

August 4, 2004

MEMORANDUM TO: Luis A. Reyes  
Executive Director for Operations

FROM: Annette L. Vietti-Cook, Secretary **/RA/**

SUBJECT: STAFF REQUIREMENTS - SECY-04-0128 - AMENDMENT TO SECTION 274B AGREEMENT WITH THE STATE OF UTAH AND APPROVAL OF ALTERNATIVE GROUNDWATER STANDARDS

The Commission has approved the proposed amendment to the Utah Agreement between Utah and the Nuclear Regulatory Commission pursuant to Section 274 of the Atomic Energy Act of 1954, as amended. The staff should incorporate the changes noted below and arrange for an orderly transfer of license files to accommodate a mutually agreeable assumption of regulatory authority by Utah.

The Commission has determined that the Utah proposed alternative standard for groundwater protection is equivalent to or more stringent than the NRC standards for 11e.(2) byproduct material. The Commission finds that the proposed Utah program for regulation of 11e.(2) byproduct material is compatible with the Commission's program for regulation of like material and that Utah's program is adequate to protect public health, safety, and the environment with respect to materials and uses covered by the proposed amendment to the Agreement.

Revisions to the Staff Analysis of Public Comments on Utah's Alternative Groundwater Standards

1. On page 2, 1<sup>st</sup> full paragraph, the staff should clearly state that once the Agreement is in effect it will be too late for IUSA to provide further comments.
2. On page 2, paragraph 2 under the "Summary of Comments", line 5, add an 's' to 'issue'.
3. On page 2, last paragraph, revise line 1 to read ' ... FWS's comments focused ....'
4. On page 4, paragraph 4, add the following at the end of the paragraph: "The respective NRC and EPA Generic Environmental Impact Statements evaluated the processing of any ore for its source material content. Therefore, there is no alternative standard to be applied when alternative feed material is approved for processing at a uranium mill."

SECY NOTE: THIS SRM, SECY PAPER, AND COMMISSION VOTING RECORD WILL BE MADE AVAILABLE TO THE PUBLIC AFTER DISPATCH OF THE LETTER TO THE GOVERNOR AND PUBLICATION OF THE FEDERAL REGISTER NOTICE.

5. On page 5, 3<sup>rd</sup> full paragraph, line 2, delete the 's' in 'Procedures'.
6. On page 6, line 3 from the top, insert a hyphen between 'rulemaking' and 'like'.

Revisions to the Staff Analysis of Public Comments on Utah's Proposed Amendment to the Agreement

7. On page 5, paragraph 1, revise line 6 to read ' ... choose chose to further ....'
8. On page 5, paragraph 3, revise line 7 to read ' ... processes that was were specifically approved ....'

Revisions to the Letter to Utah Governor Walker

9. In paragraph 1, add the following at the end: "In addition, the amendment to the Agreement makes the administrative change to the wording reflecting the return of regulatory authority of Sealed Sources and Device Evaluation back to NRC."
10. In paragraph 2, revise line 2 to read ' ... retained by your office, and the ....'

cc: Chairman Diaz  
Commissioner McGaffigan  
Commissioner Merrifield  
OGC  
CFO  
OCA  
OIG  
OPA  
Office Directors, Regions, ACRS, ACNW, ASLBP (via E-Mail)  
PDR