

AMENDMENT NUMBER ONE TO THE AGREEMENT
BETWEEN THE
UNITED STATES NUCLEAR REGULATORY COMMISSION
AND THE STATE OF ILLINOIS
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 Illinois is authorized under Illinois Revised Statutes, 1987, ch. 111 1/2 par. 216b, and ch. 111 1/2, par. 241-19 to enter into this Agreement with the Commission; and

WHEREAS, on June 1, 1987, an Agreement between the Commission and the State of Illinois became effective which provided for State assumption under State law regulatory authority over byproduct as defined in Section 11e.(1) of the Act, source materials, special nuclear materials in quantities not sufficient to form a critical mass, and the land disposal of source, byproduct, and special nuclear material received from other persons; and

WHEREAS, Article III of that Agreement provides that the Agreement may be amended upon application by the State and approval by the Commission, to include the extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material; and

WHEREAS, The Governor of the State of Illinois certified on April 11, 1989 that the State of Illinois (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 extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material, and that the State of Illinois desires to assume regulatory responsibility for such materials; and

WHEREAS, The Commission found on October 17, 1990, that the program of the State for the regulation of extraction or concentration of source materials from source material ore and the management and disposal of the resulting byproduct material 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 where necessary 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 Amendment Number One to the Agreement; and

WHEREAS, Amendment Number One to the 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:

- 1) Article I of the Agreement is hereby amended to expand the scope of the Agreement to include the extraction or concentration of source material from any ore processed primarily for its source material content and the management and disposal of the resulting byproduct material as defined in Section 11e.(2) of the Act. As amended, Article I now reads 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;
- C. Special nuclear materials in quantities not sufficient to form a critical mass.
- D. The land disposal of source, byproduct, and special nuclear materials received from other persons.

Pursuant to Article III, and subject to the exceptions provided in Articles II, IV, and V, the Commission shall discontinue, as of the effective date of this Amendment

Number One to 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.

- E. The extraction or concentration of source material from any ore processed primarily for its source material content and the management and disposal of the resulting byproduct material as defined in Section 11e.(2) of the Act.
- 2) Article II of the Agreement is hereby amended by inserting "A." before "This Agreement," by redesignating paragraphs A. through D. as subparagraphs 1. through 4., by deleting paragraph E., relating to the extraction or concentration of source material from source material ore and the management and disposal of the resulting byproduct material and by adding a new paragraph B., relating to authorities that will be retained by the Commission. As amended, Article II now reads as follows:

ARTICLE II

- A. This Agreement does not 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;
 - 2. The export from or import into the United States of byproduct, source, or special nuclear material 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; and
4. 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.

B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct material as defined in Section 11 e.(2) of the Atomic Energy Act:

1. Prior to the termination of a State license for such byproduct material, or for any activity that results in the production of such material, the Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.
2. The Commission reserves the authority to establish minimum standards governing reclamation, long-term surveillance or maintenance, and ownership of such byproduct material and of land used as a disposal site for such material. Such reserved authority includes:
 - a. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the licensee shall comply with

decontamination, decommissioning, and reclamation standards prescribed by the Commission; and with ownership requirements for such materials and its disposal site;

- b. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State at the option of the State (provided such option is exercised prior to termination of the license);
- c. The authority to permit use of the surface or subsurface estates, or both, of the land transferred to the United States or a State pursuant to paragraph 2.b. in this section in a manner consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, provided that the Commission determines that such use would not endanger the public health, safety, welfare, or the environment;
- d. The authority to require, in the case of a license for any activity that produces such byproduct material (which license was in effect on November 8, 1981), transfer of land and material pursuant to paragraph 2.b. in this section, taking into consideration the status of such material and land and interests therein, and the ability of the licensee to transfer title and custody thereof to the United States or the State;
- e. The authority to require the Secretary of the Department of Energy, other Federal agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect the

public health and safety, and other actions as the Commission deems necessary; and

- f. The authority to enter into arrangements as may be appropriate to assure Federal long-term surveillance or maintenance of such byproduct material and its disposal site on land held in trust by the United States for any Indian Tribe or land owned by an Indian Tribe and subject to a restriction against alienation imposed by the United States.

- 3) Article IX of the Agreement is hereby amended by redesignating it Article X and by inserting a new Article IX As amended, Articles IX and X now read as follows:

ARTICLE IX

In the licensing and regulation of byproduct material as defined in Section 11e.(2) of the Act, or of any activity which results in production of such material, the State shall comply with the provisions of Section 274o of the Act. If in such licensing and regulation, the State requires financial surety arrangements for the reclamation or long-term surveillance and maintenance of such material,

- A. The total amount of funds the State collects for such purposes shall be transferred to the United States if custody of such material and its disposal site is transferred to the United States upon termination of the State license for such material or any activity which results in the production of such material. Such funds include, but are not limited to, sums collected for long-term surveillance or maintenance. Such funds do not, however, include

monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and

- B. Such State surety or other financial requirements must be sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long-term management of such byproduct material and its disposal site.

ARTICLE X

This agreement shall become effective on June 1, 1987, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

The Agreement effective June 1, 1987 remains in effect except as modified by amendments contained in Paragraphs 1), 2), and 3) of this Amendment Number One.

This Amendment Number One to the June 1, 1987 Agreement shall become effective on November 1, 1990 and shall remain in effect until such time as it is terminated pursuant to Article VIII.

Done at Rockville, Maryland, in triplicate, this 18th day of October, 1990.

FOR THE UNITED STATES NUCLEAR
REGULATORY COMMISSION

Kenneth M. Carr,
Chairman

Done at Springdale, Illinois, in triplicate, this 23rd day of October, 1990.

FOR THE STATE OF ILLINOIS

James R. Thompson,

Governor