

DRAFT STAFF ASSESSMENT OF THE PROPOSED WYOMING PROGRAM FOR THE REGULATION OF AGREEMENT MATERIALS AS DESCRIBED IN THE REQUEST FOR AN AMENDMENT TO THE AGREEMENT

This assessment examines the State of Wyoming Program to amend its agreement with the U.S. Nuclear Regulatory Commission (NRC or Commission) to regulate the possession, use, and disposal of source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content. This assessment was performed using the criteria in the Commission's policy statement "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement" (referred to below as the "criterion or criteria")¹ and using the Office of Nuclear Material Safety and Safeguards Procedure SA-700, "Processing an Agreement." Each criterion, and the staff assessment related thereto, is addressed separately below.

OBJECTIVES

1. Protection. A State regulatory program shall be designed to protect the health and safety of the people against radiation hazards.

The State of Wyoming's proposed amendment to its Agreement State Program for the regulation of source material is the Source Material Program. The Source Material Program, along with the existing Uranium Recovery Program, is in the Land Quality Division of the Wyoming Department of Environmental Quality (WYDEQ). The WYDEQ is a cabinet level Department that reports directly to the Governor of Wyoming.

The WYDEQ has the statutory authority to establish the Wyoming Agreement State Program under the Wyoming Environmental Quality Act, Wyoming Statutes §§ 35-11-2001 through 2004, §§ 35-11-101 et seq., and §§ 16-3-101 et seq. The authorities to issue, amend, suspend or revoke licenses; place conditions and issue orders; or assess administrative penalties is vested by the Wyoming Statutes §§ 35-11-2003 through 2004(a), and § 35-11-901. The authorities for the adoption of regulations are provided in the Wyoming Statute § 35-11-2002(b). Wyoming Statutes §§ 35-11-2001 through 2003 were amended to add the authorities for WYDEQ to regulate source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

The NRC staff verified that the organization of the State of Wyoming's Source Materials Program with respect to the distribution of regulatory responsibilities among the program staff is similar to organizations used successfully in other Agreement States, and that all necessary program elements have been addressed.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State

¹ The NRC Statement of Policy was published in the *Federal Register*, on January 23, 1981 (46 FR 7540-7546), a correction was published on July 16, 1981 (46 FR 36969), and a revision of Criterion 9 was published on July 21, 1983 (48 FR 33376).

(Agencywide Documents Access and Management System (ADAMS) Accession Nos. ML25227A231, ML25227A232, and ML25267A041. State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

RADIATION PROTECTION STANDARDS

2. Standards. The State regulatory program shall adopt a set of standards for protection against radiation which shall apply to byproduct, source and special nuclear materials in quantities not sufficient to form a critical mass.

In conjunction with the rulemaking authority vested in WYDEQ on radiation protection by Wyoming Statute § 35-11-2002(b), the WYDEQ has the requisite authority to promulgate rules for protection against radiation.

The NRC staff verified that the State of Wyoming adopted the relevant NRC regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Parts 19, 20, 40, 61, 71, and 150 into State Regulations, Wyoming Source Material Rules and Regulations, Chapters 1 through 9. Wyoming's draft application for an amendment to their Agreement submitted on January 10, 2025 (ML25055A079) included the final source material program regulations adopted in late 2024. The NRC staff provided comments to WYDEQ on these final regulations in the draft application in a letter dated April 2, 2025 (ML25056A044). After the receipt of NRC's April 2025 letter, WYDEQ initiated rulemaking to address the NRC comments. WYDEQ submitted the revised Source Material Program Regulations to the NRC on June 2, 2025. On July 16, 2025, NRC issued a letter to WYDEQ stating that the NRC staff had no comments on the revised regulations (ML25169A190). WYDEQ anticipates that the regulations will be finalized by the end of 2025.

Once the current regulations are finalized with the NRC staff's comments incorporated, the State of Wyoming will have adopted an adequate and compatible set of radiation protection regulations that apply to the possession, use, and disposal of source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

3. Uniformity of Radiation Standards. It is important to strive for uniformity in technical definitions and terminology, particularly as related to such things as units of measurement and radiation dose. There shall be uniformity on maximum permissible doses and levels of radiation and concentrations of radioactivity, as fixed by 10 CFR Part 20 of the NRC regulations based on officially approved radiation protection guides.

The State of Wyoming, by statute, must promulgate and enforce rules for the regulation of source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content that are in accordance with Section 274 of the Atomic Energy Act. The NRC staff verified that the State of Wyoming adopted regulations in the Wyoming Source Material Rules and Regulations, Chapter 1, Section 5 and Chapter 3, Section 4 that are compatible with 10 CFR Part 20.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

4. Total Occupational Radiation Exposure. The regulatory authority shall consider the total occupational radiation exposure of individuals, including that from sources which are not regulated by it.

The NRC staff verified that the State has adopted regulations by reference that are compatible with the NRC regulations in 10 CFR Part 20, including Subpart C, the occupational dose limits and Subpart D, the dose limits to individual members of the public. The State of Wyoming licensees are required to consider the radiation doses to individuals from all sources of radiation, except background radiation and radiation from medical procedures. Like NRC licensees, the State of Wyoming licensees are required to consider the radiation dose whether the sources are licensed or unlicensed.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

5. Surveys, Monitoring. Appropriate surveys and personnel monitoring under the close supervision of technically competent people are essential in achieving radiological protection and shall be made in determining compliance with safety regulations.

The NRC requires surveys and monitoring pursuant to 10 CFR Part 20, Subpart F. The NRC staff review verified that the State of Wyoming has adopted regulations by reference that are compatible with 10 CFR Part 20, Subpart F, which can be found in the Wyoming Source Material Rules and Regulations, Chapter 3, Section 4. Therefore, the State of Wyoming licensees are required to conduct surveys and personnel monitoring to the same standards required of the NRC licensees.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

6. Labels, Signs, Symbols. It is desirable to achieve uniformity in labels, signs and symbols, and the posting thereof. However, it is essential that there be uniformity in labels, signs, and symbols affixed to radioactive products that are transferred from person to person.

The NRC staff verified that the State of Wyoming has adopted regulations by reference that are compatible with the NRC regulations in 10 CFR Part 20, Subpart J, Precautionary Procedures. Therefore, the radiation labels, signs, symbols, and the posting and labeling requirements in the State of Wyoming regulations are compatible with those contained in the NRC regulations.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

7. Instruction. Persons working in or frequenting restricted areas shall be instructed with respect to the health risks associated with exposure to radioactive materials and in precautions to minimize exposure. Workers shall have the right to request regulatory authority inspections as per 10 CFR 19, Section 19.16 and to be represented during inspections as specified in Section 19.14 of 10 CFR 19.

The NRC staff verified that the State of Wyoming has adopted regulations by reference that are compatible with the NRC regulations in 10 CFR Part 19, including 10 CFR 19.12, which among other things, requires all individuals who are likely to receive in a year an occupational dose more than 100 mrem (1 mSv) to be informed of health protection problems associated with exposure to radiation and precautions to minimize exposure. Wyoming's regulations can be found in the Wyoming Source Material Rules and Regulations, Chapter 5, Section 3.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

8. Storage. Licensed radioactive material in storage shall be secured against unauthorized removal.

The NRC staff verified that the State of Wyoming has adopted regulations by reference that are compatible with the NRC regulations in 10 CFR Part 20 Subpart I, Storage and Control of Licensed Material. These regulations can be found in the Wyoming Source Material Rules and Regulations, Chapter 3, Section 4.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

9. Radioactive Waste Disposal. (a) Waste disposal by material users. The standards for the disposal of radioactive materials into the air, water and sewer, and burial in the soil shall be in accordance with 10 CFR Part 20. Holders of radioactive material desiring to release or dispose of quantities or concentrations of radioactive materials in excess of prescribed limits shall be required to obtain special permission from the appropriate regulatory authority. Requirements for transfer of waste for the purpose of ultimate disposal at a land disposal facility (waste transfer and manifest system) shall be in accordance with 10 CFR Part 20. The waste disposal standards shall include a waste classification scheme and provisions for waste form, applicable to waste generators, that is equivalent to that contained in 10 CFR Part 61.

The NRC staff verified that the State of Wyoming has adopted by reference the relevant NRC regulations that are compatible with the NRC regulations in Subpart K of 10 CFR Part 20 and the provisions for waste classification and form in 10 CFR Part 61. These regulations deal with general requirements for waste disposal and are applicable to all Wyoming licensees affected by this amendment.

The staff concluded that Criterion 9(a) is satisfied.

(b) Land Disposal of waste received from other persons. The State shall promulgate regulations containing licensing requirements for land disposal of radioactive waste received from other persons, which are compatible with the applicable technical definitions, performance objectives, technical requirements and applicable supporting Sections set forth in 10 CFR Part 61. Adequate financial arrangements (under terms established by regulation) shall be required of each waste disposal site licensee to ensure sufficient funds for decontamination, closure and stabilization of a disposal site. In addition, Agreement State financial arrangements for long-term monitoring and maintenance of a specific site must be reviewed and approved by the Commission prior to relieving the site operator of licensed responsibility (Section 151(a)(2), Pub. L. 97-425).

The State of Wyoming has not requested regulatory authority to license a low-level radioactive waste land disposal site. Therefore, the regulatory authority to license a low-level radioactive waste land disposal site is retained by the Commission. As such, there were no regulations or procedures in the State's application for the evaluation of a proposed license for a low-level waste disposal site.

Therefore, Criterion 9(b) does not apply to the State.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

- 10. Regulations Governing Shipment of Radioactive Materials. The State shall, to the extent of its jurisdiction, promulgate regulations applicable to the shipment of radioactive materials, such regulations to be compatible with those established by the U.S. Department of Transportation and other agencies of the United States whose jurisdiction over interstate shipment of such materials necessarily continues. State regulations regarding transportation of radioactive materials must be compatible with 10 CFR Part 71.**

The NRC staff verified that the State of Wyoming has adopted by reference the relevant regulations compatible with the NRC regulations in 10 CFR Part 71. The State of Wyoming will not attempt to enforce portions of the regulations related to activities, such as approving packaging designs, which are reserved to the NRC.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

- 11. Records and Reports. The State regulatory program shall require that holders and users of radioactive materials (a) maintain records covering personnel radiation exposures, radiation surveys, and disposals of materials; (b) keep records of the receipt and transfer of the materials; (c) report significant incidents involving the materials, as prescribed by the regulatory authority; (d) make available upon request of a former employee a report of the employee's exposure to radiation; (e) at request of an employee advise the employee of his or her annual radiation exposure; and (f) inform each employee in writing when the employee has received radiation exposure in excess of the prescribed limits.**

The NRC staff verified that the State of Wyoming has adopted by reference regulations compatible with NRC regulations in 10 CFR Parts 19, 20, 40, 61, 71 and 150. The records and reports referenced in Criterion 11 are regulatory requirements in these parts. The State of Wyoming has adopted the necessary record and reporting requirements.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

- 12. Additional Requirements and Exemptions. Consistent with the overall criteria here enumerated and to accommodate special cases and circumstances, the State regulatory authority shall be authorized in individual cases to impose additional requirements to protect health and safety, or to grant necessary exemptions which will not jeopardize health and safety.**

The NRC staff has verified that the State of Wyoming has adopted by reference regulations compatible with 10 CFR 40.41, "Specific exemptions," in the Wyoming Source Material Rules and Regulations, Chapter 4, Section 5. The State regulations adopted by reference provide the radiation control agency the authority to impose, by order or license condition, additional health and safety requirements beyond the requirements specified in law and in the rules. The State also has legal authority to grant reasonable and necessary exceptions to the regulatory requirements, either by order or by license condition.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

PRIOR EVALUATION OF USES OF RADIOACTIVE MATERIALS

- 13. Prior Evaluation of Hazards and Uses, Exceptions. In the present state of knowledge, it is necessary in regulating the possession and use of byproduct and source nuclear materials that the State regulatory authority require the submission of information on, and evaluation of, the potential hazards, and the capability of the user or possess or prior to his receipt of materials. This criterion is subject to certain exceptions and to continuing reappraisal as knowledge and experience in the atomic energy field increase. Frequently there are, and increasingly in the future there may be, categories of materials and uses as to which there is sufficient knowledge to permit possession and use without prior evaluation of the hazards and the capability of the processor and user. These**

categories fall into two groups: those materials and uses which may be completely exempt from regulatory controls, and those materials and uses in which sanctions for misuse are maintained without pre-evaluation of the individual possession or use. In authorizing research and development or other activities involving multiple uses of radioactive materials, where an institution has people with extensive training and experience, the State regulatory authority may wish to provide a means for authorizing broad use of materials without evaluating specific use.

The State of Wyoming has adopted regulations, which can be found in Wyoming Source Material Rules and Regulations, Chapter 4, Sections 4, 7, and 8, containing regulatory requirements for applying for and issuing licenses that are compatible with NRC's regulations.

The State of Wyoming's current and proposed amendment to their Agreement does not include the authority for the exempt distribution of Agreement materials. The NRC staff confirmed that the State of Wyoming Source Material Rules and Regulations provide that only the NRC may issue a license authorizing the distribution of Agreement materials that will subsequently be exempt from regulatory control. The proposed amendment to the Agreement does authorize the distribution of small quantities and generally licensed products by incorporation by reference of 40.54 and 40.55 in Chapter 4, Section 3 of the Source Material Rules and Regulations.

Since Criterion 13 was adopted, the Commission has determined that the regulatory authority to conduct safety evaluations of sealed sources and devices may be retained by the NRC, unless a State requests assumption of the authority and has in place an adequate and compatible program to implement the authority. The State of Wyoming has decided not to seek authority for evaluation of sealed sources and devices. Therefore, the regulatory authority to evaluate sealed sources and devices is retained by the Commission.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

- 14. Evaluation Criteria. In evaluating a proposal to use radioactive materials, the regulatory authority shall determine the adequacy of the applicant's facilities and safety equipment, his training and experience in the use of the materials for the purpose requested, and his proposed administrative controls. States should develop guidance documents for use by license applicants. This guidance should be consistent with NRC licensing regulatory guides for various categories of licensed activities.**

The NRC staff determined that the State of Wyoming has established a series of procedures, checklists, and forms to be used in evaluating proposals for source

material use. These will be used in addition to the NRC licensing guidance and regulatory guides referenced in Appendix A to Subsection 4.3 of Wyoming's application. In addition, the State of Wyoming developed administrative licensing procedures that define the review process for a new license application, amendment, renewal, and license termination. The State of Wyoming licensing procedures are consistent with NRC procedures.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

- 15. Human Use. The use of radioactive materials and radiation on or in humans shall not be permitted except by properly qualified persons (normally licensed physicians) possessing prescribed minimum experience in the use of radioisotopes or radiation.**

The State of Wyoming has not requested regulatory authority to use radioactive materials for human use. Therefore, the regulatory authority to license the medical use of radioactive material is retained by the Commission. As such, there were no regulations or procedures in the State's application for the evaluation of a proposed license for human use.

Therefore, Criterion 15 does not apply to the State.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

INSPECTION

- 16. Purpose, Frequency. The possession and use of radioactive materials shall be subject to inspection by the regulatory authority and shall be subject to the performance of tests, as required by the regulatory authority. Inspection and testing is conducted to determine and to assist in obtaining compliance with regulatory requirements. Frequency of inspection shall be related directly to the amount and kind of material and type of operation licensed, and it shall be adequate to ensure compliance.**

The NRC staff confirmed that the State of Wyoming has statutory authority to conduct inspections of licensees. The authority to enter premises and inspect licensees is provided in Wyoming Statute § 35-11-2003(d). The State of Wyoming has adopted regulations compatible with equivalent parts of the NRC regulations, which can be found in Wyoming Source Material Rules and Regulations, Chapters 3 and 4,

containing provisions relating to inspections and tests.

The State of Wyoming has adopted the NRC inspection schedule for the inspection of licensees at least as frequent as the schedule used by NRC. The State of Wyoming's staff has developed internal procedures and accompanying forms for the inspection areas which cover scheduling, preparation, performance basis, tracking and documentation of inspection results. The Wyoming inspection procedures are consistent with NRC inspection procedures.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

17. Inspections Compulsory. Licensees shall be under obligation by law to provide access to inspectors.

The NRC staff confirmed that Wyoming Statute § 35-11-2003 provides authority for radiation control program inspectors to enter public or private property at all reasonable times for the purpose of investigating conditions related to radiation use.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

18. Notification of Results of Inspection. Licensees are entitled to be advised of the results of inspections and to notice as to whether or not they are in compliance.

The NRC staff determined that the State of Wyoming has adopted procedures to convey a copy of the formal inspection report to the licensees, both when violations are found, and when no violations are found. The procedures identify the staff responsible and specify the time limit for preparing the inspection report, the process for management review and approval, and provide instructions for distribution of the report to the licensee and to the State of Wyoming's official files.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§

35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

ENFORCEMENT

- 19. Enforcement. Possession and use of radioactive materials should be amenable to enforcement through legal sanctions, and the regulatory authority shall be equipped or assisted by law with the necessary powers for prompt enforcement. This may include, as appropriate, administrative remedies looking toward issuance of orders requiring affirmative action or suspension or revocation of the right to possess and use materials, and the impounding of materials; the obtaining of injunctive relief; and the imposing of civil or criminal penalties.**

The NRC staff confirmed that the WYDEQ is authorized in the Wyoming Statute § 35-11-2003 to enforce the State of Wyoming's regulations using a variety of sanctions, including the imposition of administrative penalties, the issuance of orders to suspend, modify or revoke licenses, and any other action deemed appropriate by the Source Material Program. The Source Material Program may seek civil penalties in accordance with State of Wyoming law and regulations.

The State of Wyoming has adopted policies and procedures to implement its enforcement authority over Agreement State materials. The State of Wyoming's enforcement procedures are similar to the NRC's procedures regarding the use of escalated enforcement for violations.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

PERSONNEL

- 20. Qualifications of Regulatory and Inspection Personnel. The regulatory agency shall be staffed with sufficient trained personnel. Prior evaluation of applications for licenses or authorizations and inspections of licensees must be conducted by persons possessing the training and experience relevant to the type and level of radioactivity in the proposed used to be evaluated and inspected. This requires competency to evaluate various potential radiological hazards associated with the many uses of radioactive material and includes concentrations of radioactive materials in air and water, conditions of shielding, the making of radiation measurements, knowledge of radiation instruments (their selection, use and calibration), laboratory design, contamination control, other general principles and practices of radiation protection, and use of management controls in assuring adherence to safety procedures. In order to evaluate some complex cases, the State regulatory staff may need to be supplemented by consultants of other State**

agencies with expertise in geology, hydrology, water quality, radiobiology and engineering disciplines.

To perform the functions involved in evaluation and inspection, it is desirable that there be personnel educated and trained in the physical and/or life science, including biology, chemistry, physics and engineering, and that the personnel have had training and experience in radiation protection. For example, the person who will be responsible for the actual performance of evaluation and inspection of all of the various uses of byproduct and source nuclear material which might come to the regulatory body should have substantial training and extensive experience in the field of radiation protection. It is desirable that such a person have a bachelor's degree or equivalent in the physical or life sciences, and specific training -radiation protection.

It is recognized that there will also be persons in the program performing a more limited function in evaluation and inspection. These persons will perform the day-to-day work of the regulatory program and deal with both routine situations as well as some which are out of the ordinary. These people should have a bachelor's degree or equivalent in the physical or life sciences, training in health physics, and approximately 2 years of actual work experience in the field of radiation protection.

The foregoing are considered desirable qualifications for the staff who will be responsible for the actual performance of evaluation and inspection. In addition, there will probably be trainees associated with the regulatory program who will have an academic background in the physical or life sciences as well as varying amounts of specific training in radiation protection but little or no actual work experience in the field. The background and specific training of these persons will indicate to some extent their potential role in the regulatory program. These trainees, of course, could be used initially to evaluate and inspect those applications of radioactive materials which are considered routine or more standardized from the radiation safety standpoint, for example, inspection of industrial gauges, small research programs, and diagnostic medical programs. As they gain experience and competence in the field, the trainees could be used progressively to deal with the more complex or difficult types of radioactive material applications. It is desirable that such trainees have a bachelor's degree or equivalent in the physical or life sciences and specific training in radiation protection. In determining the requirement for academic training of individuals in all of the foregoing categories, proper consideration should be given to equivalent competency which has been gained by appropriate technical and radiation protection experience.

It is recognized that radioactive materials and their uses are so varied that the evaluation and inspection functions will require skills and experience in the different disciplines which will not always reside in one person. The regulatory authority should have the composite of such skills either in its employ or at its command, not only for routine functions, but also for emergency cases.

Based on the review of the organizational charts and position descriptions for the State of Wyoming Agreement State training and qualification plan, and the curricula vitae for

the current staff members, the NRC staff concludes that the State of Wyoming's Source Material Program has a staffing plan that provides a sufficient number of adequately trained and qualified technical staff. Consistent with past assessments, the NRC staff addresses this criterion by assessing the State's (a) Agreement Materials staffing, and (b) staff qualifications.

a. Assessment of the Agreement Materials Staffing

There is one specific source licensee (Rare Element Resources) in the State of Wyoming that will be transferred under this amendment to the Agreement. The Source Material Program is responsible for the implementation of activities covered by the amendment to the Agreement. Modeled after the existing Uranium Recovery Program, the Source Material Program will also be included in the WYDEQ Land Quality Division. Accordingly, work required by the Source Material Program may be supported by other Land Quality Division staff when additional expertise is required. The Source Material Program staff will be responsible for licensing, inspection, decommissioning, and enforcement in their areas of expertise. Additionally, the Source Material Program will use one full-time health physicist, one full-time geologist/hydrologist, and one full-time equivalent (FTE) from the existing Land Quality Division workforce with multiple disciplines that were already regulating the uranium mining permit process.

WYDEQ conducted an analysis of the expected workload to establish an appropriate staffing plan for the one existing license and a potential future license. The Department determined that 3 FTE technical staff is adequate for operating the Source Material Program. This projection is based on data from the NRC, Agreement States, and the Department's own internal information. The Source Material Program staff will be cross trained to support the Uranium Recovery Program that already has five staff members and two managers who will contribute at least 4 FTE to implementing the program.

The NRC staff concludes that the Department has an adequate number of staff to transition to and meet the anticipated needs of the Source Material Program.

b. Assessment of Staff Qualifications

The NRC staff considered the qualifications of the individuals currently on the Department staff that would be involved in the Source Material Program and the procedures for training and qualifying new staff members.

Under the proposed amendment to the Agreement, the Department's Radiation Program Manager would direct the Uranium Recovery and Source Material Programs and would be primarily responsible for the Programs' administration and day-to-day supervision. This individual holds a Bachelor of Science degree in environmental science and technology. Prior to joining the Department, the Radiation Program Director accumulated 20 years of experience in progressively senior roles, including Site Manager for U.S. Department of Energy's Uranium Mill Tailings Radiation Control Act sites.

The technical staff devoting the most time to the Source Material Program are a Health Physicist and Geologist/Hydrologist. The NRC staff reviewed the educational qualifications of these individuals. One individual has a bachelor of science degree with 29 years of professional experience, and the second individual has a master's degree with 11 years of professional experience. Prior to working for the Source Material

Program, both individuals worked in WYDEQ, one for 19 years as a geologist and the other for 2 years in the Uranium Recovery Program. These individuals have been involved in the development of Wyoming's application to amend their Agreement since the Governor submitted the Letter of Intent in 2023. During the last 2d years they have gained experience in all aspects of the Uranium Recovery and Source Material Programs including the writing and adoption of regulations and development of the licensing and inspection program that ensures compliance to State and Federal regulations.

The technical staff have completed most of the WYDEQ's compatible training qualification program and are projected to complete all required training by the end of 2025. During the last 2 years, the technical staff have also accompanied NRC inspectors during inspections of Rare Earth Resources.

The NRC staff concludes that the Wyoming Agreement State Program technical staff identified by the State of Wyoming to work in the Source Material Program are trained in accordance with the State's Formal Qualification Plan, as outlined in Subsection 4.6.2 of the Wyoming amendment to the Agreement Application, and have sufficient knowledge and experience in radiation protection, the oversight of source material, the standards for the evaluation of applications for licensing, and techniques of inspecting licensed users of source material.

The NRC staff concludes that the proposed Source Material Program has a sufficient number of adequately trained staff to meet program needs.

c. Conclusion on Criterion 20

The staff concludes that Criterion 20 is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

21. Conditions Applicable to Special Nuclear Material, Source Material and Tritium. Nothing in the State's regulatory program shall interfere with the duties imposed on the holder of the materials by the NRC, for example, the duty to report to the NRC, on NRC prescribed forms, (1) transfers of special nuclear material, source material and tritium, and (2) periodic inventory data.

The State of Wyoming has adopted an adequate and compatible set of radiation protection regulations, which can be found in the Wyoming Source Material Rules and Regulations, Chapter 3, which apply to the extraction of source material from mineral resources not for their uranium or thorium content. The State of Wyoming will not be regulating Special Nuclear Material and Tritium under the proposed amendment to the Agreement. In addition, the State of Wyoming will not be regulating byproduct material as defined in Sections 11e.(1), 11e.(3), and 11e.(4) of the Atomic Energy Act.

The NRC staff review did not note any aspects of the State of Wyoming's Agreement State Program that could potentially interfere with duties imposed on a holder of materials by the NRC. In addition, the State of Wyoming's regulations specifically exempt areas of exclusive NRC or other Federal jurisdiction from Wyoming regulations. The staff is therefore satisfied that the State of Wyoming will not interfere with duties imposed on the holder of materials by the NRC.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

- 22. Special Nuclear Material Defined. Special nuclear material, in quantities not sufficient to form a critical mass, for present purposes means uranium enriched in the isotope U-235 in quantities not exceeding 350 grams of contained U-235; uranium 233 in quantities not exceeding 200 grams; plutonium in quantities not exceeding 200 grams; or any combination of them in accordance with the following formula: For each kind of special nuclear material, determine the ratio between the quantity of that special nuclear material and the quantity specified above for the same kind of special nuclear material. The sum of such ratios for all kinds of special nuclear material in combination should not exceed "1" (i.e., unity). For example, the following quantities in combination would not exceed the limitation and are within the formula, as follows:**

$$175 \text{ (grams contained U-235)}/350 + 50 \text{ (grams U-233)}/200 + 50 \text{ (grams Pu)}/200 = 1$$

The State of Wyoming has not requested regulatory authority to regulate special nuclear material. Therefore, the regulatory authority to regulate special nuclear material is retained by the Commission. As such, there were no regulations or procedures in the State's application for the evaluation of a proposed license for the regulation of special nuclear material.

Therefore, Criterion 22 does not apply to the State.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

ADMINISTRATION

- 23. Fair and Impartial Administration. State practices for assuring the fair and impartial administration of regulatory law, including provision for public participation where appropriate, should be incorporated in procedures for:**
- a. Formulation of rules of general applicability,**
 - b. Approving or denying applications for licenses or authorization to process and use radioactive materials; and**
 - c. Taking disciplinary actions against licensees.**

The NRC staff confirmed that the Source Material Program is bound by general statutory and regulatory provisions which can be found in Wyoming's Environmental Quality Act, Wyoming's Administrative Procedure Act, and the Wyoming Source Material Rules and Regulations, Chapter 2 and Chapter 4, Section 14 with respect to providing the opportunity for public participation in rulemaking, licensing actions, and disciplinary actions. These general statutory and regulatory provisions also apply to the protection of personnel radiation exposure records from public disclosure, maintaining the confidentiality of allegers, and administrative and judicial requirements for requesting and holding hearings on enforcement matters.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231, ML25227A232, and ML25267A041). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

- 24. State Agency Designation. The State of Wyoming should indicate which agency, or agencies will have authority for carrying out the program and should provide the NRC with a summary of that legal authority. There should be assurances against duplicate, regulation and licensing by State and local authorities, and it may be desirable that there be a single or central regulatory authority.**

The NRC staff determined that the Land Quality Division in the WYDEQ is designated by Wyoming Statutes §§ 35-11-2001(a) through (c) to be the lead agency for carrying out the terms of the proposed amendment to the Agreement, which will provide assurance against duplicate regulations or licensing by State and local authorities. The staff determined that the State of Wyoming regulations specifically exclude any areas in which the jurisdiction of the NRC or another Federal agency is exclusive, gives sufficient assurance against duplicate regulation between the State of Wyoming and the NRC in the regulation to the extraction of source material from mineral resources not for their uranium or thorium content.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and

additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

- 25. Existing NRC Licenses and Pending Applications. In effecting the discontinuance of jurisdiction, appropriate arrangements will be made by NRC and the State of Wyoming to ensure that there will be no interference with or interruption of licensed activities or the processing of license applications by reason of the transfer. For example, one approach might be that the State of Wyoming, in assuming jurisdiction, could recognize and continue in effect, for an appropriate period of time under Wyoming State Law, existing NRC licenses, including licenses for which timely applications for renewal have been filed, except where good cause warrants the earlier reexamination or termination of the license.**

The NRC staff review confirmed that the Wyoming Statute § 35-11-2003(a) provides for the recognition of existing NRC and Agreement State licenses. The Wyoming Statute § 35-11-2003(a) authorizes the WYDEQ Source Material Program to recognize licenses issued by the NRC and other Agreement States.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

- 26. Relations with Federal Government and Other States. There should be an interchange of Federal and State information and assistance in connection with the issuance of regulations and licenses or authorizations, inspection of licensees, reporting of incidents and violations, and training and education problems.**

The NRC staff verified the proposed amendment to the Agreement commits the State of Wyoming to cooperate with the NRC and the other Agreement States in the formulation of standards and regulatory programs to ensure health and safety of the public against hazards of radiation and to assure that the State of Wyoming will continue to be compatible with the NRC's program for the regulation of agreement materials.

The Commission has determined that providing reports to the NRC of Agreement State licensee incidents, accidents and other significant events is a matter of compatibility. The State of Wyoming has adopted procedures to provide such reports to the NRC.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through

35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

27. Coverage, Amendments, Reciprocity. An amendment providing for discontinuance of NRC regulatory authority and the assumption of regulatory authority by the State may relate to any one or more of the following categories of materials within the State, as contemplated by State of Wyoming Statute § 35-11-2001:

- a. Source material recovered from mineral resources primarily for the purposes other than obtaining their uranium or thorium content. Arrangements should be made for the reciprocal recognition of State licenses and NRC licenses in connection with out-of-jurisdiction operations by a State or NRC licensee.**

The NRC staff verified the proposed amendment to the Agreement provides for the Commission to relinquish, and the State of Wyoming to assume, regulatory authority over the types of material defined in category a. above. For the purpose of this proposed amendment to the Wyoming Agreement, the Commission has approved the creation of a subcategory of source material involved in the processing of source material to extract mineral resources other than the uranium or thorium content.

The proposed amendment to the Agreement would allow the State of Wyoming to assume and the NRC to discontinue regulatory authority over the possession and use of source material involved in the extraction of source material from mineral resources not for their uranium or thorium content.

The proposed amendment to the Agreement will not include regulatory authority over the mining or removal of source material in its natural state. Under the proposed Agreement, the NRC would continue to retain regulatory authority over laboratory facilities that are not located at facilities licensed under the State of Wyoming's regulatory authority. The State of Wyoming would only regulate laboratory facilities located at uranium or thorium mills or at facilities that extract source material from mineral resources not for their uranium or thorium content.

The proposed amendment to the Agreement stipulates the desirability or reciprocal recognition of the NRC and other Agreement State licenses and commits the Commission and the State of Wyoming to cooperate and accord such reciprocity. The authority to recognize the licenses of other jurisdictions is provided in the Wyoming Statute § 35-11-2003(a). The State of Wyoming has adopted 10 CFR 150.20 by incorporation by reference and would be able to recognize the licenses of other jurisdictions.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

28. **NRC and Department of Energy Contractors. The State should provide exemptions for NRC and Department of Energy contractors that are substantially equivalent to the following exemptions:**
- a. **Prime contractors performing work for the Department of Energy at U.S. Government -owned or controlled site;**
 - b. **Prime contractors performing research in, or development, manufacture, storage, testing, or transportation of, atomic weapons or components thereof;**
 - c. **Prime contractors using or operating nuclear reactors or other nuclear devices in a U.S. Government -owned vehicle or vessel; and**
 - d. **Any other prime contractor or subcontractor of Department of Energy or NRC when the State and the NRC jointly determine (i) that, under the terms of the contract or subcontract, there is adequate assurance that the work thereunder can be accomplished without undue risk to the public health and safety; and (ii) that the exemption of such contractor or subcontractor is authorized by law.**

The NRC staff has verified the State of Wyoming has adopted compatible regulations to the NRC regulations in 10 CFR Part 40.11, which can be found in the Wyoming Source Material Rules and Regulations, Chapter 4, Section 5, wherein the specified exemptions are contained. The NRC staff concludes that the State of Wyoming regulations provide for exemptions from the State of Wyoming's requirements for licensing of sources of radiation for the NRC and Department of Energy contractors or subcontractors in accordance with the criterion.

The staff concludes that this criterion is satisfied.

References: Letter dated August 5, 2025, from Governor Gordon to Chairman Wright, request for an Agreement, Section on Statutory Authority and Program Organization, and additional related correspondence between the NRC and the State (ADAMS Accession Nos. ML25227A231 and ML25227A232). State Statutes: §§ 35-11-2001 through 35-11-2005. State Regulations: Wyoming Source Material Rules and Regulations, Chapters 1 through 9.

STAFF CONCLUSION

The NRC staff has reviewed the proposed amendment to the Agreement, the certification by the State of Wyoming in the application for an Agreement in the letter dated August 5, 2025, from Governor Gordon to Chairman Wright, and the supporting information provided by the staff of the Wyoming Department of Environmental Quality.

Section 274d. of the Atomic Energy Act of 1954, as amended, provides that the Commission shall enter into an Agreement under Section 274b. with any State if:

- a. The Governor of the State certifies that the State has a program for the control of radiation hazards adequate to protect public health and safety with respect to regulating the possession, use, and disposal of source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content within the State, and that the State desires to assume regulatory responsibility for this subcategory of source material; and
- b. The Commission finds that the State program is in accordance with the requirements of Section 274 and in all other respects compatible with the NRC's program for the regulation of materials, and that the State program is adequate to protect public health and safety with respect to the materials covered by the proposed Agreement.

The staff concludes that:

On the basis of this Assessment, the State of Wyoming meets the requirements of the Atomic Energy Act. Therefore, on the proposed effective date of the amended Agreement, the State of Wyoming will have adopted an adequate and compatible set of radiation protection regulations for source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content. The Source Material Program, as defined by the State statutes, regulations, personnel, licensing, inspection, and administrative procedures, is compatible with the NRC's program and adequate to protect public health and safety with respect to the radioactive materials covered by the requested amendment to the Agreement.