



SECRETARY

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

August 3, 2016

COMMISSION VOTING RECORD

DECISION ITEM: SECY-16-0084

TITLE: WYOMING'S PROPOSAL FOR A LIMITED AGREEMENT TO
 ONLY REGULATE MILLING FACILITIES' SOURCE MATERIAL
 AND 11E.(2) BYPRODUCT MATERIAL

The Commission acted on the subject paper as recorded in the Staff Requirements Memorandum (SRM) of August 3, 2016.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

A handwritten signature in dark ink, appearing to read "Annette Vietti-Cook", written over a horizontal line.

Annette L. Vietti-Cook
Secretary of the Commission

Enclosures:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Burns
Commissioner Svinicki
Commissioner Baran
OGC
EDO
PDR

VOTING SUMMARY – SECY-16-0084

RECORDED VOTES

	<u>APPROVED</u>	<u>DISAPPROVED</u>	<u>ABSTAIN</u>	<u>NOT PARTICIPATING</u>	<u>COMMENTS</u>	<u>DATE</u>
Chrm. Burns	X				X	07/19/16
Cmr. Svinicki	X				X	07/28/16
Cmr. Baran	X				X	08/02/16

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: Chairman Burns

SUBJECT: SECY-16-0084: WYOMING'S PROPOSAL FOR A LIMITED AGREEMENT REQUEST TO ONLY REGULATE MILLING FACILITIES' SOURCE MATERIAL AND 11E.(2) BYPRODUCT MATERIAL

Approved X Disapproved Abstain Not Participating

Comments: Below X Attached None

I approve Wyoming's proposed approach for a limited Agreement to only assume regulatory authority over a subcategory of source material involved with milling activities and 11e.(2) byproduct material. I also approve the proposed Agreement language that specifies the regulatory areas where Wyoming shall assume authority and responsibility, where the Commission shall retain authority and responsibility, and other provisions including financial surety arrangements for reclamation or long-term surveillance and maintenance of 11e.(2) byproduct material. I agree with the staff's determination that Wyoming's proposal is of a nature that will not create confusion to the regulated community or a burden to NRC resources and can be applied logically and consistently to existing and future licensees over time.

Entered in STARS

Yes ✓
No



SIGNATURE
 19 July 2016

DATE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: COMMISSIONER SVINICKI

SUBJECT: SECY-16-0084: WYOMING'S PROPOSAL FOR A LIMITED AGREEMENT REQUEST TO ONLY REGULATE MILLING FACILITIES' SOURCE MATERIAL AND 11E.(2) BYPRODUCT MATERIAL

Approved XX Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below XX Attached _____ None _____

I approve Wyoming's proposed approach to enter into a limited Agreement pursuant to Section 274b. of the Atomic Energy Act of 1954, as amended (AEA), and approve the proposed scope and general content of this limited Agreement, as defined in the Enclosure to this paper. I find the staff's assessment of the proposal against the criteria arising from the Commission's direction in SRM-SECY-97-087 to be reasonable and agree that the arrangement is not so cramped in its terms as to compromise an orderly regulatory pattern between the Commission and the State. I further agree that the approval of such an Agreement is not prohibited by the AEA. The staff should continue to engage with the State of Wyoming to advance progress on the limited Agreement and should report back to the Commission on its progress, following the adjournment of the 2017 General Session of the Wyoming legislature.



SIGNATURE

07/28 /16

DATE

Entered on "STARS" Yes No _____

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary

FROM: Commissioner Baran

SUBJECT: SECY-16-0084: WYOMING'S PROPOSAL FOR A LIMITED AGREEMENT REQUEST TO ONLY REGULATE MILLING FACILITIES' SOURCE MATERIAL AND 11E.(2) BYPRODUCT MATERIAL

Approved X Disapproved Abstain Not Participating

Comments: Below Attached X None

Entered in STARS

Yes ✓

No



SIGNATURE

8/2/16

DATE

**Commissioner Baran's Comments on SECY-16-0084,
"Wyoming's Proposal for a Limited Agreement to Only Regulate Milling Facilities'
Source Material and 11e.(2) Byproduct Material"**

I approve the State of Wyoming's proposed approach of entering into a limited agreement with NRC pursuant to Section 274b. of the Atomic Energy Act to assume regulatory authority over a subcategory of source material related to milling activities and the management and disposal of Section 11e.(2) byproduct material. I agree with the NRC staff that "Wyoming's proposal presents a clear, narrowly defined subcategory of material that can be applied logically and consistently to existing and future licensees over time." Under this limited agreement approach, NRC would relinquish and Wyoming would assume regulatory authority over eight uranium milling sites and seven sites undergoing decommissioning, as well as twelve active 11e.(2) byproduct and source material licenses involved in uranium milling.

Although Wyoming would be the first state to enter into an agreement with NRC to obtain regulatory authority over only milling facilities, the State of New Mexico previously terminated its regulatory authority over the same subcategory of material contemplated by Wyoming's proposed approach. This shows that NRC found this particular subcategorization of material to be workable. Similarly, in 2000, the Commission approved a limited agreement with the State of Oklahoma that included a subcategory of source material.

There are several outstanding issues to address once Wyoming submits its application for a limited agreement, such as how to consider the views of interested Native American Tribes in the region, whether Wyoming's trespass law could impact its program, and how to address the existing programmatic agreements with licensees related to compliance with the National Historic Preservation Act. But those issues do not bear on the threshold question of whether a limited scope agreement of this kind is appropriate and consistent with the requirements of the Atomic Energy Act.

I also approve the proposed language for use in a potential agreement to describe the respective authorities and responsibilities of NRC and Wyoming.