

February 1, 1982



SECY-82-42

POLICY ISSUE
(Notation Vote)

For: The Commissioners

From: William J. Dircks
Executive Director for Operations

Subject: PROPOSED AMENDED AGREEMENT BETWEEN THE NRC AND
THE STATE OF TEXAS PURSUANT TO SECTION 274
OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

Purpose: To request Commission approval of the proposed
amendment to the existing section 274b Agreement
with the State of Texas.

Category: This paper covers a routine matter requiring
Commission consideration. Resource estimates contained
herein are detailed and do not require refinement.

Issue: Whether the State of Texas program for the control
of radiation hazards associated with uranium mills
and mill tailings is 1) adequate to protect the
public health and safety, 2) in accordance with the
requirements of section 274o. of the Atomic Energy
Act of 1954, as amended, and 3) in all other respects
compatible with the Commission's program for regulating
byproduct materials covered by the proposed amendment
so as to permit the continuation of regulatory
authority by the State.

Discussion: Under section 274b. of the Atomic Energy Act of
1954, as amended, the Commission is authorized to
enter into agreements with the Governor of any State
providing for the discontinuance of the regulatory

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authority of the Commission and the assumption of regulatory authority by the State. The Commission entered into such an agreement with the State of Texas on January 10, 1963. Under this agreement the State has regulated byproduct, source, and special nuclear material in quantities less than a critical mass, including byproduct material as defined in section 11e.(2) of the Atomic Energy Act of 1954, as amended (uranium mill tailings).

In a letter dated November 6, 1981, Governor William P. Clements, Jr. of the State of Texas requested that the Commission amend the existing 274b. Agreement to permit the State of Texas to continue to regulate byproduct material as defined in Section 11e.(2) of the Atomic Energy Act, as amended (uranium mill tailings), in conformance with the requirements of Section 274o. of the Atomic Energy Act, as amended. The Governor certified that the State of Texas has a program for control of radiation hazards which is adequate to protect the public health and safety with respect to uranium mill tailings, and that the State desires to continue regulatory responsibility.

The proposed amendment to the Agreement, Enclosure A, and the staff's assessment of Texas' radiation control program 1/ were published in the Federal Register once per week for four consecutive weeks, inviting public comment, 2/ as required by section 274e. of the Atomic Energy Act. A copy of the Federal Register Notice is attached as Enclosure B. Copies of the formal request for amendment from Governor Clements accompanied by a description of the State's radiation control program were placed in the NRC's public document room. A copy of the State's proposal is available in the Office of the Secretary.

- 1/ Public Law 97-88 (Stratton-Schmitt Amendment) now precludes the NRC from spending any funds to implement or enforce its mill tailings regulations during FY 1982 and from requiring any State to adopt comparable requirements in order for the State to continue to exercise authority under State law for uranium mill licensing. The staff's assessment of Texas' radiation control program was completed prior to the effective date of PL 97-88.
- 2/ 46 FR 60075-60079 (December 8, 1981); 46 FR 61187-61191 (December 11, 1981); 46 FR 62202-62206 (December 22, 1981); 46 FR 62983-62987 (December 29, 1981).

Two comments were received concerning the Texas proposal to amend its agreement with the Commission and continue regulatory authority over uranium mill tailings. They were submitted by the American Mining Congress (AMC) and by Covington & Burling, legal counsel representing various organizations in the uranium industry.

These comments have been filed with the Office of the Secretary. The comment from the American Mining Congress is similar to that previously submitted by AMC with respect to the Commission's assessment of a similar proposal from the State of Washington to amend its existing agreement (SECY-81-646). Covington & Burling provided comments similar to those submitted by Kerr-McGee with respect to Washington's proposal (SECY-81-646). ELD's analyses of the comments are attached as Enclosure C.

The staff has evaluated the State's proposed program and finds that it is in accordance with the requirements of section 274o. of the Atomic Energy Act of 1954, as amended, and the Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement (46 FR 7540), SECY-80-472.

The amended agreement has been modified to delete the following paragraph:

"Whereas, it is necessary to enter into this amendment in order to implement new requirements of Section 274 of the Act which become fully effective on November 8, 1981; and".

Public Law 97-88 ("the Stratton-Schmitt" amendment) makes it clear that such an amended agreement is not "necessary" for the State to continue to regulate uranium mill tailings after November 8, 1981. We have inserted in its place the following paragraph:

"Whereas, the Governor of the State has requested this amendment in accordance with Section 274 of the Act; and".

This action will not involve any new resource requirements.

Recommendation:

1. Find:

- a. that the State program is in accordance with the requirements of section 274o. of the Atomic Energy Act of 1954, as amended;
- b. that the State program is in all other respects compatible with the Commission's program for regulation of byproduct material as defined in section 11e.(2) of the Atomic Energy Act of 1954, as amended, (uranium mill tailings); and
- c. that the State program is adequate to protect the public health and safety with respect to the materials covered by the agreement as it is proposed to be amended.

2. Approve:

- a. the adoption of the proposed amendment to the agreement existing under the authority of section 274b. of the Atomic Energy Act of 1954, as amended, between the Commission and the State of Texas dated March 1, 1963.
- b. the publication of the amended agreement in the Federal Register within 30 days following its execution by the Chairman of the Commission and the Governor of the State of Texas.

3. Note:

- a. that the Governor of the State of Texas has certified to the Commission 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 amended agreement, and that the State desires to assume regulatory responsibility for such materials;

- b. that this action is not a major Commission action significantly affecting the quality of the human environment and that neither an environmental impact statement nor a negative declaration need be prepared in connection with this action;
- c. that the Subcommittee on Energy and the Environment of the House Committee on Interior and Insular Affairs, the Subcommittee on Energy Conservation and Power of the House Committee on Energy and Commerce, the Subcommittee on Environment, Energy and Natural Resources of the House Committee on Government Operations, and the Senate Committee on Environmental and Public Works will be informed.
- d. that a public announcement (Enclosure D) prepared by the Office of Public Affairs will be issued when the Federal Register Notice is filed with the Office of the Federal Register; and
- e. that a proposed letter has been prepared to inform Governor Clements of Commission approval of the proposed amended agreement (Enclosure E).

4. Schedule:

an open agenda session, if necessary.

While no specific circumstances require Commission action by a particular date, the Commission should be aware that this action is the result of a request from the Governor of Texas and, therefore, the staff believes a decision should be made expeditiously.

Commission action is requested within two weeks in order to provide a timely response to Governor Clements.



William J. Dircks
Executive Director for Operations

Enclosures:

- A. Proposed Agreement
- B. Federal Register Notice
with Staff Assessment
- C. Staff Analysis of Comments
- D. Proposed press release
- E. Proposed letter to Governor

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b Thursday, February 18, 1982.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT February 11, 1982, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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ENCLOSURE A

ENCLOSURE A

AMENDMENT TO
AGREEMENT BETWEEN THE
UNITED STATES NUCLEAR REGULATORY COMMISSION
AND THE
STATE OF TEXAS
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^{1/} (hereinafter referred to as the Commission) entered into an Agreement (hereinafter referred to as the Agreement of January 10, 1963) with the State of Texas under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), which Agreement became effective on March 1, 1963, and provided 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 section 11e.(1) 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 has requested this amendment in accordance with section 274 of the Act; and

WHEREAS, the Commission found on 1982, that the program of the State for the regulation of materials covered by this amendment is in accordance with the requirements of section 274o. of the Act and in all other respects compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

WHEREAS, this amendment 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 on behalf of the State, as follows:

^{1/} Under the provisions of the Energy Reorganization Act of 1974, the regulatory functions formerly carried out by the Atomic Energy Commission are now carried out by the Nuclear Regulatory Commission as of January 19, 1975.

Section 1. ARTICLE I of the Agreement of January 10, 1963, is amended by adding "as defined in section 11e.(1) of the Act;" after the words "byproduct materials" in paragraph A., by redesignating paragraphs B. and C. as paragraphs C. and D., and by inserting the following new paragraph immediately after paragraph A.:

"B. Byproduct materials as defined in section 11e.(2) of the Act;"

Section 2. ARTICLE II of the Agreement of January 10, 1963, is amended by inserting "A." before the words "This Agreement," by redesignating paragraphs A. through D. as subparagraphs 1. through 4., and by adding the following at the end thereof:

"B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct materials as defined in section 11e.(2) of the 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. 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 surface or subsurface estates, or both, of the land transferred to the United States or the State pursuant to subparagraph B.2.b. of this Article;

Enclosure A

"d. The authority to require the Secretary of the Department of Energy, or 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

"e. 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."

Section 3. ARTICLE III of the Agreement of January 10, 1963, is amended by inserting "otherwise licensable by the State under Article I of this Agreement" after the words "special nuclear material."

Section 4. ARTICLE VII of the Agreement of January 10, 1963, is amended by inserting "all or part of" after the words "terminate or suspend," by inserting "(1)" after the words "finds that," and by adding at the end before the period the following:

", 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 the provisions of section 274 of the Act."

Section 5. ARTICLE VIII of the Agreement of January 10, 1963, is amended by redesignating it Article IX and by inserting a new Article VIII as follows:

"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 of long term surveillance or 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

Enclosure A

"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."

This amendment shall become effective on _____, 1982.

Done at Austin, State of Texas, in triplicate, this _____ day of 1982.

FOR THE STATE OF TEXAS

William P. Clements, Jr., Governor

Done at Washington, District of Columbia, in triplicate, this _____ day of 1982.

FOR THE UNITED STATES NUCLEAR
REGULATORY COMMISSION

Nunzio J. Palladino, Chairman

Enclosure A

ENCLOSURE B

by 10 CFR 2.787(a) the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license amendment proceeding: Thomas S. Moore, Chairman, Dr. W. Reed Johnson, Dr. Reginald L. Gotchy.

Dated: December 1, 1981.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 81-35106 Filed 12-7-81; 8:45 am]

BILLING CODE 7590-01-M

State of Texas; Staff Assessment of Proposed Amended Agreement

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of proposed amended agreement with State of Texas.

SUMMARY: Notice is hereby given that the Nuclear Regulatory Commission is publishing for public comment a proposed amendment to the existing section 274b. agreement between NRC and the State of Texas which became effective March 1, 1983. The request dated November, 6, 1981 from Governor Clements of the State of Texas, if approved, would permit Texas to regulate byproduct material as defined in section 11e(2) of the Atomic Energy Act, as amended, (uranium mill tailings) in conformance with the requirements of section 2740. of the Atomic Energy Act of 1954, as amended.

A staff assessment of the State's proposed radiation control program to implement the amended agreement is set forth below as supplementary information to this notice. A copy of the complete program description submitted by Texas including a narrative describing the State's proposed program for control over byproduct materials as defined in section 11e.(2) of the Act, appropriate State legislation, and Texas regulations is available for public inspection in the Commission's public document room at 1717 H Street, NW, Washington, DC.

DATE: Comments must be received on or before January 7, 1982.

ADDRESS: All interested persons desiring to submit comments and suggestions for the consideration of the Commission in connection with the proposed amended agreement should send them to the Nuclear Regulatory Commission, Office of State Programs, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Craig Z. Gordon, Office of State Programs, Nuclear Regulatory

Commission, Washington, DC 20555, Phone: (301) 492-9886.

SUPPLEMENTARY INFORMATION: Assessment of Proposed Texas Program to Regulate Byproduct Material as Defined in section 11e.(2) of the Act, based on Criteria 29-36 of "Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreements," 44 FR 42818.

I. Introduction

The Uranium Mill Tailings Radiation Control Act of 1978 amended the requirements of section 274 of the Atomic Energy Act, "Cooperation With States" and imposed certain requirements that must be met by Agreement States in order to regulate uranium mill tailings after November 8, 1981. Governor William P. Clements, Jr. of the State of Texas has requested NRC to amend its agreement with NRC to permit continued State regulation of uranium mill tailings. His request was supported by a description of the State's program for control of uranium mills and mill tailings.

The State has 19 active licensees who process ore primarily for its source material content including two conventional uranium mills, 15 in-situ mining operations, and 2 smaller uranium recovery operations. Texas has also received four applications, one for a conventional mill and three for in-situ mining operations. No in-situ mining and recovery facility licensed by the State is authorized to establish a permanent tailings disposal area.

II. Assessment of Proposed State of Texas Radiation Control Program for Uranium Mills and Mill Tailings

1. Statutes

State statutes or duly promulgated regulations should be enacted, if not already in place, to make clear State authority to carry out the requirements of Pub. L. 95-604, Uranium Mill Tailings Radiation Control Act (UMTRCA).

In the enactment of any supporting legislation, the State should take into account the reservations of authority to the United States in UMTRCA as stated in 10 CFR 150.15a.

It is preferable that State statutes contain the provisions of section 6 of the Model Act,¹ but the provisions may be

¹ The reference is to the Model Uranium Mill Radiation Control Act, a copy of which has been placed in the Commission's Public Document Room. Section 6 of the Model Act requires that, among other things, statutory authority must be enacted to make clear State authority to carry out the requirements of the Uranium Mill Tailings Radiation Control Act (UMTRCA) of 1978, as amended. UMTRCA specifies that when States license an

accomplished by adoption of either procedures by regulation or technical criteria. In any case, authority for their implementation should be adequately supported by statute, regulation or case law as determined by the State Attorney General.

In the licensing and regulation of ores processed primarily for their source material content and for the disposal of byproduct material, procedures shall be established which provide a written analysis of the impact on the environment of the licensing activity. This analysis shall be available to the public before commencement of hearings and shall include:

- a. An assessment of the radiological and nonradiological public health impacts;
- b. An assessment of any impact on any body of water or groundwater;
- c. Consideration of alternatives to the licensed activities; and
- d. Consideration of long-term impacts of licensed activities.

The Texas Radiation Control Act, as amended by Senate Bills 480 and 735, includes the legislative provisions required by the UMTRCA of 1978 and provide satisfactory statutory authority for the State of Texas to implement the requirements of UMTRCA of 1978.

2. Regulations

State regulations should be reviewed for regulatory requirements, and where necessary, incorporate regulatory language which is equivalent, to the extent practicable, or more stringent than regulations and standards adopted and enforced by the Commission, as required by section 2740. (See 10 CFR Part 40, Appendix A and 10 CFR 150.31(b).)

On September 19, 1981, the Texas Board of Health adopted amendments to Parts 21, 41, and 43 of the *Texas Regulations for Control of Radiation* relating to the licensing and regulation of uranium mill tailings. Part 43 regulations address: bonding requirements, siting requirements, criteria for tailings management, dam stability analyses, inspection procedures, surety arrangements, requirements for site ownership, and criteria for decontamination, decommissioning, and reclamation of facilities following license expiration. The rules became effective on October 3, 1981. In the narrative section of the formal proposal, several statements

activity involving mill tailings, that has a significant impact on the human environment, they must prepare a written independent analysis of the impact of such license on the environment, including any activities conducted pursuant thereto.

describe how certain rules are to be implemented. It is the staff's opinion that these rules, in conjunction with the statements made in the narrative, are, to the maximum extent practicable, equivalent to the regulations promulgated and enforced by NRC.

3. Organizational Relationships Within the States

Organizational relationships should be established which will provide for an effective regulatory program for uranium mills and mill tailings.

a. Charts should be developed which show the management organization and lines of authority. This chart should define the specific lines of supervision from program management within the radiation control group and any other department within the State responsible for contributing to the regulation of uranium processing and disposal of tailings. When other State agencies or regional offices are utilized, the lines of communication and administrative control between other agencies and/or regions and the Program Director should be clearly drawn.

Organizational charts outlining the Texas Department of Health, the Bureau of Radiation Control (BRC), and divisions within the Bureau of Radiation Control have been included in the proposal. The BRC is organized into three operational divisions: The Division of Licensing, Registration, and Standards (LRS), the Division of Compliance and Inspection (CI), and the Division of Environmental Programs (EP). Each division is subdivided into Branch Offices. Regional office staff are included in the Division of Compliance and Inspection.

All other functions of the uranium mill regulatory program will be conducted by the Bureau's office located in Austin, Texas.

b. Those States that will utilize personnel from other State Departments or Federal agencies in preparing the environmental assessment should designate a lead agency for supervising and coordinating preparation of this environmental assessment. It is normally expected that the radiation control agency in Agreement States will be the lead agency. The basic premise is that the lead agency is required to prepare the environmental assessment.

The Uranium Program within the Industrial Operations Branch, Division of LRS, is responsible for the evaluation of all applications for uranium recovery facility licenses received by the Bureau. Included are the preparation of the in-plant safety analysis reports and licensing documents.

The Standards Branch is responsible for developing and coordinating adoption of rules, regulatory guides, and license application guides related to uranium recovery facilities. This Branch also works with the Legal Division in coordinating all public notices and public hearings.

It is not anticipated that staff from other State agencies will be directly utilized in the preparation of environmental assessments nor in the licensing and inspection of uranium recovery facilities. However, three State agencies do work closely with the Bureau of Radiation Control by providing reference materials, and supplying review and comments on the applicant's environmental report, and the environmental assessment. These are the Texas Air Control Board (emission of non-radioactive pollutants into air), the Texas Department of Water Resources (emission of non-radioactive pollutants into water, aquifers, and wells used for in situ mining), and the Texas Railroad Commission (regulation of open pit mining and uranium exploration).

c. When a lead agency is designated, that agency should coordinate preparation of the statement. The other agencies involved should provide assistance with respect to their areas of jurisdiction and expertise. Factors relevant in obtaining assistance from other agencies include the applicable statutory authority, the time sequence in which the agencies become involved, the magnitude of their involvement, and relative expertise with respect to the project's environmental effects.

The Texas Department of Health is the agency which will prepare the environmental assessment. The Environmental Assessment Branch is responsible for the evaluation, analysis, coordination, and preparation of environmental assessments issued by the Bureau of Radiation Control. This Branch has persons with expertise in geology, hydrology, soil mechanics, meteorology, zoology, botany, computer science, chemistry, physics, radiation protection and dose assessment. This Environmental Assessment Branch's effort may be augmented with other Bureau personnel on a case-by-case basis, if needed.

In preparing the environmental assessment, the Division of Environmental Programs will conduct site visits, evaluate computer analyses, perform literature reviews, coordinate laboratory analysis of environmental samples, and perform field evaluations. A draft environmental assessment is prepared.

Similarly, the Division of Compliance and Inspection furnishes the Division of Licensing, Registration, and Standards with recommendations concerning potential problem areas within the proposed facility. After the LRS considers all recommendations, an independent safety evaluation report is prepared. Following completion of the draft environmental assessment and the draft in-plant analysis, both documents are reviewed internally by Bureau Staff and the Legal Division taking into account comments, information, and data received from other State agencies. Final documents are then prepared. A flowchart has also been included in the proposal which describes coordination with the Department for processing uranium mill license applications.

d. For those areas in the environmental assessment where the State cannot identify a State agency having sufficient expertise to adequately evaluate the proposal or prepare an assessment, the State should have provisions for obtaining outside consulting services.

Due to the establishment of adequate expertise and resources in the Bureau of Radiation Control, it is not anticipated the Bureau will need consultants. However, monies are available for consultants if they are needed for evaluating any particular site or project.

Medical consultants recognized for their expertise in emergency medical matters relating to the intake of uranium and its diagnosis thereof associated with uranium mining and milling, should be identified and available to the State for advice and direct assistance.

Physician members of the Radiation Advisory Board serve as medical consultants to provide advice and direct assistance in emergency medical matters relating to radiation exposure including uranium intake.

4. Personnel

Personnel needed in the processing of the license applications can be identified or grouped according to the following skills: Technical, Administrative, and Support.

In order to meet the requirements of UMTRCA, current indications are that 2-2.75 total professional person-years' effort is necessary to process and evaluate a new conventional mill license, in-situ license, or major license renewal. A complete review of in-plant safety, production of the environmental assessment, and consultant use are primary considerations in the total professional effort for each licensing case. With respect to clerical support, one secretary is required to process two

conventional milling applications, including the pre-licensing and post-licensing phases. Legal support is also an essential element of the mill program, and the effort is set at a minimum of 1/2 staff-year. In addition, consideration must be given to such post-licensing activities as issuance of minor amendments, mill inspections, and environmental monitoring. Professional staff effort is estimated at 0.5-1.0 person-years for each year of post-licensing activities.

a. We estimate the total professional and technical staff-years effort within the Bureau of Radiation Control directly responsible for regulation of uranium mills and mill tailings to be equivalent to 27 full-time staff members. A breakdown of professional personnel in each of the three Divisions has been provided along with job descriptions and duties for each position (including vacancies). Resumes describing the education, training, and experience of individual staff members were also submitted.

Details of staffing levels in each of the Bureau's three divisions are as follows:

(1) Division of Licensing, Registration and Standards. The organization of the Division of Licensing, Registration, and Standards, and the personnel assigned to each section within the division have been identified. Seven of eight professional positions having full-time or part-time responsibilities for regulation of uranium mills have been filled. These include two in the Industrial Operations Branch, two in the Uranium Program, one authorized but vacant position in the low-level waste program, and three in the Standards Branch.

(2) Division of Compliance and Inspection. The Division of Compliance and Inspection is organized into three Inspection and Enforcement Branches: Radioactive Materials, X-Ray/non-ionizing radiation, and Emergency Response. The Uranium Inspection Program and the Regional Inspection Programs are the two programs within the Radioactive Materials Inspection and Enforcement Branch responsible for conducting inspections at uranium mills. Currently, there are nine professional full-time staff members assigned to perform uranium mill compliance functions. The three members from the Uranium Inspection Program are responsible for performing on-site inspections. Inspectors from the Regional Inspection Program who are assigned to the regions in which certain uranium recovery facilities are located assist the three members during inspections of tailings areas and the environment. Also included in the uranium mill compliance program are

three staff members from the Emergency Response Branch, an Administrator, and a Division Director.

(3) Division of Environmental Programs. Two branches in the Division of Environmental Programs are directly responsible for environmental monitoring and sampling at uranium mills. The Facility Surveillance Branch is responsible for implementation of the environmental surveillance program around milling facilities. There are three qualified staff members in this Branch. The basic functions of the Environmental Assessment Branch is to coordinate and prepare the environmental assessment. Personnel in this Branch have expertise in the areas of geology, hydrology, soil mechanics, meteorology, computer science, radiation health, and dose assessments. A breakdown by program and associated personnel directly involved in preparation of an environmental assessment are: the Ecological Evaluations Program (3 members), the Hydrological and Geotechnical Program (2 members), and the Engineering Program (3 members). Directly supporting the Bureau and coordinating with the Division of Environmental Programs is the Bureau of Laboratories which provides five full-time environmental chemists (radiochemists) to process environmental samples.

b. *Legal, Clerical, and Secretarial Support.* Three full-time attorneys and two legal secretaries in the Environmental Law Branch of the Texas Department of Health's Legal Division are assigned to the Bureau of Radiation Control. They are responsible for providing legal assistance and advice on laws and regulations, issuance of public notices, and conducting public hearings.

c. *Administrative Support.* Senate Bills 480 and 375 established an 18-member Radiation Advisory Board whose members are appointed by the Governor. The Board acts in an oversight capacity to the Bureau to review and evaluate State policy relating to radiation sources. It also provides technical advice on matters related to regulation of sources of radiation. Within the Bureau, each division is staffed by at least one full-time individual who is responsible for administrative functions. In addition, programs in the Office of Information, Education, and Administration also provide administrative support to the Radiation Control Bureau in the following areas: public information, coordination of training for Bureau staff, maintaining license registration files, and procurement of equipment and supplies. Assisting the Bureau in maintaining the budget and in collection

of surety arrangements for uranium mills (required by regulation) is the Financial Analysis Program.

5. Functions to be Covered

The State should develop procedures for licensing, inspection, and preparation of environmental assessments.

Evaluation of an application for a uranium milling license is performed against appropriate State statutory and regulatory authority, and licensing guides. A list of NRC and State regulatory guides utilized in evaluating license applications has been furnished. The in-plant safety analysis and review of the applicant's environmental report are performed concurrently.

In regard to the in-plant safety review, the Compliance and Inspection Division conducts a preliminary evaluation of the applicant's proposed facility, equipment, administrative procedures, radiation safety program, environmental monitoring program, and emergency procedures. Findings are then forwarded to the Division of Licensing, Registration and Standards for consideration in the safety analysis report.

A procedural flow diagram for processing the environmental report including interdivision coordination has been furnished. If the findings of the preliminary review are adequate, copies of the report are forwarded to outside State agencies for review and comment. At the same time, the Division of Environmental Programs initiates preparation of the environmental assessment pursuant to the requirements of UMTRCA and State regulation utilizing appropriate licensing guides.

Inspections of all byproduct material licensees are conducted by Texas in accordance with general inspection procedures. These procedures, which are common to all routine inspections, have been supplemented by instructions specific to inspections at mills.

Compliance and Inspection Division policy is to perform unannounced inspections. The functions of all State inspectors are to prepare for inspections, conduct on-site inspections, prepare a written report of the inspection, prepare enforcement letters, and review corrective actions. For uranium mill compliance functions, inspectors assigned to the uranium inspection program, in cooperation with regional inspectors, are required to review and evaluate all aspects of mill operations and tailings control. During these inspections, personnel utilize standard inspection forms supplemented by NRC inspection guides. Copies of

forms and guides have been furnished with the proposal. The frequency for conducting on-site uranium mill inspections is on an annual basis.

An environmental sampling program which includes obtaining samples of groundwater, surface water, vegetation, soil, air, and processing of thermoluminescent dosimeters (TLD) is also conducted by the uranium mill inspectors on a quarter basis. Results of inspection findings are submitted to the supervisory staff for appropriate technical consultation and review.

Section 274o (3)(c) of the Atomic Energy Act requires the State to prepare a written analysis of the impact on the environment with respect to uranium mill tailings from proposed operations. Sections 4 and 11A. of the Texas Radiation Control Act, as amended, indicate that the Texas Radiation Control Agency will act as lead agency to independently prepare the environmental impact statement (EIS). Procedural requirements specific to preparing, coordination, organizing, and completing the EIS and issuance of specific licenses for uranium milling operations are contained either in the Act or recently adopted Part 43 of the Texas regulations.

As a supplement to the reporting requirements required by regulations or license conditions, the State should require the licensee to submit in writing on a semi-annual schedule reports specifying the quantity of each of the principal radionuclides released to unrestricted areas in liquid and gaseous effluents from all pathways during the previous six months of operations. This data shall be reported in a manner that will permit the regulatory agency to confirm annual radiation doses to nearest individuals are within the requirements of 40 CFR Part 190, "Environmental Radiation Protection Standards for Nuclear Power Operations."

As previously noted, the Facility Surveillance Branch is responsible for designing and implementing a routine environmental surveillance program around each uranium recovery facility and conducting any special environmental surveillance project that may be needed. This Branch is also responsible for the operation of an environmental TLD monitoring system and verification of the licensee's environmental monitoring data. Dose assessments have been made at both conventional mills through utilization of computer models. The State's confirmation of radiation doses to nearest receptors from the conventional mills are determined to be within the limits of 40 CFR Part 190. Due to the

absence of yellowcake dryer circuits, environmental doses may be considered to be negligible from in-situ uranium recovery operations.

6. Instrumentation

The State should have available both field and laboratory instrumentation sufficient to ensure the licensee's control of materials and to validate the licensee's measurements.

The Bureau of Radiation Control has utilized a portion of funds authorized under its UMTRCA grant to purchase field equipment for monitoring and surveillance purposes. The list submitted in the proposal shows radiation detection instruments and environmental sampling capability of equipment available at the Bureau's headquarters and regional offices. A separate list of instruments each inspector uses in the field to conduct radiation surveys for identification of alpha, beta and gamma emitting isotopes, and equipment for sampling environmental media in and around milling facilities has also been included. Essential equipment has been duplicated and ensures full-time availability of appropriate instrumentation and equipment for inspection purposes. Detection capabilities of equipment include identification and analysis of alpha, beta and gamma emitters in the uranium decay chain (including Pb-210, Rn-222, RA-226, Th-230, and U-238) in solids, liquids, and gases. Commonly analyzed sample media includes smear samples, soil, water, vegetation, milk, and filter media.

All radiation instrumentation is calibrated within the Bureau according to written procedures. Standard radiation sources traceable to the U.S. National Bureau of Standards are used for calibration. In addition to internal quality control/quality assurance procedures, the Bureau of Laboratories also participates in the U.N. Environmental Protection Agency's Inter-Laboratory Quality Assurance Program.

Supplementing the radiochemical analyses, the Bureau of Laboratories can also provide standard chemical analysis for trace elements, inorganics, organics, etc. As the primary laboratory for water analysis under contract from the Texas Department of Water Resources, the Bureau of Laboratories conducts analyses of all water samples for the State required under U.S. Environmental Protection Agency regulations.

7. Conclusion

Based upon the foregoing, the NRC staff concludes that the State of Texas

has met the criteria for an amended agreement.

III. Amendment to Agreement Between the United States Nuclear Regulatory Commission and the State of Texas 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 Commission¹ (hereinafter referred to as the Commission) entered into an Agreement (hereinafter referred to as the Agreement of January 10, 1963) with the State of Texas under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), which Agreement became effective on March 1, 1963, and provided 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 section 11e.(1) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, it is necessary to enter into this amendment in order to implement new requirements of section 274 of the Act which become fully effective on November 8, 1981; and

Whereas, the Commission found on that the program of the State for the regulation of materials covered by this amendment is in accordance with the requirements of section 274o. of the Act and in all other respects compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, this amendment 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 on behalf of the State, as follows:

Section 1. Article I of the Agreement of January 10, 1963, is amended by adding "as defined in section 11e.(1) of the Act;" after the words "byproduct materials" in paragraph A., by redesignating paragraphs B. and C. as paragraphs C. and D., and by inserting the following new paragraph immediately after paragraph A.:

"B. Byproduct materials as defined in section 11e.(2) of the Act."

Section 2. Article II of the Agreement of January 10, 1963, is amended by inserting "A." before the words "This Agreement," by redesignating paragraphs A. through D. as subparagraphs 1. through 4., and by adding the following at the end thereof:

"B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct materials as defined in section 11e.(2) of the Act:

"1. Prior to the termination of a State license for such byproduct material, or for

¹ Under the provisions of the Energy Reorganization Act of 1974, the regulatory functions formerly carried out by the Atomic Energy Commission are not carried out by the Nuclear Regulatory Commission as of January 19, 1975.

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. 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 surface or subsurface estates, or both, of the land transferred to the United States or the State pursuant to subparagraph B.2.b. of this Article;

"d. 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

"e. 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."

Section 3. Article III of the Agreement of January 10, 1963, is amended by inserting "otherwise licensable by the State under Article I of this Agreement" after the words "special nuclear material."

Section 4. Article VII of the Agreement of January 10, 1963, is amended by inserting "all or part of" after the words "terminate or suspend," by inserting "(1)" after the words "finds that," and by adding at the end before the period the following:

" , 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 the provisions of section 274 of the Act."

Section 5. Article VIII of the Agreement of January 10, 1963, is amended by redesignating it Article IX and by inserting a new Article VIII as follows:

"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 of long term surveillance or 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."

This amendment shall become effective on

Done at Austin, State of Texas, in triplicate, this day of 1981
For the State of Texas.

William P. Clements, Jr.,
Governor.

Done at Washington, District of Columbia, in triplicate, this day of 1981
For the United States Nuclear Regulatory Commission.

Nunzio J. Palladino,
Chairman.

Dated at Bethesda, Maryland, this 2nd day of December, 1981.

For the United States Nuclear Regulatory Commission.

G. Wayne Kerr,
Director, Office of State Programs.

(FR Doc. 81-35079 Filed 12-7-81; 8:45 am)
BILLING CODE 7590-01-M

POSTAL SERVICE

Change in Mail Classification Schedule Attached Mail

On February 5, 1981, the Postal Rate Commission instituted a proceeding to evaluate whether separate rates and classifications should be established for mail of one class attached to mail of another class. On July 6, 1981, the Postal Service filed a request with the Postal Rate Commission for a recommended decision on changes in rates of postage for attached mail, pursuant to Chapter 38 of Title 39, United States Code. The Postal Rate Commission combined the

two proceedings, docketed as Postal Rate Commission Docket Nos. MC81-2, R81-1. Notice of this action was published in the Federal Register by the Postal Rate Commission on July 20, 1981 (46 FR 37412).

On October 2, 1981, the parties to the combined proceeding entered into a Stipulation for Compromise Settlement, and filed it with the Commission in settlement of certain issues in the combined proceeding. The compromise settlement provides that incidental pieces of First-Class Mail may be attached to or enclosed with second-class mail, third-class merchandise (including books but excluding merchandise samples), and fourth-class mail, with postage paid on the combined piece at the applicable rate of the host piece. Currently, although an incidental attached piece of First-Class Mail travels as part of the host piece, the mailer pays not only the rate applicable for the host piece, but also the applicable First-Class rate if the attached piece had been mailed separately.

On November 20, 1981, the Postal Rate Commission issued an Opinion and Recommended Decision concerning the stipulated proposal for attached mail. The Commission recommended that the Governors adopt the revisions to the Domestic Mail Classification Schedule (DMCS) contained in the Stipulation for Compromise Settlement. On December 2, 1981, the Governors, pursuant to 39 U.S.C. 3625, approved the Commission's Recommended Decision and ordered the recommended changes in the DMCS into effect on a permanent basis. The Board of Governors concurrently determined that those changes would become effective at 12:01 a.m. on December 6, 1981. (The Governors' decision, the record of the Commission's proceedings, and the Commission's Recommended Decision may be purchased from the Superintendent's of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The Governors' decision and the Commission's Opinion and Recommended Decision are available for inspection in the Library at Headquarters, United States Postal Service, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260.)

In accordance with these actions by the Governors and the Board of Governors, the Postal Service hereby gives notice that the following changes to the mail classification schedule become effective at 12:01 a.m., December 6, 1981.

ENCLOSURE B

ENCLOSURE C

ENCLOSURE C

ANALYSIS OF COMMENTS ON THE
TEXAS PROPOSED AMENDMENT

I. American Mining Congress

- A. The American Mining Congress (AMC) objects to the Commission's "heavy handed approach" and its "attempting to usurp the power of Agreement States to consider the practicability of NRC requirements and to adopt regulations appropriate within the States in question."

The Commission has clearly communicated to Texas what features of a State program would be necessary to support the statutorily required finding that the State program includes standards equivalent, to the extent practicable, to those of the Commission. It is clear from sections 274d. and 274o. of the Atomic Energy Act of 1954, as amended, that the determinations of equivalence and practicability are to be made by the Commission. Finally on this point, it should be noted that the State requested the proposed amendment. It was under no obligation or compulsion to do so. This is evidenced by the fact that two other Agreement States with present or potential milling activities (Arizona and California) have not requested amendments to provide this regulatory authority. There is no merit to the charge that the Commission has exercised some power reserved by law to the States.

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- B. AMC objects to the reservation of authority to the Commission in Section 2, Article II of the Agreement.

This reservation is entirely consistent with the mandate of Sections 274c.(4) of the Atomic Energy Act, as amended. This section provides that

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 11e.(2).

- C. AMC objects to the State's proposed use of Commission Regulatory Guides in that they elevate the guides to the status of rules.

The purpose of Regulatory Guides is to identify criteria, suggest methods, and provide instructive guidance considered acceptable by the regulatory personnel during development, implementation, and maintenance of a radiation control program. In its own program, the Commission does not view regulatory guides as enforceable standards. Whether or not a State uses NRC regulatory guides merely as guidance or as requirements, their use is compatible with the Commission program. If the State does use the regulatory guides as enforceable standards

Enclosure C

within the framework of the State program, such use is obviously equivalent to and probably more stringent than the standards employed by the Commission.

The State's use of NRC regulatory guides therefore satisfies the tests of Section 274o of the Atomic Energy Act, as amended.

II. Covington & Burling

- A. Covington & Burling contend that the Commission's position that Agreement State programs automatically terminate on November 8, 1981 is incorrect and that Section 274j. of the Atomic Energy Act requires notice and a hearing prior to such termination.

The Covington & Burling position seems to ignore the enactment of the Surface Transportation Assistance Act Amendments of 1978. Pub. L. 96-106. This Act amended UMTRCA to provide that where a State assumes or has assumed, pursuant to a Section 274b. agreement with the Commission, authority over any activity which results in the production of uranium or thorium tailings, the Commission shall not have licensing

Enclosure C

authority over such byproduct material until three years after the enactment of the Act, (i.e., not until November 8, 1981). If at the end of the three year period (on November 8, 1981) a State has not entered into an agreement with respect to uranium or thorium tailings, the Commission shall have authority over such byproduct material.

In 125 Cong. Rec. S. 15,005 (October 24, 1979), there is no mention of any formal hearing as a prerequisite to termination of a State's authority to regulate tailings. Furthermore, an April 26, 1979 letter from Chairmen of six Congressional Oversight Committees to Chairman Hendrie, it is stated that

The Congress did not intend for NRC to immediately exercise licensing authority within Agreement States which were exercising authority over uranium milling operations or mill tailings on the date of enactment. At the expiration of the three year interim period, however, NRC would exercise its authority in any State which did not then have in effect a licensing program satisfying all of the applicable new standards and requirements.

125 Cong. Rec. S. 15,005 (October 24, 1979).

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A bill reported by the House Committee on Interior and Insular Affairs included language which specifically directed the Commission to review each agreement and to exercise the termination authority of Section 274j.(2) if the agreement did not comply with the requirements of Section 274. H. Rep. 95-1480, Part I, 95th Cong. 2d. Sess. 2, (1978). This provision was not included in the enacted bill. Its absence lends support to the theory that Congress did not intend to require the procedures of Section 274j. regarding this issue.^{1/}

- B. Covington & Burling contends that the Commission's reservations of authority in the proposed amendment are contrary to law.

See discussion of this objection above in Section I under American Mining Congress, Item B.

- C. Covington & Burling contends NRC employed improper criteria in evaluating Texas' programs as alleged in current litigation, and the criteria should not be used as a benchmark for evaluating State mill tailings programs. A further contention is that

^{1/} Note that the Stratton-Schmitt Amendment permits the Agreement States to continue to regulate uranium mill tailings until September 30, 1982.

the staff evaluation was conducted pursuant to a "statement of policy" published by the Commission without notice and comment at 46 FR 7540, January 23, 1981. It is indicated that the statement of policy was unlawfully issued and substantively deficient.

We disagree with the comment due to the fact that general statements of policy are exempt from the notice and comment requirements of the Administrative Procedures Act (APA) for proposed rules by virtue of Section 553(b)(A) of the APA. The U.S. Court of Appeals for the District of Columbia Circuit has recently reiterated the distinction between a rule as defined in Section 551(4) of the Act and a general statement of policy in American Bus Association v. United States, 627 F. 2d 525 (D.C. Cir. 1980). In general, a pronouncement is a policy statement and therefore not subject to notice and opportunity for comment if it acts prospectively and leaves the agency and its decisionmakers free to exercise discretion. The subject policy statement clearly meets these criteria. On its face, the policy statement notes that "[T]hese criteria are intended to indicate factors which the Commission intends to consider in approving new or amended [State] agreements. They are not intended to limit Commission discretion in viewing individual

Enclosure C

agreement or amendments."^{1/} In addition, examination of the language of the specific criteria singled out^{2/} clearly shows that the policy statement does not purport to impose binding requirements on the States but, instead, merely makes recommendations. Hence, the policy statement acts prospectively and clearly leaves the Commission free to exercise its judgment in deciding whether to approve new or amended State agreements.

In addition, the arguments asserted in support of this position have all been made in the context of the suit challenging the regulations. The suggestion that the use of these regulations prior to decision in that suit is improper flies in the face of the widely accepted presumption that official acts and proceedings have been regularly and lawfully performed until determined to be otherwise. Thompson v. Consolidated Gas Utilities Corp., 300 U.S. 55 (1937).

- D. Covington & Burling contends the State regulations were improperly adopted under duress.

^{1/} 46 FR 7540, January 23, 1981, Supplementary Information, Paragraph 1.
^{2/} Criteria 29, 30, 32, 34, 35, 36.

As noted above, the proposed amendment was requested by the State. Texas could have declined the opportunity to continue its regulation of mill tailing activities, as in the case of the States of Arizona and California.

ENCLOSURE D

ENCLOSURE D

NRC APPROVES TEXAS AMENDED AGREEMENT
TO CONTINUE REGULATION OF URANIUM MILL TAILINGS

The Nuclear Regulatory Commission has approved an amended agreement with the State of Texas to permit the State to continue regulation of uranium mill tailings.

The amended agreement has been signed by Chairman Nunzio J. Palladino and Governor William P. Clements, Jr.

Under the amended agreement, the responsibility for licensing, rule making, inspection, and enforcement concerning the regulation of uranium mill tailings will continue in Texas. The Bureau of Radiation Control of the Texas Department of Health will administer the regulatory program. Currently, there are two conventional uranium mills and eighteen uranium solution mining facilities licensed for operation in the State.

Under an agreement that became effective March 1, 1963, NRC relinquished to Texas the licensing and other regulatory responsibility for most users of byproduct materials, the source materials uranium and thorium, and small quantities of fissionable materials. In 1978, Congress enacted the Uranium Mill Tailings Radiation Control Act (UMTRCA), which imposed certain requirements upon Agreement States wishing to continue to regulate uranium mill tailings (the waste product of uranium ore processing).

The Commission found the radiation control program proposed by Texas to be compatible with the NRC program and adequate to protect the public health and safety. The amended agreement has been published for comment in the Federal Register once each week for four consecutive weeks beginning December 8, 1981.

Texas becomes the third State to amend its existing agreement with the NRC.

Enclosure D

ENCLOSURE E

ENCLOSURE E

The Honorable William P. Clements, Jr.
Governor of Texas
Austin, Texas 78711

Dear Governor Clements:

I am pleased to inform you that the Nuclear Regulatory Commission has approved your proposed amended agreement in accordance with Section 274 of the Atomic Energy Act of 1954, as amended, under which the State of Texas will continue regulatory authority over byproduct material as defined in Section 11e.(2) of the Act (uranium mill tailings).

Enclosed are three copies of the amended agreement for your signature of which two signed copies are to be returned to the Commission and the third retained by the State. Please note that the amended agreement will become effective with your signature. On page 5, third paragraph, "This amendment shall become effective on _____, 1982." and "Done at Austin, State of Texas in triplicate, this _____ day of _____, 1982.", please insert the appropriate dates.

On behalf of the Commission, I congratulate you, your staff, and the State of Texas in successfully obtaining an amended agreement.

Sincerely,

Nunzio J. Palladino
Chairman

Enclosure:
Amended Agreement (3 copies)

Enclosure E