

ARTICLES OF
AGREEMENT
BETWEEN THE
UNITED STATES ATOMIC ENERGY COMMISSION
AND THE
STATE OF COLORADO
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

Note: The following is the text of the Articles of the Agreement between the Atomic Energy Commission and the State of Colorado effective February 1, 1968 and which was amended effective April 20, 1982. New language added by the amendment is underlined.

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 as defined in section 161.(1) of the Act;
- B. Byproduct materials as defined in section 161.(2)
of the Act;
- C. Source materials; and
- D. Special nuclear materials in quantities not sufficient
to form a critical mass.

ARTICLE II

A. This Agreement does not 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;
2. The export from or import into the United States of byproduct, source, or special nuclear material, or 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 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.

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 reserve 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, but such use of land transferred to the State may be made only with the concurrence of the State;

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.

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 otherwise licensable by the State under Article I of this Agreement shall not transfer possession of 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 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 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 all or part of this Agreement and reassert the licensing and regulatory authority vested in it under the Act if the Commission finds that (1) such termination or suspension is required to protect the public health and safety, or (2) the State has not complied with one or more of the requirements of Section 274 of the Act. The Commission 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.

ARTICLE VIII

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 or 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 protection 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.

ARTICLE IX

This Agreement shall become effective on February 1, 1968, and shall remain in effect unless, and until such time as it is terminated pursuant to Article VII.

Done at Denver, State of Colorado, in triplicate, this 1st day of February, 1968.

FOR THE UNITED STATES ATOMIC ENERGY COMMISSION

Gerald F. Tape, Commissioner

FOR THE STATE OF COLORADO

John A. Love, Governor

This amendment shall become effective on April 20, 1982, and shall remain in effect unless and until such time as it is terminated pursuant to Article VII.

Done at Denver, State of Colorado, in triplicate, this 20th day of April, 1982.

FOR THE STATE OF COLORADO

Richard D. Lamm, Governor

Done at Washington, District of Columbia, in triplicate, this 30th day of March, 1982.

FOR THE UNITED STATES NUCLEAR REGULATORY COMMISSION

Nunzio J. Palladino, Chairman