

AGREEMENT
BETWEEN THE
UNITED STATES ATOMIC ENERGY COMMISSION
AND THE
COMMONWEALTH OF KENTUCKY
FOR DISCONTINUANCE OF CERTAIN COMMISSION REGULATORY
AUTHORITY AND
RESPONSIBILITY WITHIN THE COMMONWEALTH

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 Commonwealth of Kentucky is authorized under section 152.115 of the Kentucky Revised Statutes to enter into this Agreement with the Commission; and

WHEREAS, The Governor of the Commonwealth of Kentucky certified on January 31, 1962, that the Commonwealth of Kentucky (hereinafter referred to as the Commonwealth) has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the Commonwealth covered by this Agreement, and that the Commonwealth desires to assume regulatory responsibility for such materials; and

WHEREAS, The Commission found on February 1, 1962, that the program of the Commonwealth 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 Commonwealth recognizes the desirability and importance of maintaining continuing compatibility between its program and the program of the Commission for the control of radiation hazards in the interest of public health and safety; and

WHEREAS, The Commission and the Commonwealth 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 and subject to the provisions of the Atomic Energy Act of 1954, as amended and the applicable regulations of the Atomic Energy Commission which may be issued from time to time pursuant thereto;

NOW, THEREFORE, It is hereby agreed between the Commission and Governor of the Commonwealth, acting in behalf of the Commonwealth, 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 Commonwealth 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, 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 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 Commonwealth will use its best efforts to maintain continuing compatibility between its program and the program of the Commission for the regulation of like materials. To this end the Commonwealth will use its best efforts to keep the Commission informed of proposed changes in its rules and regulations, and licensing, inspection, and enforcement policies and criteria, and of proposed requirements for the design and distribution of products containing source, byproduct, or special nuclear material, and to obtain the comments and assistance of the Commission thereon.

ARTICLE VI

The Commission will use its best efforts to keep the Commonwealth informed of proposed changes in its rules and regulations and licensing, inspection and enforcement policies and criteria, and to obtain the comments and assistance of the Commonwealth thereon.

ARTICLE VII

The Commission and the Commonwealth 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 Commonwealth agree to use their best effort to develop appropriate rules, regulations, and procedures by which such reciprocity will be accorded.

ARTICLE VIII

The Commission, upon its own initiative after reasonable notice and opportunity for hearing to the Commonwealth, or upon request of the Governor of the Commonwealth, 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 IX

This Agreement shall become effective on March 26, 1962, and shall remain in effect unless, and until such time as it is terminated pursuant to Article VIII.

Done at Washington, District of Columbia, in duplicate, this eighth day of February, 1962.

FOR THE UNITED STATES ATOMIC ENERGY COMMISSION

Glenn T. Seaborg, Commissioner

FOR THE COMMONWEALTH OF KENTUCKY

Bert Combs, Governor