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## Central Interstate Low-Level Radioactive Waste Commission

Catherine Sharp  
Chairman

Rita Houskie  
Administrator

November 1, 2002

The Honorable Michael O. Johanns  
Governor of the State of Nebraska  
State Capitol Building  
Lincoln NE 68509

02 NOV -8 AM 10:30

STP

Re: Termination of Nebraska Agreement State Status - LLRW Waste Disposal

Dear Governor Johanns:

In my capacity as Chairperson of the Central Interstate Low-Level Radioactive Waste Commission, I have been directed by the Commission to write you in regard to Nebraska's "agreement state" jurisdiction over licensing and regulation of disposal of low-level radioactive waste. The Commission recently adopted a resolution concerning that jurisdiction. A copy of the Commission's resolution, passed 4-1 on October 23, 2002, is attached and marked at Attachment 1. You will see it is accompanied by a copy of a portion of federal statutes governing the matter of termination of agreement state status.

Nebraska is currently an agreement state under the terms of the original 1966 agreement between the United States Atomic Energy Commission and the State of Nebraska. See attached copy, marked as Attachment 2.

You are, of course, fully aware of the litigation recently concluded in the United States District Court for the District of Nebraska, Chief Judge Richard G. Kopf presiding. The Commission understands Nebraska intends to appeal the decision in the near future, and of course the matter will take additional time to move through the appellate courts. Nevertheless, in a very extensive opinion, Judge Kopf made thorough, forceful findings of fact supporting his conclusion that Nebraska violated its obligation owed to Arkansas, Kansas, Oklahoma and Louisiana to perform its duties as a Compact member in good faith. The focus was particularly on the host state obligation to review fairly the license application for a low-level waste disposal site. Nebraska also has an established responsibility to perform as the Compact's first host state, and its leaving the Compact does not terminate that responsibility.

Judge Kopf did not agree to assume federal court jurisdiction over a continuation of the licensing efforts for the Butte, Nebraska, site. At the same time, nothing in his opinion or judgment affects the power, right and even responsibility of this Commission to continue to seek to obtain a valid license and to establish a regional disposal facility. The Commission has not finally decided, but is considering

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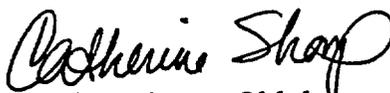
making such an effort by seeking a license and subsequent regulation from the United States Nuclear Regulatory Commission.

It is the Commission's respectful request to you as Nebraska's Governor that, in accordance with the federal statutes enclosed herein, you voluntarily ask the United States Nuclear Regulatory Commission to terminate Nebraska's agreement state status solely with respect to licensing and regulation of a Central Interstate low-level radioactive waste disposal facility in Nebraska. This is not a request that Nebraska voluntarily cede its agreement state authority with respect to any other aspect of radioactive materials regulation or licensing, nor is it a request that Nebraska drop or prejudice its appeals or admit liability in any way.

I am directed by the Commission to request that you respond not later than the close of business December 31, 2002, advising whether or not you are willing to comply with this request. As is stated in the resolution passed earlier this week, it is the intention of the Commission, in the event Nebraska does not voluntarily cede that portion of jurisdiction back to the NRC, to consider whether to ask the NRC to revoke the jurisdiction in respect to licensing and regulation of a disposal facility for low-level radioactive waste. No decision has yet been made on that issue, and the input of Nebraska, the various generators, and of the public would be appropriate in the discussion and deliberation at the January 22, 2003, meeting of this Commission in Kansas.

If you have any questions or comments about this request, the Commission would welcome those and respond promptly. We look forward to your answer to our request.

Respectfully,



Catherine Sharp, Oklahoma Commissioner  
and Chairperson, Central Interstate Low-Level  
Radioactive Waste Commission

c: Mr. John Wittenborn  
Mr. W. Bradford Reynolds  
Attorney General Don Stenberg  
Central Interstate Low-Level Radioactive Waste Commissioners  
Central Interstate Low-Level Radioactive Waste Commission  
U.S. Nuclear Regulatory Commission  
[Governor Frank Keating]

## Central Interstate LLRW Commission

### RESOLUTION (amended\*\*)

**Whereas**, Nebraska is an Agreement State with regard to low-level radioactive waste, pursuant to Title 42 U.S. Code section 2021; and

**Whereas**, federal law, in Title 42 U.S. Code section 2021(j) provides for termination or suspension of all or part of the Nuclear Regulatory Commission's agreement with such Agreement States, either on the initiative of the Nuclear Regulatory Commission or upon the request of the Governor of an Agreement State; and

**Whereas**, after a lengthy trial in the United States District Court for the District of Nebraska, it has been found that Nebraska has exercised its Agreement State regulatory powers with respect to a low-level waste disposal site in violation of its obligation of good faith, and particularly in making its license decision upon grounds determined politically rather than scientifically;

**IT IS HEREBY RESOLVED** that the Central Interstate Low-level Waste Commission should formally ask Nebraska to make the Request through its Governor, as permitted in Title 42 U.S. Code section 2021(j)(1), that the Nuclear Regulatory Commission terminate the Agreement with Nebraska insofar as it governs the regulation and licensing of disposal of low-level radioactive waste, including the licensing and regulation of any disposal facility located or to be located within the State of Nebraska by the Central Interstate Low-level Waste Commission pursuant to the Compact of its member states; and

**Further**, that the Chairperson of the Central Interstate Low-level Radioactive Waste Commission implement this resolution by preparing an appropriate request letter to the Governor of the State of Nebraska so requesting such voluntary agreement to cede the above described authority back to the Nuclear Regulatory Commission, and send it not later than November 1, 2002, with a copy to be sent to the United States Nuclear Regulatory Commission; and

**Further**, if such request is refused or not agreed to in writing received by the Commission at its office in Lincoln, Nebraska, by December 31, 2002 at the close of business, that the Central Interstate Low-level Waste Commission place upon its agenda for consideration at its January, 2003 meeting, the question of whether to request the Nuclear Regulatory Commission to revoke or suspend the Agreement State status of Nebraska to the degree described above, after reasonable notice and opportunity for hearing, pursuant to the authority of that Commission as described in Title 42 U.S. Code section 2021(j)(1). A copy of the federal laws referred to in this Resolution is attached for reference and clarity.

\*\* .."of good faith manner,..." has been changed to "of good faith," in the third paragraph

10/23/2002

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## WESTLAW ELECTRONIC RESEARCH

Electricity cases: 145k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

**§ 2021. Cooperation with States****(a) Purpose**

It is the purpose of this section—

(1) to recognize the interests of the States in the peaceful uses of atomic energy, and to clarify the respective responsibilities under this chapter of the States and the Commission with respect to the regulation of byproduct, source, and special nuclear materials;

(2) to recognize the need, and establish programs for, cooperation between the States and the Commission with respect to control of radiation hazards associated with use of such materials;

(3) to promote an orderly regulatory pattern between the Commission and State governments with respect to nuclear development and use and regulation of byproduct, source, and special nuclear materials;

(4) to establish procedures and criteria for discontinuance of certain of the Commission's regulatory responsibilities with respect to byproduct, source, and special nuclear materials, and the assumption thereof by the States;

(5) to provide for coordination of the development of radiation standards for the guidance of Federal agencies and cooperation with the States; and

(6) to recognize that, as the States improve their capabilities to regulate effectively such materials, additional legislation may be desirable.

**(b) Agreements with States**

Except as provided in subsection (c) of this section, the Commission is authorized to enter into agreements with the Governor of any State providing for discontinuance of the regulatory authority of the Commission under subchapters V, VI, and VII of this division, and section 2201 of this title, with respect to any one or more of the following materials within the State—

(1) byproduct materials as defined in section 2014(e)(1) of this title;

(2) byproduct materials as defined in section 2014(e)(2) of this title;

(3) source materials;

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the Explanation pages of this volume.

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and criteria for discontinuance of regulatory responsibilities with respect to special nuclear materials, and States;

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States improve their capabilities materials, additional legislation may

(c) of this section, the Commissions with the Governor of any of the regulatory authority of the VI, and VII of this division, and subject to any one or more of the

defined in section 2014(e)(1) of this

defined in section 2014(e)(2) of this

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(4) special nuclear materials in quantities not sufficient to form a critical mass.

During the duration of such an agreement it is recognized that the State shall have authority to regulate the materials covered by the agreement for the protection of the public health and safety from radiation hazards.

(c) Commission regulation of certain activities

No agreement entered into pursuant to subsection (b) of this section shall 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 or any uranium enrichment facility;

(2) the export from or import into the United States of byproduct, source, or special nuclear material, or of any production 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;

(4) the disposal of such other byproduct, source, or special nuclear material as the Commission 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.

The Commission shall also retain authority under any such agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material, as defined in section 2014(e)(2) of this title. Notwithstanding any agreement between the Commission and any State pursuant to subsection (b) of this section, the Commission is authorized by rule, regulation, or order to 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 issued by the Commission.

(d) Conditions

The Commission shall enter into an agreement under subsection (b) of this section with any State if—

(1) The Governor of that State certifies that 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 the proposed agreement, and that the State

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desires to assume regulatory responsibility for such materials; and

(2) the Commission finds that the State program is in accordance with the requirements of subsection (o) of this section and in all other respects compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

(e) Publication in Federal Register; comment of interested persons

(1) Before any agreement under subsection (b) of this section is signed by the Commission, the terms of the proposed agreement and of proposed exemptions pursuant to subsection (i) of this section shall be published once each week for four consecutive weeks in the Federal Register; and such opportunity for comment by interested persons on the proposed agreement and exemptions shall be allowed as the Commission determines by regulation or order to be appropriate.

(2) Each proposed agreement shall include the proposed effective date of such proposed agreement or exemptions. The agreement and exemptions shall be published in the Federal Register within thirty days after signature by the Commission and the Governor.

(f) Exemptions

The Commission is authorized and directed, by regulation or order, to grant such exemptions from the licensing requirements contained in subchapters V, VI, and VII of this division, and from its regulations applicable to licensees as the Commission finds necessary or appropriate to carry out any agreement entered into pursuant to subsection (b) of this section.

(g) Compatible radiation standards

The Commission is authorized and directed to cooperate with the States in the formulation of standards for protection against hazards of radiation to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible.

(h) Consultative, advisory, and miscellaneous functions of the Administrator of the Environmental Protection Agency

The Administrator of the Environmental Protection Agency shall consult qualified scientists and experts in radiation matters, including the President of the National Academy of Sciences, the Chairman of the National Committee on Radiation Protection and Measurement, and qualified experts in the field of biology and medicine and

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responsibility for such materials;

that the State program is in accordance with subsection (o) of this section and in accordance with the Commission's program materials, and that the State program is for the health and safety with respect to the proposed agreement.

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subsection (b) of this section and subsection (f) of this section for four consecutive weeks in the opportunity for comment by interested persons and exemptions shall be allowed by regulation or order to be appropriate.

shall include the proposed effective date of exemptions. The agreement and the Federal Register within thirty days of the Commission and the Governor.

and directed, by regulation or order, to enforce the licensing requirements contained in this division, and from its regulations if the Commission finds necessary or appropriate an agreement entered into pursuant to

and directed to cooperate with the State and Commission programs for the protection against hazards and radiation will be coordinated and

miscellaneous functions of the Administrative Protection Agency

The Administrative Protection Agency shall advise the State in radiation matters, including the National Academy of Sciences, the Chairman of the Radiation Protection and Measurement Commission, the field of biology and medicine and

in the field of health physics. The Special Assistant to the President for Science and Technology, or his designee, is authorized to attend meetings with, participate in the deliberations of, and to advise the Administrator. The Administrator shall advise the President with respect to radiation matters, directly or indirectly affecting health, including guidance for all Federal agencies in the formulation of radiation standards and in the establishment and execution of programs of cooperation with States. The Administrator shall also perform such other functions as the President may assign to him by Executive order.

(i) Inspections and other functions; training and other assistance

The Commission in carrying out its licensing and regulatory responsibilities under this chapter is authorized to enter into agreements with any State, or group of States, to perform inspections or other functions on a cooperative basis as the Commission deems appropriate. The Commission is also authorized to provide training, with or without charge, to employees of, and such other assistance to, any State or political subdivision thereof or group of States as the Commission deems appropriate. Any such provision or assistance by the Commission shall take into account the additional expenses that may be incurred by a State as a consequence of the State's entering into an agreement with the Commission pursuant to subsection (b) of this section.

(j) Reserve power to terminate or suspend agreements; emergency situations; State nonaction on causes of danger; authority exercisable only during emergency and commensurate with danger

(1) The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the State with which an agreement under subsection (b) of this section has become effective, or upon request of the Governor of such State, may terminate or suspend all or part of its agreement with the State and reassert the licensing and regulatory authority vested in it under this chapter, 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 this section. The Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

(2) The Commission, upon its own motion or upon request of the Governor of any State, may, after notifying the Governor, temporarily suspend all or part of its agreement with the State without notice or hearing if, in the judgment of the Commission:

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(A) an emergency situation exists with respect to any material covered by such an agreement creating danger which requires immediate action to protect the health or safety of persons either within or outside the State, and

(B) the State has failed to take steps necessary to contain or eliminate the cause of the danger within a reasonable time after the situation arose.

A temporary suspension under this paragraph shall remain in effect only for such time as the emergency situation exists and shall authorize the Commission to exercise its authority only to the extent necessary to contain or eliminate the danger.

(k) State regulation of activities for certain purposes

Nothing in this section shall be construed to affect the authority of any State or local agency to regulate activities for purposes other than protection against radiation hazards.

(l) Commission regulated activities; notice of filing; hearing

With respect to each application for Commission license authorizing an activity as to which the Commission's authority is continued pursuant to subsection (c) of this section, the Commission shall give prompt notice to the State or States in which the activity will be conducted of the filing of the license application; and shall afford reasonable opportunity for State representatives to offer evidence, interrogate witnesses, and advise the Commission as to the application without requiring such representatives to take a position for or against the granting of the application.

(m) Limitation of agreements and exemptions

No agreement entered into under subsection (b) of this section, and no exemption granted pursuant to subsection (f) of this section, shall affect the authority of the Commission under section 2201(b) or (i) of this title 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. For purposes of section 2201(i) of this title, activities covered by exemptions granted pursuant to subsection (f) of this section shall be deemed to constitute activities authorized pursuant to this chapter; and special nuclear material acquired by any person pursuant to such an exemption shall be deemed to have been acquired pursuant to section 2073 of this title.

(n) "State" and "agreement" defined

As used in this section, the term "State" means any State, Territory, or possession of the United States, the Canal Zone, Puerto Rico,

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means any State, Territo-  
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and the District of Columbia. As used in this section, the term  
"agreement" includes any amendment to any agreement.

(o) State compliance requirements; compliance with section  
2113(b) of this title and health and environmental protection  
standards; procedures for licenses, rulemaking, and license  
impact analysis; amendment of agreements for transfer of  
State collected funds; proceedings duplication restriction; al-  
ternative requirements

In the licensing and regulation of byproduct material, as defined in  
section 2014(e)(2) of this title, or of any activity which results in the  
production of byproduct material as so defined under an agreement  
entered into pursuant to subsection (b) of this section, a State shall  
require—

(1) compliance with the requirements of subsection (b) of  
section 2113 of this title (respecting ownership of byproduct  
material and land), and

(2) compliance with standards which shall be adopted by the  
State for the protection of the public health, safety, and the  
environment from hazards associated with such material which  
are equivalent, to the extent practicable, or more stringent than,  
standards adopted and enforced by the Commission for the same  
purpose, including requirements and standards promulgated by  
the Commission and the Administrator of the Environmental  
Protection Agency pursuant to sections 2113, 2114, and 2022 of  
this title, and

(3) procedures which—

(A) in the case of licenses, provide procedures under State  
law which include—

(i) an opportunity, after public notice, for written  
comments and a public hearing, with a transcript,

(ii) an opportunity for cross examination, and

(iii) a written determination which is based upon  
findings included in such determination and upon the  
evidence presented during the public comment period  
and which is subject to judicial review;

(B) in the case of rulemaking, provide an opportunity for  
public participation through written comments or a public  
hearing and provide for judicial review of the rule;

(C) require for each license which has a significant im-  
pact on the human environment a written analysis (which  
shall be available to the public before the commencement of  
any such proceedings) of the impact of such license, includ-

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ing any activities conducted pursuant thereto, on the environment, which analysis shall include—

(i) an assessment of the radiological and nonradiological impacts to the public health of the activities to be conducted pursuant to such license;

(ii) an assessment of any impact on any waterway and groundwater resulting from such activities;

(iii) consideration of alternatives, including alternative sites and engineering methods, to the activities to be conducted pursuant to such license; and

(iv) consideration of the long-term impacts, including decommissioning, decontamination, and reclamation impacts, associated with activities to be conducted pursuant to such license, including the management of any byproduct material, as defined by section 2014(e)(2) of this title; and

(D) prohibit any major construction activity with respect to such material prior to complying with the provisions of subparagraph (C).

If any State under such agreement imposes upon any licensee any requirement for the payment of funds to such State for the reclamation or long-term maintenance and monitoring of such material, and if transfer to the United States of such material is required in accordance with section 2113(b) of this title, such agreement shall be amended by the Commission to provide that such State shall transfer to the United States upon termination of the license issued to such licensee the total amount collected by such State from such licensee for such purpose. If such payments are required, they must be sufficient to ensure compliance with the standards established by the Commission pursuant to section 2201(x) of this title. No State shall be required under paragraph (3) to conduct proceedings concerning any license or regulation which would duplicate proceedings conducted by the Commission. In adopting requirements pursuant to paragraph (2) of this subsection with respect to sites at which ores are processed primarily for their source material content or which are used for the disposal of byproduct material as defined in section 2014(e)(2) of this title, the State may adopt alternatives (including, where appropriate, site-specific alternatives) to the requirements adopted and enforced by the Commission for the same purpose if, after notice and opportunity for public hearing, the Commission determines that such alternatives will achieve a level of stabilization and containment of the sites concerned, and a level of protection for public health, safety, and the environ-

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ment from radiologic with such sites, which or more stringent th: standards and require mission for the same p ed by the Administrat in accordance with s State requirements r conditions, including meteorology.

(Aug. 1, 1946, c. 724, Title I, § 1, 73 Stat. 688, and amend Dec. 2, 1970, 35 F.R. 15623, Title II, § 204(a)-(e)(1), (f), 96-295, Title II, § 205, 94 Sta Stat. 2078; renumbered Title Title IX, § 902(a)(6), (8), 106

## HISTORICA

Revision Notes and Legislative  
1959 Acts Senate Report No. ,  
1959 U.S. Code Cong. and Adm. I  
2872.

1978 Acts House Report  
95-1480(Parts I and II), see 19  
Code Cong. and Adm. News, p

1980 Acts Senate Report No.  
and House Conference Repo  
96-1070, see 1980 U.S. Code Co  
Adm. News, p. 2216.

1983 Acts Senate Report No.  
and House Conference Repo  
97-884, see 1982 U.S. Code Cor  
Adm. News, p. 3592.

1992 Acts House Report  
102-474(Parts I-DX), House Con  
Report No. 102-1018, and States  
President, see 1992 U.S. Code Cor  
Adm. News, p. 1953.

## Codifications

In subsec. (h) of this section, pro for the establishment of a Federal tion Council and for the designatio Chairman and members have beer ted and the Administrator of the E mental Protection Agency has beer stituted for the Council as the charged with the responsibility of ing out the functions of the Couns vant to Reorg. Plan No. 3 of §§ 2(a)(7), 6(2), eff. Dec. 2, 1970, 3 15623, 84 Stat. 2086, set out in App I to Title 5, Government Organi

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ment from radiological and nonradiological hazards associated with such sites, which is equivalent to, to the extent practicable, or more stringent than the level which would be achieved by standards and requirements adopted and enforced by the Commission for the same purpose and any final standards promulgated by the Administrator of the Environmental Protection Agency in accordance with section 2022 of this title. Such alternative State requirements may take into account local or regional conditions, including geology, topography, hydrology and meteorology.

(Aug. 1, 1946, c. 724, Title I, § 274, as added Sept. 23, 1959, Pub.L. 86-373, § 1, 73 Stat. 688, and amended 1970 Reorg. Plan No. 3, §§ 2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086; Nov. 8, 1978, Pub.L. 95-604, Title II, § 204(a)-(c)(1), (f), 92 Stat. 3036-3038; June 30, 1980, Pub.L. 96-295, Title II, § 205, 94 Stat. 787; Jan. 4, 1983, Pub.L. 97-415, § 19(a), 96 Stat. 2078; renumbered Title I and amended Oct. 24, 1992, Pub.L. 102-486, Title IX, § 902(a)(6), (8), 106 Stat. 2944.)

HISTORICAL AND STATUTORY NOTES

Revision Notes and Legislative Reports  
1959 Acts Senate Report No. 870, see 1959 U.S. Code Cong. and Adm. News, p. 2872.

1978 Acts House Report No. 95-1480(Parts I and II), see 1978 U.S. Code Cong. and Adm. News, p. 7433.

1980 Acts Senate Report No. 96-176 and House Conference Report No. 96-1070, see 1980 U.S. Code Cong. and Adm. News, p. 2216.

1983 Acts. Senate Report No. 97-113 and House Conference Report No. 97-884, see 1982 U.S. Code Cong. and Adm. News, p. 3592.

1992 Acts. House Report No. 102-474(Parts I-IX), House Conference Report No. 102-1018, and Statement by President, see 1992 U.S. Code Cong. and Adm. News, p. 1953.

Codifications

In subsec. (h) of this section, provisions for the establishment of a Federal Radiation Council and for the designation of its Chairman and members have been omitted and the Administrator of the Environmental Protection Agency has been substituted for the Council as the person charged with the responsibility of carrying out the functions of the Council pursuant to Reorg. Plan No 3 of 1970, §§ 2(a)(7), 6(2), eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086, set out in Appendix I to Title 5, Government Organization

and Employees, which abolished the Federal Radiation Council and transferred its functions to the Administrator of the Environmental Protection Administration.

Amendments

1992 Amendments. Subsec. (c)(1). Pub.L. 102-486, § 902(a)(6), inserted "or any uranium enrichment facility" after "utilization facility".

1983 Amendments. Subsec. (o). Pub.L. 97-415 added provisions relating to the adoption of equivalent alternative requirements by the States.

1980 Amendments Subsec. (j). Pub.L. 96-295 designated existing provisions as par. (1) and added par. (2).

1978 Amendments. Subsec. (b)(1) to (4). Pub.L. 95-604, § 204(a), inserted in par. (1) "as defined in section 2014(e)(1) of this title" following "byproduct materials", added par. (2), and renumbered as pars. (3) and (4) prior pars (2) and (3).

Subsec. (c). Pub L. 95-604, § 204(f), required the Commission to retain authority under the agreement to make a determination that all applicable standards and requirements have been met prior to termination of a license for byproduct material as defined in section 2014(e)(2) of this title.

Subsec. (d)(2). Pub L. 95-604, § 204(b), inserted "in accordance with the requirements of subsection (o) of this

CERTIFICATION

I, Gregg F. Wright, M.D., M.Ed., certify that I am the Director of Health and in that capacity am custodian of the records of the Department of Health and further certify that the attached is a true and correct copy of the original of a public document on file in the offices of the Department of Health of the State of Nebraska.



GREGG F. WRIGHT, M.D., M.Ed.  
DIRECTOR OF HEALTH  
DEPARTMENT OF HEALTH  
STATE OF NEBRASKA

Dated this 2<sup>nd</sup> day of September, 1988.

A handwritten signature in black ink, appearing to read "R. H. Beck", is written over a horizontal line.

Richard H. Beck, Deputy Director  
Authorized Representative

AGREEMENT  
BETWEEN THE  
UNITED STATES ATOMIC ENERGY COMMISSION  
AND THE  
STATE OF NEBRASKA  
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 Atomic Energy 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, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

WHEREAS, The Governor of the State of Nebraska is authorized, under Section 71-3509 of the 1963 Radiation Control Act, to enter into this Agreement with the Commission; and

WHEREAS, The Governor of the State of Nebraska certified on June 3, 1966, that the State of Nebraska (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 August 16, 1966, that the program of such 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 exemption 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, 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;
- 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.

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 161 b. or d. 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 this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that such termination or suspension is required to protect the public health and safety.

ARTICLE VIII

This agreement shall become effective on October 1, 1966, and shall  
be in effect unless, and until such time as it is terminated pursuant  
Article VII.

Done at Lincoln, State of Nebraska, in triplicate, this 29th day  
August, 1966.

FOR THE UNITED STATES ATOMIC ENERGY COMMISSION

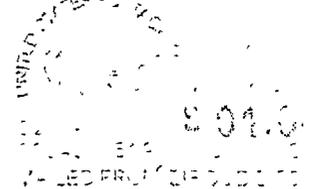
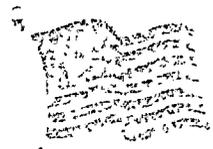
*James T. Ramey*  
JAMES T. RAMEY, COMMISSIONER

FOR THE STATE OF NEBRASKA

*Frank B. Morrison*  
FRANK B. MORRISON, GOVERNOR



*W. A. [unclear]*



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