

4/17/67

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
UNITED STATES ATOMIC ENERGY COMMISSION
AND THE
STATE OF LOUISIANA

The State of Louisiana ("State") and the United States Atomic Energy Commission ("Commission") have this date entered into an "Agreement between the United States Atomic Energy Commission and the State of Louisiana 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" ("274 b. Agreement"), the effective date of which is May 1, 1967.

An area of submerged land off the coast of the State is currently in dispute between the State and the United States in a cause pending before the United States Supreme Court, styled United States of America v. State of Louisiana, et al., No. 9 Original ("pending litigation").

This Memorandum of Understanding between the State and the Commission is made solely to facilitate the parties' administration of the 274 b. Agreement in view of, but without prejudice to, the pending litigation.

It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State as follows:

FIRST: The State shall not license or regulate, on its own behalf, those materials subject to the 274 b. Agreement ("agreement

materials") and located in the disputed area or seaward thereof which (a) are in the possession of non-citizens of the State or (b) are on or in the seabed or structures affixed thereto.

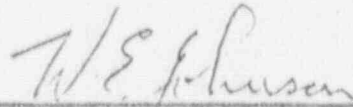
SECOND: The Commission acknowledges its present practice of regarding possession and use of agreement materials on the high seas by the citizens of littoral States which have entered into agreements with the Commission pursuant to Section 274 b. of the Atomic Energy Act of 1954, as amended, as properly subject to the regulatory authority assumed by such States pursuant to such agreements; provided, however, that nothing herein shall in any way be construed to affect or limit the right of the Commission to alter or amend such practice at any time. Should the Commission decide to eliminate or alter or amend such practice, it will consult with the State before taking action to implement such decision offshore of the State.

THIRD: Nothing herein nor in the 274 b. Agreement nor any action or abstention taken pursuant to either document shall in any manner affect, or be alleged to affect, the position of either party in the pending litigation.

FOURTH: This Memorandum of Understanding shall become effective on May 1, 1967, and shall remain in effect so long as the 274 b. Agreement remains in effect, but shall be subject to modification from time to time by agreement of the parties and shall be subject to the outcome of the pending litigation.

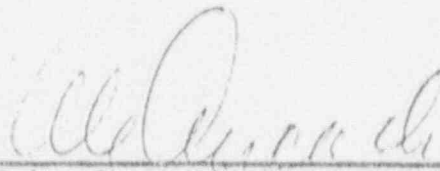
Done at Baton Rouge, State of Louisiana, in triplicate, this
17th day of April, 1967.

FOR THE UNITED STATES ATOMIC ENERGY COMMISSION

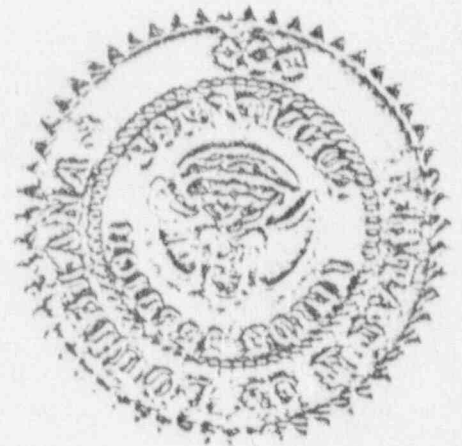
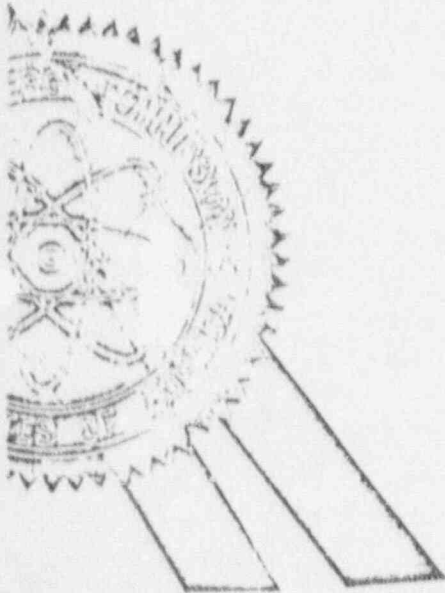


Wilfrid E. Johnson, Commissioner

FOR THE STATE OF LOUISIANA



John J. McKeithen, Governor



AGREEMENTS BETWEEN ATOMIC ENERGY COMMISSION AND STATE OF LOUISIANA

Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State

Notice is hereby given that Commissioner Wilfrid E. Johnson, on behalf of the Atomic Energy Commission, and the Honorable C. C. Aycock, Lieutenant Governor of the State of Louisiana, have signed the agreement below for discontinuance of certain Commission regulatory authority. Commissioner Johnson and Lt. Gov. Aycock have also signed the memorandum of understanding below, designed to facilitate the parties' administration of the above agreement. The Atomic Energy Commission and the State of Louisiana have also entered into an agreement under section 274 i. of the Atomic Energy Act of 1954, as amended, under which the State will perform certain functions on behalf of the Commission. This agreement, as shown below, was signed by Commissioner Johnson, Lt. Gov. Aycock, and Roy A. Parker, Director, Louisiana Division of Radiation Control. The exemptions from the licensing requirements of Chapters 6, 7, and 8 of the Atomic Energy Act are contained in Part 150 of the Commission's regulations (10 CFR Part 150) which was published in the FEDERAL REGISTER issuances of February 14, 1962, 27 F.R. 1351; September 22, 1965, 30 F.R. 12069; and March 19, 1966, 31 F.R. 4668.

Dated at Germantown, Md., this 28th day of April 1967.

For the Atomic Energy Commission,

W. B. McCool,
Secretary.

AGREEMENT BETWEEN THE U.S. ATOMIC ENERGY COMMISSION AND THE STATE OF LOUISIANA 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 U.S. 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 Louisiana is authorized under West's LSA-R.S. 61:1051 et seq., to enter into this Agreement with the Commission; and

Whereas, The Governor of the State of Louisiana certified on June 18, 1966, that the

State of Louisiana (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 April 3, 1967, that the program of the State for the regulation of the materials covered by this Agreement is compatible with the Commission's program for the regulation of such materials and is adequate to protect the public health and safety; and

Whereas, The 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; or
- 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 sub-section 161 b. or i. of the Act to issue rules, regulations, or orders to protect the common defense and security, to protect restricted data or to guard against the loss or diversion of special nuclear material.

Article V. The Commission will use its best efforts to cooperate with the State and other agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that State and Commission programs for protection against hazards of radiation will be coordinated and compatible. The State will use its best efforts to cooperate with the Commission and other Agreement States in the formulation of standards and regulatory programs of the State and the Commission for protection against hazards of radiation and to assure that the State's program will continue to be compatible with the program of the Commission for the regulation of like materials. The State and the Commission will use their best efforts to keep each other informed of proposed changes in their respective rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the other party thereon.

Article VI. The Commission and the State agree that it is desirable to provide for reciprocal recognition of licenses for the materials listed in Article I licensed by the other party or by any agreement State. Accordingly, the Commission and the State agree to use their best efforts to develop appropriate rules, regulations, and procedures by which such reciprocity will be provided.

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 May 1, 1967, and shall remain in effect unless and until such time as it is terminated pursuant to Article VII.

Done at Baton Rouge, State of Louisiana, in triplicate, this 17th day of April, 1967.

For the United States Atomic Energy Commission,

(SEAL) WILFRED E. JOHNSON,
Commissioner.

For the State of Louisiana,

(SEAL) C. C. AYCOCK,
Lieutenant Governor.

MEMORANDUM OF UNDERSTANDING BETWEEN THE U.S. ATOMIC ENERGY COMMISSION AND THE STATE OF LOUISIANA

The State of Louisiana ("State") and the U.S. Atomic Energy Commission ("Commission") have this date entered into an Agreement between the U.S. Atomic Energy Commission and the State of Louisiana for Discontinuance of Certain Commission Regulatory Authority and Responsibility within the State pursuant to Section 274 b of the Atomic Energy Act of 1954, as Amended ("274 b Agreement"), the effective date of which is May 1, 1967.

An area of submerged land off the coast of the State is currently in dispute between the State and the United States in a cause pending before the U.S. Supreme Court, styled *United States of America v. State of Louisiana et al.*, No. 9 Original ("pending litigation").

This memorandum of understanding between the State and the Commission is made solely to facilitate the parties' administration of the 274 b Agreement in view of, but without prejudice to, a cause pending before the U.S. Supreme Court, styled *United States of America v. State of Louisiana et al.*, No. 9 Original ("pending litigation").

It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State as follows:

First: The State shall not license or regulate, on its own behalf, those materials subject to the 274 b Agreement ("agreement materials") and located in the disputed area or seaward thereof which (a) are in the possession of non-citizens of the State or (b) are on or in the seabed or structures aimed thereto.

Second: The Commission acknowledges its present practice regarding possession and use of agreement materials on the high seas by the citizens of littoral States which have entered into agreements with the Commission pursuant to section 274 b of the Atomic Energy Act of 1954, as amended, as properly subject to the regulatory authority assumed by such States pursuant to such agreements. Provided, however, that nothing herein shall in any way be construed to affect or limit the right of the Commission to alter or amend such practice at any time. Should the Commission decide to eliminate or alter or amend such practice, it will consult with the State before taking action to implement such decision offshore of the State.

Third: Nothing herein nor in the 274 b Agreement nor any action or abstention taken pursuant to either document shall in any manner affect, or be alleged to affect, the position of either party in the pending litigation.

Fourth: This memorandum of understanding shall become effective on May 1, 1967, and shall remain in effect so long as the 274 b Agreement remains in effect, but shall be subject to modification from time to time by agreement of the parties and shall be subject to the outcome of the pending litigation.

Done at Baton Rouge, State of Louisiana, in triplicate, this 17th day of April, 1967.

For the United States Atomic Energy Commission,

(SEAL) WILFRED E. JOHNSON,
Commissioner.

For the State of Louisiana,

(SEAL) C. C. AYCOCK,
Lieutenant Governor.

AGREEMENT BETWEEN THE U.S. ATOMIC ENERGY COMMISSION AND THE STATE OF LOUISIANA PURSUANT TO SECTION 274b OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

The State of Louisiana ("State") and the U.S. Atomic Energy Commission ("Commission") have this date entered into an Agreement between the U.S. Atomic Energy Commission and the State of Louisiana 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 ("274 b Agreement"), the effective date of which is May 1, 1967.

The State and the Commission have this date also entered into a Memorandum of Understanding between the U.S. Atomic Energy Commission and the State of Louisiana, with the same effective date, in order to facilitate the parties' administration of the 274 b Agreement in view of, but without prejudice to, a cause pending before the U.S. Supreme Court, styled *United States of America v. State of Louisiana et al.*, No. 9 Original ("pending litigation") concerning an area of submerged land off the coast of the State which is currently in dispute between the State and the United States.

Under section 274 b of the Atomic Energy Act of 1954, as amended, the Commission in carrying out its licensing and regulatory responsibilities under the Act is authorized to enter into agreements with any State to perform inspections or other functions on a cooperative basis as the Commission deems

appropriate. In view of the pending litigation, but without prejudice thereto, the parties deem it appropriate that the State be authorized to perform certain functions for and on behalf of the Commission.

It is hereby agreed between the Commission and the Governor of the State, acting in behalf of the State, as follows:

First: The Commission hereby authorizes the State to perform, for and on behalf of the Commission, the following functions with respect to byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass in the possession of Commission licenses in and seaward of the area of submerged land which is the subject of the pending litigation:

(a) Perform inspections to determine compliance with the Commission's rules and regulations and with the provisions of the applicable Commission licenses;

(b) Notify Commission licensees in writing of any items of noncompliance disclosed by such inspections and request the licensees concerned to advise the State of corrective action taken or to be taken;

(c) With respect to emergency situations in which an immediate and serious hazard to public health and safety, or property, exists, take such temporary emergency measures as may be required to eliminate the hazard.

Such functions as are performed by the State will, without charge, be performed without extra expense to the Commission.

Second: The functions authorized to be performed hereunder shall be subject to the Commission's supervision and shall be performed by the State in accordance with such standards, criteria, policies, and procedures as may be specified by the Commission from time to time. The State shall promptly notify the Commission of all activities performed by the State hereunder.

Third: In taking any action authorized hereunder, the State shall not undertake to amend or revoke Commission licenses, nor to institute judicial action against Commission licensees.

Fourth: Nothing herein nor in the 274 b Agreement nor any action or abstention taken pursuant to either document shall in any manner affect, or be alleged to affect, the position of either party in the pending litigation.

Fifth: Nothing herein shall be deemed to preclude or affect in any manner the authority of the Commission to perform or to have performed by others any or all of the functions described herein. Should the Commission decide to have others perform such functions, it will use its best efforts to provide the State with advance notice thereof.

Sixth: This Agreement shall become effective on May 1, 1967, and shall remain in effect so long as the 274 b Agreement remains in effect unless sooner terminated by either party on 30 days prior written notice.

Done at Baton Rouge, State of Louisiana, in triplicate, this 17th day of April, 1967.

For the United States Atomic Energy Commission,

(SEAL) WILFRED E. JOHNSON,
Commissioner.

For the State of Louisiana,

(SEAL) C. C. AYCOCK,
Lieutenant Governor.

For the Louisiana Division of Radiation Control,

ROY A. PARKER,
Director.

[P.R. Doc. 87-6078; Filed, May 2, 1967; 6:47 a.m.]