of 1954, as amended, (Enclosure 1) details the responsibilities of a State and the Nuclear Regulatory Commission (NRC) when the NRC relinquishes authority for regulating certain radioactive materials in the State. The Atomic Energy Act authorizes the NRC to enter into an agreement with a State when:

1. The Governor of that State certifies that the State has a radiation hazard control program adequate to protect public health and safety and that the State desires to assume regulatory responsibility for such materials.
2. The NRC determines the State program is in accordance with the Atomic Energy Act, compatible with the NRC program for regulation of such materials, and adequate to protect public health and safety. The State program is also subject to periodic NRC review as deemed necessary by the NRC.

There are currently 29 Agreement States regulating approximately 15,000 radioactive material licensees. Massachusetts, Oklahoma, Ohio, and Pennsylvania are currently seeking Agreement State status. Enclosure 2 is a copy of the Agreement for the most recent Agreement State, Maine. More information may be obtained through the NRC's Office of State Programs contact, Thomas J. O'Brien. He can be reached at 301-415-2308. NRC staff is also available to meet with Commonwealth officials, upon request.

Sincerely,  
*Original signed by*  
James M. Taylor

James M. Taylor  
Executive Director  
for Operations

9609230171 960911  
PDR STPRG ESGVA  
PDR

Enclosures:  
As stated

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Virginia File

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\*See previous concurrence.

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UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

September 11, 1996

The Honorable Charles S. Robb  
United States Senate  
Washington D.C. 20510-4603

Dear Senator Robb:

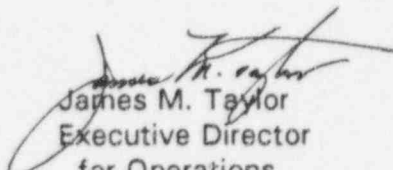
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1. The Governor of that State certifies that the State has a radiation hazard control program adequate to protect public health and safety and that the State desires to assume regulatory responsibility for such materials.
2. The NRC determines the State program is in accordance with the Atomic Energy Act, compatible with the NRC program for regulation of such materials, and adequate to protect public health and safety. The State program is also subject to periodic NRC review as deemed necessary by the NRC.

There are currently 29 Agreement States regulating approximately 15,000 radioactive material licensees. Massachusetts, Oklahoma, Ohio, and Pennsylvania are currently seeking Agreement State status. Enclosure 2 is a copy of the Agreement for the most recent Agreement State, Maine. More information may be obtained through the NRC's Office of State Programs contact, Thomas J. O'Brien. He can be reached at 301-415-2308. NRC staff is also available to meet with Commonwealth officials, upon request.

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James M. Taylor  
Executive Director  
for Operations

Enclosures:  
As stated

Agency  
jurisdiction.  
42 USC sec. 2018.

Applicability  
of Federal  
Power Act.  
42 USC sec. 2019.

Licensing of  
Government  
agencies.  
42 USC sec. 2020.

Cooperation  
with States.  
42 USC sec. 2021.

Agreements

"Sec. 271. Agency Jurisdiction.—Nothing in this Act shall be construed to affect the authority or regulations of any Federal, State, or Local agency with respect to the generation, sale, or transmission of electric power produced through the use of nuclear facilities licensed by the Commission: *Provided*, That this section shall not be deemed to confer upon any Federal, State, or local agency any authority to regulate, control, or restrict any activities of the Commission.<sup>207</sup>

"Sec. 272. Applicability Of Federal Power Act.—Every licensee under this Act who holds a license from the Commission for a utilization of production facility for the generation of commercial electric energy under section 103 and who transmits such electric energy in interstate commerce or sells it as wholesale in interstate commerce shall be subject to the regulatory provisions of the Federal Power Act.

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

"Sec. 274. Cooperation With States.<sup>208</sup>—

"a. It is the purpose of this section—

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

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

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

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

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

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

"b. Except as provided in subsection c., the Commission is

with States.

42 USC 2014.

Conditions.

authorized to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission under chapters 6, 7, and 8, and section 161 of this Act, with respect to any one or more of the following materials within the State—

"(1) byproduct materials as defined in section 11e. (1);<sup>209</sup>

"(2) byproduct materials as defined in section 11e. (2);<sup>210</sup>

"(3) source materials;

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

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

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

"(1) the construction and operation of any production or utilization facility or any uranium enrichment facility;<sup>210a</sup>

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

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

"(4) the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission. The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material, as defined in section 11e. (2).<sup>211</sup>

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

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

<sup>207</sup>Public Law 95-604 (92 Stat. 3036) (1978), sec. 204(a), amended sec. 274(b)(1) by adding "as defined in section 11e. (1)" after the words "byproduct materials".

<sup>210</sup>Public Law 95-604 (92 Stat. 3037) (1978), sec. 204(a), renumbered paragraph (2) and (3) as paragraphs (3) and (4), and added a new paragraph (2).

<sup>210a</sup>Public Law 102-486 (106 Stat. 2946), Oct. 24, 1992.

<sup>211</sup>Public Law 95-604 (92 Stat. 3038) (1978), sec. 204(f), added a new sentence after paragraph (4).

<sup>207</sup>Public Law 89-135 (79 Stat. 551) (1965), amended sec. 271. Prior to amendment this section read as follows:  
"Sec. 271. AGENCY JURISDICTION.—Nothing in this Act shall be construed to affect the authority or regulations of any Federal, State, or local agency with respect to the generation, sale, or transmission of electric power."

<sup>208</sup>Public Law 86-375 (73 Stat. 688) (1959), sec. 1, added sec. 274.



Publication  
in F.R.

Licensing  
requirements.  
Exemptions.

Federal  
Radiation  
Council.

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

"(2) the Commission finds that the State program is in accordance with the requirements of subsection o. and in all other respects<sup>212</sup> compatible with the Commission's program for regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

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

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

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

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

"h. There is hereby established a Federal Radiation Council, consisting of the Secretary of Health, Education, and Welfare, the Chairman of the Atomic Energy Commission, the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, or their designees, and such other members as shall be appointed by the President. The Council shall consult qualified scientists and experts in radiation matters, including the President of the National Academy of Sciences, the Chairman of the National Committee on Radiation Protection and Measurement, and qualified experts in the field of biology and medicine and in the field of health physics. The Special Assistant to the President for Science and Technology, or his designee, is authorized to attend meetings, participate in the deliberations of, and to advise the Council. The Chairman of the Council shall be designated by the President, from time to time,

<sup>212</sup>Public Law 95-604 (92 Stat. 3037) (1978), sec. 904(b), amended sec. 274(d)(2) by inserting the words "in accordance with the requirements of section o. and in all other respects" before the word "compatible".

Inspections.

Termination  
of agreement.

from among the members of the Council. The Council shall advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States. The Council shall also perform such other functions as the President may assign to it by Executive order.

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

"j. (1)<sup>213</sup> The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State with which an agreement under subsection b. has become effective, or upon request of the Governor of such State, may terminate or suspend all or part of<sup>214</sup> its agreement with the State and reassert the licensing and regulatory authority vested in it under this Act, if the Commission finds that (1)<sup>215</sup> such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to insure compliance with the provisions of this section.<sup>216</sup>

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

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

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

A temporary suspension under this paragraph shall remain in effect only for such time as the emergency situation exists and shall

<sup>213</sup>Public Law 96-395 (94 Stat. 787) (1980), sec. 205, inserted "(1)" after "j".

<sup>214</sup>Public Law 95-604 (92 Stat. 3037) (1978), sec. 204(d)(1), amended sec. 274 by adding the words "all or part of" after "suspend".

<sup>215</sup>Public Law 95-604 (92 Stat. 3037) (1978), sec. 204(c)(2), amended sec. 274 by inserting "(1)" after "Find that".

<sup>216</sup>Public Law 95-604 (92 Stat. 3037) (1978), sec. 204(d)(3), amended sec. 274 by adding at the end before the period "or (2) the State has not complied with one or more of the requirements of this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to insure compliance with the provisions of this section".

Notice of  
filing.

Definition.

"Agreement."

*Ante*, p. 3033.  
*Post*, p. 3039.

authorize the Commission to exercise its authority only to the extent necessary to contain or eliminate the danger."<sup>217</sup>

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

"l. With respect to each application for Commission license authorizing an activity as to which the Commission's authority is continued pursuant to subsection c., the Commission shall give prompt notice to the State or States in which the activity will be conducted of the filing of the license application; and shall afford reasonable opportunity for State representatives to offer evidence, interrogate witnesses, and advise the Commission as to the application without requiring such representatives to take a position for or against the granting of the application.

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

"n. As used in this section, the term 'State' means any State, Territory, or possession of the United States, the Canal Zone, Puerto Rico, and the District of Columbia. As used in this section, the term 'agreement' includes any amendment to any agreement."<sup>218</sup>

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

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

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

"(3) procedures which—

<sup>217</sup>Public Law 96-295 (94 Stat. 787) (1980), sec. 205 added new subsec. "j." (7).

<sup>218</sup>Public Law 95-604 (92 Stat. 3037) (1978), sec. 304(c), added last sentence to sec. 274a.

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

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

"(ii) an opportunity for cross examination, and

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

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

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

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

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

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

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

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

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 83 b. of this Act, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be sufficient to ensure compliance with the standards established by the Commission pursuant to section 161 x. of this Act. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission."<sup>219</sup>

*Ante*, p. 3033.

42 USC 2201.

<sup>219</sup>Public Law 95-604 (92 Stat. 3037) (1978), sec. 304(e), added a new subsec. c.

42 USC 2014.

42 USC 2022.

42 USC 2022.

Rule.

42 USC 7911.

"In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 11 e. (2), the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 275. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology."<sup>220</sup>

**"Sec. 275. Health And Environmental Standards for Uranium Mill Tailings.—**

"a. As soon as practicable, but not later than October 1, 1982,<sup>221</sup> the Administrator of the Environmental Protection Agency (hereinafter referred to in this section as the 'Administrator') shall, by rule, promulgate standards of general application (including standards applicable to licenses under section 104(h) of the Uranium Mill Tailings Radiation Control Act of 1978) for the protection of the public health, safety, and the environment from radiological and nonradiological hazards associated with residual radioactive materials (as defined in section 101 of the Uranium Mill Tailings Radiation Control Act of 1978) located at inactive uranium mill tailings sites and depository sites for such materials selected by the Secretary of Energy, pursuant to title I of the Uranium Mill Tailings Radiation Control Act of 1978. Standards promulgated pursuant to this subsection shall, to the maximum extent practicable, be consistent with the requirements of the Solid Waste Disposal Act, as amended. In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate.<sup>222</sup> The Administrator may periodically revise any standard promulgated pursuant to this subsection.

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

<sup>220</sup>Public Law 97-415 (96 Stat. 2067) (1983), sec. 19 added this paragraph.

<sup>221</sup>Public Law 97-415 (96 Stat. 2067) (1983), sec. 18 substituted "October 1, 1982" for "one year after the date of enactment of this section."

<sup>222</sup>Public Law 97-415 (96 Stat. 2067) (1983), sec. 22 added this language to sec. 275a.

42 USC 6901.  
note.

42 USC 2014.

Promulgation  
authority.

42 USC 2014.

with, standards of the Administrator shall comply with, or be taken in accordance with, the standards proposed by the Administrator under this subsection until such time as the Administrator promulgates such standards in final form."<sup>223</sup>

"b. (1) As soon as practicable, but not later than October 31, 1982, the Administrator shall, by rule, propose and within 11 months thereafter promulgate in final form,<sup>224</sup> standards, general application for the protection of the public health, safety, and the environment from radiological and non-radiological hazards associated with processing and with the possession, transfer, and disposal of byproduct material, as defined in section 11 e. (2) of this Act, at sites at which ores are processed primarily for their source material content or which are used for the disposal of such byproduct material.

"If the Administrator fails to promulgate standards in final form under this subsection by October 1, 1983, the authority of the Administrator to promulgate such standards shall terminate, and the Commission may take actions under this Act without regard to any provision of this Act requiring such actions to comply with, or be taken in accordance with, standards promulgated by the Administrator. In any such case, the Commission shall promulgate, and from time to time revise, any such standards of general application which the Commission deems necessary to carry out its responsibilities in the conduct of its licensing activities under this Act. Requirements established by the Commission under this Act with respect to byproduct material as defined in section 11 e. (2) shall conform to such standards. Any requirements adopted by the Commission respecting such byproduct material before promulgation by the Commission of such standards shall be amended as the Commission deems necessary to conform to such standards in the same manner as provided in subsection f. (3). Nothing in this subsection shall be construed to prohibit or suspend the implementation or enforcement by the Commission of any requirement of the Commission respecting byproduct material as defined in section 11 e. (2) pending promulgation by the Commission of any such standard of general application.<sup>225</sup> In establishing such standards, the Administrator shall consider the risk to the public health, safety, and the environment, the environmental and economic costs of applying such standards, and such other factors as the Administrator determines to be appropriate."<sup>226</sup>

"(2) Such generally applicable standards promulgated pursuant to this subsection for nonradiological hazards shall provide for the protection of human health and the environment consistent with the standards required under subtitle C of the Solid Waste Dis-

<sup>223</sup>Public Law 97-415 (96 Stat. 2067) (1983), sec. 18 substituted this language for "one year after enactment of this section".

<sup>224</sup>Public Law 97-415 (96 Stat. 2067) (1983), sec. 22 added this language to sec. 275b(1).

<sup>225</sup>Public Law 97-415 (96 Stat. 2067) (1983), sec. 18 changed subsec. b from "eighteen months after enactment of this section" to current language.

<sup>226</sup>Public Law 97-415 (96 Stat. 2067) (1983), sec. 22 added this language at end of subsec. b.



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

*WHEREAS, The United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission within the State under Chapters 6, 7, and 8, and Section 161 of the Act with respect to 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 Maine is authorized under Maine Revised Statutes Annotated Section 284 to enter into this Agreement with the Commission; and*

*WHEREAS, The Governor of the State of Maine certified on March 5, 1990, that the State of Maine (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 State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and*

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



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

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

### *ARTICLE I*

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

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

### *ARTICLE II*

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

- A. The construction and operation of any production or utilization facility;*
- B. The export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;*
- C. The disposal into the ocean or sea of byproduct, source, or special nuclear waste materials as defined in regulations or orders of the Commission;*
- D. The disposal of such other byproduct, source, or special nuclear material as the Commission from time to time determines by*

*regulation or order should, because of the hazards or potential hazards thereof, not be so disposed of without a license from the Commission;*

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

### *ARTICLE III*

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

### *ARTICLE IV*

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

### *ARTICLE V*

*This Agreement shall not affect the authority of the Commission under subsection 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.*

### *ARTICLE VI*

*The Commission will use its best efforts to cooperate with the State and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for*

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

#### ARTICLE VII

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

#### ARTICLE VIII

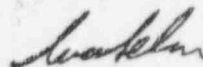
The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State, or upon request of the Governor of the State, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of Section 274 of the Act. The Commission may also, pursuant to Section 274j of the Act, temporarily suspend all or part of this Agreement if, in the 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 this Agreement and actions taken by the State under this Agreement to ensure compliance with Section 274 of the Act.

#### ARTICLE IX

This Agreement shall become effective on April 1, 1992, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at [redacted] Maryland, in triplicate, this 16<sup>th</sup> day of March, 1992

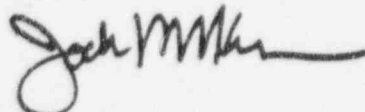
FOR THE UNITED STATES  
NUCLEAR REGULATORY  
COMMISSION



Ivan Selin, Chairman

Done at Augusta, Maine, in triplicate, this 25<sup>th</sup> day of March, 1992

FOR THE STATE OF MAINE



John R. McKernan, Jr.  
Governor



**ACTION**

EDO Principal Correspondence Control

FROM: DUE: 09/12/96 EDO CONTROL: GT96662  
DOC DT: 08/21/96  
FINAL REPLY:

Sen. Charles S. Robb

TO:

Dennis Rathbun, OCA

FOR SIGNATURE OF : \*\* GRN \*\* CRC NO: 96-0920

Executive Director

DE3C:

ROUTING:

REQUEST INFORMATION THAT WOULD CLARIFY WHETHER THE  
COMMONWEALTH OF VIRGINIA WILL BECOME AN AGREEMENT  
STATE

Taylor  
Milhoan  
Thompson  
Blaha

DATE: 08/29/96

ASSIGNED TO: CONTACT:

SP

Bangart

SPECIAL INSTRUCTIONS OR REMARKS:

96 AUG 29 PM 2:21

OSP

OFFICE OF THE SECRETARY  
CORRESPONDENCE CONTROL TICKET

PAPER NUMBER: CRC-96-0920                      LOGGING DATE: Aug 26 96

ACTION OFFICE: EDO

AUTHOR: SEN CHARLES ROBB  
AFFILIATION: U.S. SENATE

ADDRESSEE: RATHBUN

LETTER DATE: Aug 21 96                      FILE CODE: IDR-15

SUBJECT: REQUEST INFORMATION THAT WOULD CLARIFY WHETHER THE  
COMMONWEALTH OF VIRGINIA WILL BECOME AN AGREEMENT  
STATE

ACTION: Signature of EDO

DISTRIBUTION: CHAIRMAN

SPECIAL HANDLING: OCA TO ACK

CONSTITUENT:

NOTES:

DATE DUE: Sep <sup>13</sup>~~10~~ 96

SIGNATURE: .                      DATE SIGNED:

AFFILIATION: