



TERRY E. BRANSTAD
GOVERNOR

OFFICE OF THE GOVERNOR

STATE CAPITOL
DES MOINES, IOWA 50319
SIS 281-5211

August 22, 1985

The Honorable Nunzio J. Palladino
Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Chairman:

This letter is to formally request an agreement between the U.S. Nuclear Regulatory Commission and the State of Iowa, as authorized under Section 274b. of the Atomic Energy Act of 1954, as amended, and Iowa Code, Chapter 136C.11, under which the Commission will discontinue and the State of Iowa will assume certain regulatory authority for radioactive materials now under federal jurisdiction. The specific authority requested at this time is for:

- a. Byproduct material 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.

I certify that the State of Iowa desires to assume regulatory responsibility for such materials, and that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to materials within the State covered by this proposed agreement. In support of this proposal, I am submitting information describing the State's radiation control program and regulatory capabilities and a copy of the State's radiation control regulations.

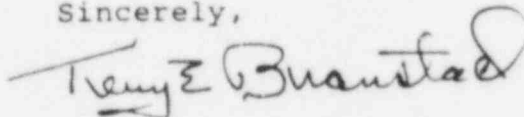
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CORRESPONDENCE PDR

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Chairman, U.S. Nuclear Regulatory Commission
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At this time, the State does not wish to assume authority over uranium milling activities or the commercial disposal of lowlevel radioactive waste. The State, however, reserves the right to apply at a future date to NRC for an amended agreement to assume authority in these areas.

We feel that a formal Agreement signing ceremony is not necessary. If possible, we would like the Agreement to become effective on January 1, 1986.

Sincerely,

A handwritten signature in dark ink, reading "Terry E. Branstad". The signature is fluid and cursive, with the first name "Terry" and last name "Branstad" clearly legible.

Terry E. Branstad
Governor

TEB:wm

Enclosures:

Proposed Agreement Between Iowa & NRC
Radiological Health Program Document
Iowa Radiation Emitting Equipment Rules, Title IV

DRAFT

AGREEMENT
BETWEEN THE
UNITED STATES NUCLEAR REGULATORY COMMISSION
AND THE
STATE OF IOWA
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 by-product 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 Iowa is authorized under Chapter 136C, Code of Iowa, to enter into this Agreement with the Commission; and

WHEREAS, The Governor of the State of Iowa certified on _____, 1985, that the State of Iowa (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

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 Atomic Energy Act of 1954, 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 therein.

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 judgment 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 _____, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Washington, District of Columbia, in triplicate, this day of
 , 1985.

FOR THE UNITED STATES
NUCLEAR REGULATORY COMMISSION

Nunzio J. Palladino, Chairman

Done at Des Moines, Iowa, in triplicate, this day of , 1985.

FOR THE STATE OF IOWA

Terry E. Branstad, Governor