



[7590-01-P]

## NUCLEAR REGULATORY COMMISSION

10 CFR Part 150

[NRC-2019-0114]

### **State of Vermont: Discontinuance of Certain Commission Regulatory Authority Within the State; Notice of Agreement Between the NRC and the State of Vermont**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final State agreement.

**SUMMARY:** This notice is announcing that on September 9, 2019, Kristine L. Svinicki, Chairman of the U.S. Nuclear Regulatory Commission (NRC or Commission), and on September 13, 2019, Governor Philip B. Scott of the State of Vermont, signed an Agreement as authorized by Section 274b. of the Atomic Energy Act of 1954, as amended (the Act). Under the Agreement, the Commission discontinues its regulatory authority, and the State of Vermont assumes regulatory authority over 11e.(1), 11e.(3), and 11e.(4) byproduct materials, source materials, and special nuclear materials in quantities not sufficient to form a critical mass. As of the effective date of the Agreement, a person in Vermont possessing these materials is exempt from certain Commission regulations. The exemptions have been previously published in the *Federal Register* (FR) and are codified in the Commission's regulations. The Agreement is published here as required by Section 274e. of the Act.

**DATES:** The effective date of the Agreement is September 30, 2019.

**ADDRESSES:** Please refer to Docket ID **NRC-2019-0114** when contacting the NRC about the availability of information regarding this document. You may obtain publicly-

available information related to this document using any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov/> and search for Docket ID **NRC-2019-0114**. Address questions about docket IDs in Regulations.gov to Jennifer Borges; telephone: 301-287-9127; e-mail: Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Document collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search". For problems with ADAMS, contact the NRC's public document room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov). The ADAMS Accession numbers for the request for an Agreement by the Governor of Vermont, including all information and documentation submitted in support of the request, and the NRC staff assessment are: ML19109A085, ML19107A432, ML19114A092, ML19140A393, ML19102A130, ML19161A133, and ML19192A115 (SECY-19-0085, includes final staff assessment).

- **NRC's PDR:** The public may examine and purchase copies of public documents at the NRC's PDR, Room O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

**FOR FURTHER INFORMATION CONTACT:** Duncan White, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2598; e-mail: Duncan.White@nrc.gov.

**SUPPLEMENTARY INFORMATION:**

The NRC published the proposed Agreement in the FR for comment once each week for 4 consecutive weeks on June 25, 2019 (84 FR 29811), July 2, 2019 (84 FR

31518), July 9, 2019 (84 FR 32657), and July 16, 2019 (84 FR 33864), as required by the Act. The comment period ended on July 25, 2019. One comment was received supporting the Agreement. The NRC staff determined that the Vermont Agreement State program is adequate to protect the public health and safety and compatible with the NRC's program. The Vermont Agreement is consistent with Commission policy and thus meets the criteria for an Agreement with the Commission.

After considering the request for an Agreement by the Governor of Vermont, the supporting documentation submitted with the request for an Agreement, and its interactions with the staff of the Vermont Department of Health, the NRC staff completed an assessment of the Vermont program. The agency made a copy of the staff assessment available in the NRC's PDR and electronically on the NRC's Web site. Based on the staff's assessment, the Commission determined on September 6, 2019, that the Vermont program for control of radiation hazards is adequate to protect the public health and safety and compatible with the Commission's program.

This Agreement is a rule as defined in the Congressional Review Act (5 U.S.C. 801-808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 23<sup>rd</sup> day of September, 2019.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,  
Secretary of the Commission.

**ATTACHMENT**

**AN AGREEMENT BETWEEN THE UNITED STATES NUCLEAR REGULATORY  
COMMISSION AND THE STATE OF VERMONT FOR THE 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 Nuclear Regulatory Commission (hereinafter referred to as “the Commission”) is authorized under Section 274 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. Section 2011 *et seq.* (hereinafter referred to as “the Act”), to enter into agreements with the Governor of the State of Vermont (hereinafter referred to as “the 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 as defined in Sections 11e.(1), (3), and (4) 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 of Vermont is authorized under VT. STAT. ANN. tit. 18, § 1653 to enter into this Agreement with the Commission; and,

WHEREAS, The Governor of the State of Vermont certified on April 11, 2019, 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

this Agreement, and that the State desires to assume regulatory responsibility for such materials; and,

WHEREAS, The Commission found on September 6, 2019, that the program of the State of Vermont 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 of Vermont 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 of Vermont recognize the desirability of the reciprocal recognition of licenses, and of the granting of limited exemptions from licensing of those materials subject to this Agreement; and,

WHEREAS, This Agreement is entered into pursuant to the provisions of the Act;

NOW, THEREFORE, It is hereby agreed between the Commission and the Governor of Vermont acting on behalf of the State as follows:

#### ARTICLE I

Subject to the exceptions provided in Articles II, IV, and V, 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:

1. Byproduct material as defined in Section 11e.(1) of the Act;
2. Byproduct material as defined in Section 11e.(3) of the Act;
3. Byproduct materials as defined in Section 11e.(4) of the Act;
4. Source materials; and
5. Special nuclear materials, in quantities not sufficient to form a critical mass.

## ARTICLE II

This Agreement does not provide for the discontinuance of any authority, and the Commission shall retain authority and responsibility, with respect to:

- A. The regulation of byproduct material as defined in Section 11e.(2) of the Act;
- B. The regulation of the land disposal of byproduct, source, or special nuclear material received from other persons;
- C. The evaluation of radiation safety information on sealed sources or devices containing byproduct, source, or special nuclear material and the registration of the sealed sources or devices for distribution, as provided for in regulations or orders of the Commission;
- D. The regulation of the construction, operation, and decommissioning of any production or utilization facility or any uranium enrichment facility;
- E. The regulation of the export from or import into the United States of byproduct, source, or special nuclear material, or of any production or utilization facility;
- F. The regulation of the disposal into the ocean or sea of byproduct, source, or special nuclear material waste as defined in regulations or orders of the Commission;
- G. The regulation of the disposal of such other byproduct, source, or special nuclear material as the Commission determines by regulation or order should, because

of the hazards or potential hazards thereof, not be so disposed without a license from the Commission; and

- H. The regulation of activities not exempt from Commission regulation as stated in 10 CFR Part 150.

### ARTICLE III

With the exception of those activities identified in Article II, paragraphs D. through H., this Agreement may be amended, upon application by the State and approval by the Commission to include one or more of the additional activities specified in Article II, paragraphs A. through C., whereby the State may then exert regulatory authority and responsibility with respect to those activities.

### ARTICLE IV

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 for licensing issued by the Commission.

### ARTICLE V

This Agreement shall not affect the authority of the Commission under Subsection 161b. or 161i. of the Act to issue rules, regulations, or orders to promote the common defense and security, to protect restricted data, or to guard against the loss or diversion of special nuclear material.

### ARTICLE VI

The Commission will 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 Commission and State programs for protection against hazards of radiation will be coordinated and compatible. The State agrees 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 the 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 materials covered by this Agreement.

The State and the Commission agree to keep each other informed of proposed changes in their respective rules and regulations and to provide each other the opportunity for early and substantive contribution to the proposed changes.

The State and the Commission agree to keep each other informed of events, accidents, and licensee performance that may have generic implication or otherwise be of regulatory interest.

#### ARTICLE VII

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

#### ARTICLE VIII

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

Pursuant to Section 274j. of the Act, the Commission may, after notifying the Governor, temporarily suspend all or part of this Agreement without notice or hearing if, in the judgment of the Commission, an emergency situation exists with respect to any material covered by this agreement creating danger which requires immediate action to protect the health or safety of persons either within or outside of the State and the State has failed to take steps necessary to contain or eliminate the cause of danger within a reasonable time after the situation arose. The Commission shall periodically review actions taken by the State under this Agreement to ensure compliance with Section 274 of the Act, which requires a State program to be adequate to protect the public health and safety with respect to the materials covered by this Agreement and to be compatible with the Commission's program.

#### ARTICLE IX

This Agreement shall become effective on September 30, 2019, and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at Rockville, Maryland, in triplicate, this 9<sup>th</sup> day of September, 2019.

For the Nuclear Regulatory Commission.

/RA/  
Kristine L. Svinicki, Chairman

Done at Montpelier, Vermont, in triplicate, this 13<sup>th</sup> day of September, 2019.

For the State of Vermont.

/RA/

Philip B. Scott, Governor

[FR Doc. 2019-20973 Filed: 9/27/2019 8:45 am; Publication Date: 9/30/2019]