

October 5, 2000

The Honorable Don Nickles
United States Senate
Washington, D.C. 20510

Dear Senator Nickles:

I am pleased to inform you that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 30, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

In his December 28, 1999 request that the Commission enter into an Agreement, Governor Frank Keating certified that Oklahoma has a program for the control of the radiation hazards associated with the materials covered by the Agreement which is adequate to protect public health and safety. Governor Keating further certified that the State desires to assume the regulatory responsibility for such materials.

The proposed Agreement, along with a summary of the NRC staff assessment of the proposed Oklahoma program, was published in the Federal Register for public comment as required by Section 274e of the Act. Copies of the proposal and supporting documentation were made available for inspection at the Commission's Public Document Room.

The Commission has determined that the Oklahoma program for the regulation of agreement materials is compatible with the Commission's equivalent program, and adequate to protect public health and safety with respect to the materials covered by the Agreement. NRC staff will conduct periodic reviews of the Oklahoma program to ensure that the terms of the Agreement continue to be met.

Sincerely,

/RA/

Richard A. Meserve

Enclosure: *Federal Register* notice

October 5, 2000

The Honorable Steve Largent
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Largent:

I am pleased to inform you that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 30, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

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Sincerely,

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Richard A. Meserve

Enclosure: *Federal Register* notice

October 5, 2000

The Honorable Tom Coburn
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Coburn:

I am pleased to inform you that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 30, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

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Sincerely,

/RA/

Richard A. Meserve

Enclosure: *Federal Register* notice

October 5, 2000

The Honorable Wes Watkins
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Watkins:

I am pleased to inform you that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 30, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

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Sincerely,

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Richard A. Meserve

Enclosure: *Federal Register* notice

October 5, 2000

The Honorable J.C. Watts, Jr.
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Watts:

I am pleased to inform you that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 30, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

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Sincerely,

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Richard A. Meserve

Enclosure: *Federal Register* notice

October 5, 2000

The Honorable Ernest J. Istook
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Istook:

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Sincerely,

/RA/

Richard A. Meserve

Enclosure: *Federal Register* notice

October 5, 2000

The Honorable Frank D. Lucas
United States House of Representatives
Washington, D.C. 20515

Dear Congressman Lucas:

I am pleased to inform you that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 30, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

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/RA/

Richard A. Meserve

Enclosure: *Federal Register* notice

October 5, 2000

The Honorable James M. Inhofe
United States Senate
Washington, D.C. 20510

Dear Senator Inhofe:

I am pleased to inform you that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 30, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

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Sincerely,

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Richard A. Meserve

Enclosure: *Federal Register* notice

October 5, 2000

The Honorable Fred Thompson, Chairman
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to inform the Committee that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 31, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

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Sincerely,

/RA/

Richard A. Meserve

Enclosure: *Federal Register* notice

cc: Senator Joseph I. Lieberman

October 5, 2000

The Honorable Dan Burton, Chairman
Committee on Government Reform
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am pleased to inform the Committee that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 31, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

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Sincerely,

/RA/

Richard A. Meserve

Enclosure: *Federal Register* notice

cc: Representative Harry A. Waxman

October 5, 2000

The Honorable Bob Smith, Chairman
Committee on Environmental and Public Works
United State Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to inform the Committee that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 31, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

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Sincerely,

/RA/

Richard A. Meserve

Enclosure: *Federal Register* notice

cc: Senator Max Baucus

October 5, 2000

The Honorable James M. Inhofe, Chairman
Subcommittee on Clean Air, Wetlands, Private
Property and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am pleased to inform the Subcommittee that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 31, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

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Sincerely,

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Richard A. Meserve

Enclosure: *Federal Register* notice

cc: Senator Bob Graham

October 5, 2000

The Honorable Tom Bliley, Chairman
Committee on Commerce
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am pleased to inform the Committee that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 31, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

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Richard A. Meserve

Enclosure: *Federal Register* notice

cc: Representative John D. Dingell

October 5, 2000

The Honorable Joe Barton, Chairman
Subcommittee on Energy and Power
Committee on Commerce
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am pleased to inform the Subcommittee that, pursuant to Section 274 of the Atomic Energy Act of 1954, as amended (Act), entitled "Cooperation With States," the Commission on August 31, 2000, approved an Agreement with the State of Oklahoma under which the State will assume certain regulatory authority over byproduct materials as defined in Section 11e.(1) of the Act, source materials (primarily used as shielding for medical and industrial devices), and special nuclear materials in quantities not sufficient to form a critical mass. The State will also assume regulatory authority over the land disposal of wastes containing source, byproduct and special nuclear materials by persons other than the licensees which generated the waste.

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Richard A. Meserve

Enclosure: *Federal Register* notice

cc: Representative Rick Boucher

NUCLEAR REGULATORY COMMISSION

State of Oklahoma: Discontinuance of Certain Commission Regulatory Authority Within the State; Notice of Agreement Between the NRC and the State of Oklahoma

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Agreement between the NRC and the State of Oklahoma.

SUMMARY: This notice is announcing that on August 30, 2000, Dr. Richard Meserve, Chairman of the U.S. Nuclear Regulatory Commission (NRC) and on September 22, 2000, Governor Frank Keating of the State of Oklahoma signed an Agreement as authorized by Section 274b of the Atomic Energy Act of 1954, as amended (Act). The Agreement provides for the Commission to discontinue its regulatory authority and for Oklahoma to assume regulatory authority over the possession and use of byproduct material as defined in Section 11e.(1) of the Act, special nuclear materials (in quantities not sufficient to form a critical mass), source material used to take advantage of its density and high mass properties where the use of the specifically licensed material is subordinate to the primary specifically licensed use of either 11e.(1) byproduct material or special nuclear material (primarily used as shielding), and the disposal of low-level radioactive waste at a land disposal site in the State of Oklahoma. Under the Agreement, a person in Oklahoma possessing these materials is exempt from certain Commission regulations. The exemptions have been previously published in the Federal Register (FR) and are codified in the Commission's regulations as 10 CFR Part 150. The Agreement is published here as required by Section 274e of the Act.

ADDRESSES: Copies of the staff assessment, and the Commission's decision may be viewed at the NRC website, <http://www.nrc.gov>.

FOR FURTHER INFORMATION CONTACT: Patricia M. Larkins, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone (301) 415-2309 or e-mail PML@NRC.GOV.

SUPPLEMENTARY INFORMATION:

The draft Agreement was published in the Federal Register for comment once a week for four consecutive weeks (see, e.g., 65 FR 36169; June 7, 2000) as required by the Act. The public comment period ended on July 7, 2000, and the Commission did not receive any comments during that time. After considering the request for an Agreement by the Governor of Oklahoma, the supporting documentation submitted with the request for an Agreement, and its interactions with the staff of the Oklahoma Department of Health, Bureau of Radiological Health, the NRC staff completed an assessment of the Oklahoma program. A copy of the NRC staff assessment was made available in the NRC's Public Document Room and electronically on NRC's website. Based on the NRC staff's assessment, the Commission determined on August 24, 2000, that the proposed Oklahoma program for the control of radiation hazards is adequate to protect public health and safety, and that it is compatible with the Commission's program. Following execution of the Agreement, NRC staff will continue a program of active interaction with the new Agreement State that includes the exchange of regulatory information

(e.g., incident reports, policy changes, rule and guidance development), and periodic on-site reviews of the Agreement State program.

Dated at Rockville, Maryland, this 4th day of October, 2000.

For the Nuclear Regulatory Commission.

/s/ Annette L. Vietti-Cook

Annette L. Vietti-Cook,
Secretary of the Commission.

AGREEMENT
BETWEEN
THE UNITED STATES NUCLEAR REGULATORY COMMISSION
AND
THE STATE OF OKLAHOMA
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 Oklahoma is authorized under Section 2-9-103(c) of the Radiation Management Act (27A O.S. Supp. 1998 § 2-9-101 et seq.) to enter into this Agreement with the Commission; and,

WHEREAS, The Governor of the State of Oklahoma certified on December 28, 1999 that the State of Oklahoma (hereinafter referred to as the State) has a program for the control of radiation hazards adequate to protect the health and safety with respect to 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 August 24, 2000, 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 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 of the granting of limited exemptions from licensing of those materials subject to this Agreement; and,

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

NOW THEREFORE, It is hereby agreed between the Commission and the Governor of the State of Oklahoma, 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 material as defined in Section 11e.(1) of the Act;
- B. Source material used to take advantage of the density and high-mass property where the use of the specifically licensed source material is subordinate to the primary specifically licensed use of either 11e.(1) byproduct material or special nuclear material;
- C. Special nuclear materials in quantities not sufficient to form a critical mass;
- D. The regulation of the land disposal of byproduct source or special nuclear waste material received from other persons.

ARTICLE II

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

- A. The regulation of the construction and operation of any production or utilization facility or any uranium enrichment facility;

- B. The regulation of 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 regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear waste material as defined in the regulations or orders of the Commission;
- D. The regulation of 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 without a license from the Commission;
- E. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear materials and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission;
- F. Byproduct material as defined in Section 11e.(2) of the Act;
- G. Source material except for source material used to take advantage of the density and high-mass properties where the use of the specifically licensed source material is subordinate to the primary specifically licensed use of either 11e.(1) byproduct material or special nuclear material.

ARTICLE III

With the exception of those activities identified in Article II, paragraph A through D, this Agreement may be amended, upon application by the State and approval by the Commission, to include one or more of the additional activities specified in Article II, paragraphs E through G, whereby the State may then exert regulatory authority and responsibility with respect to those activities.

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 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 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 Commission and State programs for protection against hazards of radiation will be coordinated and compatible. The State agrees 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 materials covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations, and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

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 other Agreement State. Accordingly, the Commission and the State agree 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 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(2) 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 actions taken by the State under this Agreement to ensure compliance with Section 274 of the Act which requires a State program to be adequate to protect public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

ARTICLE IX

This Agreement shall become effective on September 29, 2000, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Dated at Rockville, Maryland, in triplicate, this 30th day of August, 2000

FOR THE UNITED STATES
NUCLEAR REGULATORY
COMMISSION

/signed/

Richard A. Meserve, Chairman

Dated at Oklahoma City, Oklahoma, in triplicate, this 22nd day of September, 2000

FOR THE STATE OF OKLAHOMA

/signed/

Frank Keating, Governor

Oklahoma Congressional Letters Addressee List

The Honorable Don Nickles
United States Senate
Washington, DC 20510

The Honorable James M. Inhofe
United States Senate
Washington, DC 20510

The Honorable Steve Largent
United States House of Representatives
Washington, DC 20515

The Honorable Fred Thompson, Chairman
Committee on Governmental Affairs
United States Senate
Washington, DC 20510

The Honorable Tom Coburn
United States House of Representatives
Washington, DC 20515

cc: Senator Joseph I. Lieberman

The Honorable Wes Watkins
United States House of Representatives
Washington, DC 20515

The Honorable Dan Burton, Chairman
Committee on Governmental Reform
United States House of Representatives
Washington, DC 20515

cc: Representative Harry A. Waxman

The Honorable J.C. Watts, Jr.
United States House of Representatives
Washington, DC 20515

The Honorable Ernest J. Istook
United States House of Representatives
Washington, DC 20515

The Honorable Frank D. Lucas
United States House of Representatives
Washington, DC 20515

The Honorable Bob Smith, Chairman
Committee on Environmental and Public Works
United States Senate
Washington, DC 20510
cc: Senator Max Baucus

The Honorable James M. Inhofe, Chairman
Subcommittee on Clean Air, Wetlands, Private
Property and Nuclear Safety
Committee on Environment and Public Works
United States Senate
Washington, DC 20510
cc: Senator Bob Graham

The Honorable Tom Bliley, Chairman
Committee on Commerce
United States House of Representatives
Washington, DC 20515
cc: Representative John Dingell

The Honorable Joe Barton, Chairman
Subcommittee on Energy and Power
Committee on Commerce
United States House of Representatives
Washington, DC 20515
cc: Representative Rick Boucher