

RHODE ISLAND
DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY AUTHORITY
AND
RESPONSIBILITY WITHIN THE STATE

Notice is hereby given that on December 4, 1979 Joseph M. Hendrie, Chairman of the Nuclear Regulatory Commission, and that on December 11, 1979 the Honorable J. Joseph Garrahy, Governor of the State of Rhode Island, have signed the agreement set forth below for discontinuance by the Commission and assumption by the State of certain Commission regulatory authority. The agreement is published in accordance with the requirements of Public Law 86-373 (section 274 of the Atomic energy Act of 1954, as amended). The exemptions from the Commission's licensing authority have been published in the Federal Register and codified as Part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

Dated at Bethesda, Maryland, this 26th day of December 1979.

For the U.S. Nuclear Regulatory Commission.

Robert G. Ryan,

Director, Office of State Programs.

AGREEMENT BETWEEN
THE UNITED STATES NUCLEAR REGULATORY COMMISSION
AND THE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
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 Rhode Island and Providence Plantations is authorized under 23-1.3-7 of the General Laws of Rhode Island to enter into this Agreement with the Commission; and

WHEREAS, The Governor of the State of Rhode Island and Providence Plantations certified on May 25, 1979, that the State of Rhode Island and Providence Plantations (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 Governor of the State of Rhode Island and Providence Plantations certified on May 25, 1979, that there is no byproduct material as defined in section 11e. (2) of the Act within the State and that there is no activity within the State resulting in the production of byproduct material as defined in section 11e. (2) of the Act; and

WHEREAS, The Commission found on October 23, 1979, 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 Commission found on October 23, 1979, that there are no NRC licenses outstanding in the State for byproduct material as defined in section 11e. (2) of the Act or for any activity within the State resulting in the production of byproduct material as defined in section 11e. (2) of the Act; 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, The State and the Commission recognize that it will be necessary to consider amendments to this Agreement in the event that the State wishes to regulate byproduct material as defined in section 11e. (2) of the Act and that it will be necessary to amend this Agreement in the event any activity resulting in the production of byproduct material as defined in section 11e. (2) of the Act is found to exist within the State; 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, III, and IV, 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; and
- 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.

ARTICLE III

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 IV

This Agreement shall not affect the authority of the Commission under subsection 161b. 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 V

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 VI

The Commission and the State agree that it is desirable to provide for 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 VII

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 shall periodically review this Agreement and actions taken by the State under this Agreement to ensure compliance with section 274 of the Act.

ARTICLE VIII

This Agreement shall become effective on January 1, 1980, and shall remain in effect unless and until such time as it is terminated pursuant to Article VII.

Done at Washington, District of Columbia, in triplicate, this 4th day of December, 1979.

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION.
JOSEPH M. HENDRIE, Chairman.

Done at Providence, State of Rhode Island, in triplicate this 11th day of December 1979.

FOR THE STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS.
J. JOSEPH GARRAHY, Governor.

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