

APR - 7 1997

Mr. Frank Frodyma
Acting Director of Policy
Occupational Safety and Health Administration
Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Mr. Frodyma:

This is to advise the Department that under Section 274 of the U.S. Atomic Energy Act of 1954, as amended, the Nuclear Regulatory Commission has approved an Agreement with the Commonwealth of Massachusetts. This Agreement provides for the transfer of the Commission's regulatory authority to the Commonwealth over byproduct material, source material and special nuclear material in quantities not sufficient to form a critical mass, and became effective March 21, 1997. Enclosed is a copy of the Agreement for your information.

Sincerely,

Original Signed By
RICHARD L. BANGART

Richard L. Bangart, Director
Office of State Programs

Enclosure:
As stated

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*See previous concurrence.

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DATE	04/01/97*	04/01/97*	04/07/97			

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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-000

April 7, 1997

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Acting Director of Policy
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AGREEMENT

BETWEEN

THE UNITED STATES NUCLEAR REGULATORY COMMISSION

AND

THE COMMONWEALTH OF MASSACHUSETTS

FOR THE

DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY

AND RESPONSIBILITY WITHIN THE COMMONWEALTH PURSUANT TO

SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

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AGREEMENT
BETWEEN
THE UNITED STATES NUCLEAR REGULATORY COMMISSION
AND
THE COMMONWEALTH OF MASSACHUSETTS
FOR THE
DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY
AND RESPONSIBILITY WITHIN THE COMMONWEALTH 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 Commonwealth of Massachusetts is authorized under Massachusetts General Laws, Chapter 111H, to enter into this Agreement with the Commission; and,

WHEREAS, The Governor of the Commonwealth of Massachusetts certified on March 28, 1996, that the Commonwealth of Massachusetts (hereinafter referred to as the Commonwealth) has a program for the control of radiation hazards adequate to protect public health and safety with respect to the materials within the Commonwealth covered

by this Agreement, and that the Commonwealth desires to assume regulatory responsibility for such materials; and,

WHEREAS, The Commission found on March 3, 1997, that the program of the Commonwealth 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 public health and safety; and,

WHEREAS, The Commonwealth and the Commission recognize the desirability and importance of cooperation between the Commission and the Commonwealth in the formulation of standards for protection against hazards of radiation and in assuring that Commonwealth and Commission programs for protection against hazards of radiation will be coordinated and compatible; and,

WHEREAS, The Commission and the Commonwealth 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 Commonwealth, acting in behalf of the Commonwealth, 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 Commonwealth under Chapters 6, 7, and 8, and Section 161 of the Act with respect to the following materials:

- A. By-product materials as defined in Section 11e (1) of the Act;
- B. Source materials;
- C. Special nuclear materials in quantities not sufficient to form a critical mass; and,
- D. Licensing of Low-Level Radioactive Waste Facilities.

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 by-product, source, or special nuclear material, or of any production or utilization facility;

- C. The disposal into the ocean or sea of by-product, source, or special nuclear waste materials as defined in regulations or orders of the Commission;
- D. The disposal of such other by-product, 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; and,
- E. The extraction or concentration of source material from source material ore and the management and disposal of the resulting by-product material.

ARTICLE III

This Agreement may be amended, upon application by the Commonwealth and approval by the Commission, to include the additional area(s) specified in Article II, paragraph E, whereby the Commonwealth 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, by-product, 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

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This Agreement shall not affect the authority of the Commission under Subsection 161b or 161i 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 Commonwealth and other Agreement States in the formulation of standards and regulatory programs of the Commonwealth and the Commission for protection against hazards of radiation and to assure that Commonwealth and Commission programs for protection against hazards of radiation will be coordinated and compatible. The Commonwealth will use its best efforts to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the Commonwealth and the Commission for protection against hazards of radiation and to assure that the Commonwealth's program will continue to be compatible with the program of the Commission for the regulation of like materials. The Commonwealth 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 Commonwealth 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 other 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

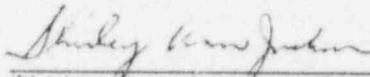
The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the Commonwealth, or upon request of the Governor of the Commonwealth, may terminate or suspend all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect public health and safety, or (2) the Commonwealth 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 Commonwealth has failed to take necessary steps. The Commission shall periodically review this Agreement and actions taken by the Commonwealth under this Agreement to ensure compliance with Section 274 of the Act.

ARTICLE IX

This Agreement shall become effective on March 21, 1997, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

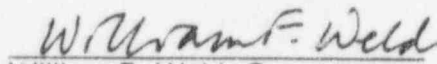
Done at Rockville, Maryland, in triplicate, this 10th day of March, 1997.

FOR THE UNITED STATES
NUCLEAR REGULATORY COMMISSION


Shirley Ann Jackson, Chairman

Done at Boston, Massachusetts, in triplicate, this 19 day of March, 1997.

FOR THE COMMONWEALTH
OF MASSACHUSETTS


William F. Weld, Governor