



POLICY ISSUE **(Notation Vote)**

December 11, 2025

SECY-25-0096

FOR: The Commissioners

FROM: Michael F. King
Acting Executive Director for Operations

SUBJECT: PROPOSED AMENDED AGREEMENT BETWEEN THE STATE OF WYOMING AND THE COMMISSION PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

PURPOSE:

To request Commission approval to publish the proposed amended Agreement with the State of Wyoming (State or Wyoming) and a summary of the draft U.S. Nuclear Regulatory Commission (NRC) staff assessment of the State's regulatory program in the *Federal Register* (FR) for public comment.

BACKGROUND:

Section 274b of the Atomic Energy Act of 1954, as amended (AEA or the Act), authorizes the Commission to enter into an Agreement with the Governor of a State providing for the discontinuance of the regulatory authority of the Commission with respect to certain materials. The staff's criteria for review of proposed Agreements are guided by Commission Policy Statements and office procedure.¹

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¹ In 1981, the Commission adopted the policy statement entitled, "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement" (46 FR 7540; January 23, 1981). The policy statement was amended on July 16, 1981 (46 FR 36969), and on July 21, 1983 (48 FR 33376). The Office of Nuclear Material Safety and Safeguards (NMSS) subsequently adopted Procedure State Agreement (SA) SA-700, "Processing an Agreement," as an internal procedure for applying the policy statement to the processing of a new Agreement. The criteria and approaches in these documents form the basis for the staff's evaluation of the State's request.

DISCUSSION:

On February 21, 2023, Wyoming Governor Mark Gordon submitted a letter to Chairman Christopher Hanson stating that Wyoming intended to pursue an amendment to its existing 2018 Agreement with the NRC "to include regulation of source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content" (Agencywide Documents Access and Management System (ADAMS) Accession No. ML23080A140). On August 24, 2023, the NRC staff submitted SECY-23-0075, "Wyoming's Proposal to Amend the Existing Agreement to Regulate the Processing of Source Material to Extract Mineral Resources Other Than the Uranium or Thorium Content" (ML23172A212), to obtain Commission approval for Wyoming's proposal to regulate only a portion of the source material category. Under the amended Agreement, the NRC would continue regulatory authority over the remaining subcategories of source material, Section 11e.(1), (3) and (4) of the AEA categories of byproduct material, and all special nuclear material in Wyoming. On September 13, 2023, the Commission approved Wyoming's proposed additional subcategory of source material (ML23262B163).

By letter dated August 5, 2025, Wyoming Governor Mark Gordon requested that the Commission amend the Agreement with the State under Section 274b of the Act (ML25227A232). The Governor requested that the Commission discontinue its regulatory authority and allow Wyoming to assume regulatory authority for the processing of source material not for its uranium or thorium content.

In the same letter, Governor Gordon certified that the State has a program for the control of radiation hazards that is adequate to protect public health and safety with respect to the materials covered by the proposed amended Agreement. The Governor further certified that the State wishes to assume the regulatory responsibility for those materials.

Pending the Commission's approval, as required by Section 274e of the Act, the NRC staff will publish the proposed amended Agreement for comment in the *Federal Register* (FR) once each week for four consecutive weeks. The *Federal Register* Notice (FRN) (Enclosure 1) will also include a summary of the staff's draft assessment of the proposed Wyoming regulatory program. Consistent with the process used for past Agreements, the NRC staff plans to publish the proposed amended Agreement in the FR for public comment, in parallel with the Commission's review of the staff's draft assessment (Enclosure 2). Following the public comment period and the resolution of public comments, the NRC staff will recommend whether the Commission should approve the proposed amended Agreement. The NRC staff will include an updated schedule, along with an analysis of the public comments, as part of its final notation vote paper to the Commission. If approved by the Commission, the final amended Agreement will be published in the FR within 30 days after signature by the Chairman and the Governor of Wyoming. The State has informed NRC staff that the State desires an effective date for the amended Agreement by March 31, 2026. Due to the lapse in government funding in October and November 2025, the effective date was moved to April 30, 2025. Additionally, the State has requested a signing ceremony.

The NRC staff's draft assessment of the State's program covers seven subjects: (1) objectives, (2) radiation protection standards, (3) prior evaluation of uses of radioactive material, (4) inspection, (5) enforcement, (6) personnel, and (7) administration. Based on its draft assessment, the NRC staff found Wyoming's application to be of high quality and concludes that

the State's regulatory program is compatible with the NRC's regulatory program and is, therefore, adequate to protect public health and safety.²

If the proposed amended Agreement is approved, the NRC would transfer one specific license to the State's jurisdiction.

Tribal Outreach Activities

The NRC staff has conducted outreach activities with the Federally recognized Tribes located within the State of Wyoming. For example, the NRC staff communicated through emails, letters, and telephone conversations, to notify the Tribes of Wyoming's letter of intent³ and final⁴ applications. Additionally, on September 14, 2023, the NRC staff offered 17 Federally-recognized Tribes (ML23254A339), the opportunity for consultation on Wyoming's request to amend its Agreement, in accordance with the NRC's Tribal Policy Statement.⁵ The NRC staff has not received any comments from the Tribes and will continue to keep them informed throughout the process. Specifically, the NRC staff will notify the Tribes when the FRN for the public comment period is published for the proposed amended Agreement and again after the final amended Agreement is published.

Agreement Document

In the six previous amendments⁶ to an Agreement approved by the Commission for individual States that added new authorities, the Agreement was amended by a separate document that only included the changes to the original Agreement. The NRC staff and Wyoming agreed that a single Agreement document that is revised in its entirety would increase clarity and transparency by clearly identifying all authorities that NRC would relinquish to the State, removing completed actions by the State, and updating language in the Agreement consistent with Commission direction. The proposed Wyoming Agreement, amended in its entirety, can be found in Enclosure 1. If the Commission approves of this approach to amending Agreements, NRC staff will amend Management Directive 5.8, "Proposed Section 274b. Agreements with States," after the final approval of the amended Wyoming Agreement to reflect this process update.

CONCLUSIONS:

Throughout its process to amend its Agreement, Wyoming consistently engaged with NRC staff to develop their program and submitted high quality application material. The NRC staff concludes that, based on its draft assessment, the State program will satisfy the criteria in the Commission's policy statement, and therefore will meet the requirements of Section 274d. of the Act. The NRC staff also concludes that the proposed State program to regulate Agreement materials, as comprised of statutes, regulations, and procedures, will be compatible with the

² The most updated version of the relevant Wyoming's statutes can be found within Section 4.1 of Wyoming's application at ML25227A230 (package) and is also available on Wyoming's website at <https://wyoleg.gov/stateStatutes/StateStatutes>. The draft assessment discusses several relevant State statutes.

³ On September 14, 2023, the NRC staff informed 17 Federally recognized Tribes that the NRC received the State of Wyoming's letter of intent to enter into an amended Agreement with the NRC (ML23254A339) (package).

⁴ On August 21, 2025, the NRC staff informed 17 Federally recognized Tribes that the NRC received the State of Wyoming's final application to enter into an amended Agreement with the NRC (ML25234A020)

⁵ Tribal Policy Statement, 82 FR 2402 (January 9, 2017) (ML17011A243).

⁶ Colorado (1982), Illinois (1990), Texas (1982), Utah (1990 and 2004), and Washington (1982).

NRC's regulatory program on the effective date of the Agreement and will adequately protect public health and safety.

RECOMMENDATIONS:

The staff recommends that the Commission:

1. Approve the publication of the enclosed FRN, which includes a summary of the draft staff assessment of the State's regulatory program and the proposed amended Agreement between the State and the NRC pursuant to Section 274 of the Act, once each week for four consecutive weeks, as required by the Act.
2. Approve a process update that any future amendments of any Agreement be done in their entirety.

COMMITMENT:

Listed below are the staff's commitments:

- a. Provide an updated schedule, Tribal outreach activities, an analysis of public comments, and the staff's recommendation regarding whether the amended Agreement should be approved in a notation vote paper to the Commission.
- b. Dispatch letters to the appropriate Congressional Committees and the Wyoming Congressional Delegation informing them that the Commission is considering amending the Agreement with the State.
- c. Issue a press release upon publication of the first FRN.
- d. Dispatch a state and tribal communication letter to all States and a letter to each of the following Federal Agencies listed in NMSS Procedure SA-700: Occupational Safety and Health Administration, Department of Energy, Council on Environmental Quality, Food and Drug Administration, Environmental Protection Agency, and Department of Homeland Security.
- e. Collaborate with the State of Wyoming in the event the final amended Agreement is approved by the Commission to ensure an efficient transition of the subcategory of the one existing source material license in the State of Wyoming, within legal requirements.
- f. Revise Management Directive 5.8, "Proposed Section 274b. Agreements with States," if approved by the Commission, after the final approval of the amended Wyoming Agreement to require future amendments of any Agreement to be done in their entirety.

The staff requests that the Commission provide a staff requirements memorandum, including any changes to the FRN of the proposed amended Agreement with the State of Wyoming and summary of the draft NRC staff assessment of the State's regulatory program, by December 24, 2025, so that the agency can finalize and issue the amended Agreement by April 30, 2026. In addition, the staff is exploring efficiencies in the Agreement process including delegation of some of the steps for implementation in future agreements.

RESOURCES:

Resource estimates are provided in Enclosure 3, "Fiscal Year 2026 and 2027 Resources," which is not publicly available.

COORDINATION:

This paper has been coordinated with the Office of the General Counsel, which has no legal objection. The Office of the Chief Financial Officer has reviewed this paper for resource implications and has no objection.

A handwritten signature in blue ink, appearing to read "S. Atack".

SAtack for Michael F. King
Acting Executive Director
for Operations

Enclosures:

1. Draft Wyoming FRN (Updated Template)
2. Wyoming Draft Staff Assessment
3. Wyoming Resources (Non-Public)

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AND THE COMMISSION PURSUANT TO SECTION 274 OF THE ATOMIC
ENERGY ACT OF 1954, AS AMENDED DATED: DECEMBER 11, 2025

ADAMS Accession Nos.: Pkg: ML25237A058, SECY: ML25237A055,

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