

POLICY ISSUE
NOTATION VOTE

RESPONSE SHEET

TO: Carrie M. Safford, Secretary

FROM: Commissioner Marzano

SUBJECT: SECY-25-0096: Proposed Amended Agreement
Between the State of Wyoming and the Commission
Pursuant to Section 274 of the Atomic Energy Act of
1954, As Amended

Approved X Disapproved Abstain Not Participating

COMMENTS: Below Attached X None

Entered in STAR

Yes X
No

Signature
Matthew J. Marzano

Date

Proposed Amendment to the Agreement Between the State of Wyoming and the Commission Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

In this paper, the staff recommends publishing the proposed amendment to the Agreement between the NRC and the State of Wyoming in the Federal Register for public comment. I approve publishing the Federal Register Notice, which includes the staff's draft assessment of Wyoming's regulatory program, subject to the attached edits. Compared to previous amendments, where the NRC issued a separate document that only included the changes to the original Agreement, the State of Wyoming and the staff agreed that a single Agreement document that is revised in its entirety would increase clarity and transparency. I agree that this process improves clarity and transparency and thus better aligns with NRC's Principles of Good Regulation. For this reason, I also approve the staff's proposal to amend Management Directive 5.8, "Proposed Section 274b. Agreements with States," after the final approval of the amended Wyoming Agreement to reflect this new process.

NUCLEAR REGULATORY COMMISSION

[NRC-2025-XXXX]

State of Wyoming: NRC Staff Assessment of a Proposed Amendment to the Agreement Between the Nuclear Regulatory Commission and the State of Wyoming

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed amendment to state agreement; request for comment.

SUMMARY: By letter dated August 5, 2025, Governor Mark Gordon of the State of Wyoming requested that the U.S. Nuclear Regulatory Commission (NRC or Commission) amend its~~their~~ Agreement with the State of Wyoming as authorized by Section 274b. of the Atomic Energy Act of 1954, as amended (AEA).

Under the proposed amendment to the Agreement, the Commission would discontinue, and the State of Wyoming would assume, regulatory authority over source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content. Since 2018, Wyoming's existing Agreement allows the State to assume regulatory authority over byproduct materials as defined in Section 11e.(2) of the AEA, and source materials involved in the extraction or concentration of uranium or thorium in source material and ores at milling facilities.

As required by Section 274e. of the AEA, the NRC is publishing the proposed amendment to the Agreement for public comment. The NRC is also publishing the summary of a draft assessment by the NRC staff of the State of Wyoming's regulatory

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source material program. Comments are requested on the proposed amendment to the Agreement and its effect on public health and safety. Comments are also requested on the draft staff assessment, the adequacy of the State of Wyoming's source material program, and the adequacy of the staffing of the State's program, as discussed in this document.

DATES: Submit comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the **Federal Rulemaking Website**:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2025-XXXX**. Address questions about Docket IDs in Regulations.gov to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individuals listed in the "For Further Information Contact" section of this document.

- **Mail comments to:** Office of Administration, Mail Stop: TWFN-7-A60M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Duncan White, telephone: 301-415-2598;

Commented [A1]: Update POC as Duncan will retire before or during the public comment period.

email: Duncan.White@nrc.gov and Allyce Bolger, telephone: 301-415-0855; email: Allyce.Bolger@nrc.gov. Both are staff of the Office of Nuclear Material Safety and Safeguards at the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID **NRC-2025-XXXX** when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID **NRC-2025-XXXX**.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, at 301-415-4737, or by email to PDR.Resource@nrc.gov. For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in the "Availability of Documents" section.

- **NRC's PDR:** The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the **Federal Rulemaking Website** (<https://www.regulations.gov>). Please include Docket ID **NRC-2025-XXXX** in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Additional Information on Agreements Entered Under Section 274 of the AEA

Under the proposed amended Agreement, the NRC would discontinue its authority over source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content and would transfer its regulatory authority to the State of Wyoming. There is currently one NRC licensee that would be transferred to the State of Wyoming under this proposed amended Agreement. The NRC periodically reviews the performance of the Agreement States to assure compliance with the provisions of Section 274.

Section 274e. of the AEA requires that the terms of the proposed Agreement be published in the *Federal Register* for public comment once each week for four consecutive weeks. This document is being published in fulfillment of that requirement.

III. Proposed Amended Agreement with the State of Wyoming

Background

(a) Section 274b. of the AEA provides the mechanism for a State to assume regulatory authority from the NRC over certain radioactive materials and activities that involve use of these materials. The radioactive materials, sometimes referred to as “Agreement materials,” are byproduct materials as defined in Sections 11e.(1), 11e.(2), 11e.(3), and 11e.(4) of the AEA; source material as defined in Section 11z. of the AEA; and special nuclear material as defined in Section 11aa. of the AEA, restricted to quantities not sufficient to form a critical mass.

The State of Wyoming has requested authority over a subcategory of source material in this amendment to ~~its~~~~their~~ Agreement, specifically:

(a) source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content.

(b) The proposed amended Agreement contains articles that:

- i) Specify the materials and activities over which authority was transferred in 2018 and in this amendment;
- ii) Specify the materials and activities over which the Commission will retain regulatory authority;
- iii) Continue the authority of the Commission to safeguard special nuclear material, protect restricted data, and protect common defense and security;

- iv) Commit the State of Wyoming and the NRC to exchange information as necessary to maintain coordinated and compatible programs;
- v) Provide for the reciprocal recognition of licenses;
- vi) Provide for the suspension or termination of the amended Agreement; and
- vii) Specify the effective date of the proposed amended Agreement.

The Commission reserves the option to modify the terms of the proposed amendment to the Agreement in response to comments, to correct errors, and to make editorial changes. The final text of the proposed amended Agreement, with the effective date, will be published after the amended Agreement is approved by the Commission and signed by the NRC Chairman and the Governor of Wyoming.

(c) The regulatory program is authorized by law under the Wyoming Environmental Quality Act, Wyoming Statutes §§ 35-11-2001 through 2004, §§ 35-11-101 et seq., and §§ 16-3-101 et seq., which provides the Governor with the authority to enter into an Agreement with the Commission. The State of Wyoming law contains provisions for the orderly transfer of regulatory authority over affected licenses from the NRC to the State. In a letter dated August 5, 2025, Governor Gordon certified that the State of Wyoming has a program for the control of radiation hazards that is adequate to protect public health and safety within the State of Wyoming for the materials and activities specified in the proposed amended Agreement, and that the State desires to assume regulatory responsibility for these materials and activities. After the effective date of the amended Agreement, the license issued by the NRC would continue in effect as a State of Wyoming license until the license expires or is replaced by State-issued license.

(d) The draft staff assessment finds that the Wyoming Department of Environmental Quality's Source Material Program is adequate to protect public health and safety and is compatible with the NRC's regulatory program for the regulation of source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content.

Summary of the Draft NRC Staff Assessment of the State of Wyoming's Program for the Regulation of Source Material.

The NRC staff has examined the State of Wyoming's request for an amended Agreement with respect to the ability of the State's radiation control program to regulate source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content. The examination was based on 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," (46 FR 7540, January 23, 1981, as amended by Policy Statements published at 46 FR 36969, July 16, 1981, and at 48 FR 33376, July 21, 1983) (Policy Statement), and the Office of Nuclear Material Safety and Safeguards Procedure SA-700, "Processing an Agreement" and its associated Handbook. The Policy Statement has 28 criteria that serve as the basis for the NRC staff's assessment of the State of Wyoming's request for an amended Agreement. The following section will reference the appropriate criteria numbers from the Policy Statement that apply to each section. Criteria 9b, 15, and 22 do not apply to the proposed Agreement since Wyoming's authority will be limited to the regulation of

uranium recovery facilities and source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content.

(a) Organization and Personnel. The NRC staff reviewed these areas under Criteria 1, 2, 20, and 24 in the draft staff assessment. The State of Wyoming's proposed amended Agreement program for the regulation of source material is called the "Source Material Program," and will be located within the Land Quality Division in the Department of Environmental Quality along with the existing Agreement program that regulates uranium recovery facilities.

The educational requirements for the Source Material Program staff are specified in the State of Wyoming's personnel position descriptions and meet the NRC criteria with respect to formal education or combined education and experience requirements. All current staff members meet the requirements of a bachelor's degree in the physical, life science, or engineering; or an equivalent combination of education and experience has been substituted for the degree. All have training and work experience in radiation protection. Supervisory level staff each have at least 20 years of working experience in radiation protection.

The State of Wyoming performed an analysis of the expected workload under the proposed amended Agreement. Based on the NRC staff review of the State of Wyoming's analysis, the State has an adequate number of staff to regulate source material under the terms of the proposed amended Agreement. The State of Wyoming will employ the equivalent of 3 full-time equivalent professional and technical staff to support the Source Material Program.

The State of Wyoming has indicated that the Source Material Program has an adequate number of trained and qualified staff in place. The State of Wyoming has

developed qualification procedures for license reviewers and inspectors that are similar to the NRC's procedures. The Source Material Program staff has accompanied the NRC staff on inspections of the NRC licensee in Wyoming. The Source Material Program staff is also actively supplementing its experience through meetings, discussions, and through self-study, in-house training, and formal training.

Overall, the NRC staff concluded that the Source Material Program staff identified by the State of Wyoming to participate in the Agreement program has sufficient knowledge and experience in radiation protection, the use of radioactive materials, the standards for the evaluation of applications for licensing, and the techniques of inspecting licensed users of source materials.

(b) Legislation and Regulations. The NRC staff reviewed these areas under Criteria 1-9a, 10-14, 17, 19, 21, and 23-28 in the draft staff assessment. Wyoming Statutes §§ 35-11-2001 provide the authority to enter into the amended Agreement and establish the Wyoming Department of Environmental Quality as the lead agency for the State's Source Material Program. The Department has the requisite authority to promulgate regulations under the Wyoming Statutes §§ 35-11-2002(b) for protection against radiation. Wyoming Statutes §§ 35-11-2003 and 2004 provide the Source Material Program the authority to issue licenses and orders; conduct inspections; and enforce compliance with regulations, license conditions, and orders. Wyoming Statute § 35-11-2003(d) requires licensees to provide access to inspectors.

The NRC staff verified that the State of Wyoming adopted by reference the relevant NRC regulations in parts 19, 20, 40, 61, 71, and 150 of title 10 of the *Code of Federal Regulations* (10 CFR) into the Wyoming Source Material Rules and Regulations Chapters 1 – 9. The State of Wyoming is currently revising ~~its~~their source material

regulations to address NRC comments. The revised regulations, expected to be finalized by the end of 2025, were reviewed by NRC staff and address all NRC comments. Therefore, the State of Wyoming will adopt an adequate and compatible set of radiation protection regulations that apply to source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content. The NRC staff also verified that the State of Wyoming will not attempt to enforce regulatory matters reserved to the Commission.

(c) Storage and Disposal. The NRC staff reviewed these areas under Criteria 8, 9a, and 11 in the draft staff assessment. The State of Wyoming has adopted NRC compatible requirements for the handling and storage of radioactive material, including regulations equivalent to the applicable standards contained in 10 CFR part 20, which address the general requirements for waste disposal, and 10 CFR part 61, which addresses waste classification and form. These regulations are applicable to all licensees covered under this proposed amended Agreement.

(d) Transportation of Radioactive Material. The NRC staff reviewed this area under Criteria 10 in the draft staff assessment. The State of Wyoming has adopted compatible regulations to the NRC regulations in 10 CFR part 71. Part 71 contains the requirements licensees must follow when preparing packages containing source material for transport. Part 71 also contains requirements related to the licensing of packaging for use in transporting source material.

(e) Recordkeeping and Incident Reporting. The NRC staff reviewed this area under Criteria 1 and 11 in the draft staff assessment. The State of Wyoming has adopted compatible regulations to the sections of the NRC regulations that specify requirements

for licensees to keep records and to report incidents or accidents involving the State's regulated Agreement materials specified in the proposed amended Agreement.

(f) Evaluation of License Applications. The NRC staff reviewed this area under Criteria 1, 7, 8, 9a, 13, 14, 20, 23, and 25 in the draft staff assessment. The State of Wyoming has adopted compatible regulations to the NRC regulations that specify the requirements to obtain a license to possess or use source material. The State of Wyoming has also developed licensing procedures and adopted NRC licensing guides for specific uses of source material for use by the program staff when evaluating license applications.

(g) Inspections and Enforcement. The NRC staff reviewed these areas under Criteria 1, 16, 18, 19, and 23 in the draft staff assessment. The State of Wyoming has adopted a schedule providing for the inspection of licensees as frequently as, or more frequently than, the inspection schedule used by the NRC. The State of Wyoming's **s**Source **m**Material **p**Program has adopted procedures for the conduct of inspections, reporting of inspection findings, and reporting inspection results to the licensees. Additionally, the State of Wyoming has also adopted procedures for the enforcement of regulatory requirements.

(h) Regulatory Administration. The NRC staff reviewed this area under Criterion 23 in the draft staff assessment. The State of Wyoming is bound by requirements specified in its State law for rulemaking, issuing licenses, and taking enforcement actions. The State of Wyoming has also adopted administrative procedures to ensure fair and impartial treatment of license applicants. The State of Wyoming law prescribes standards of ethical conduct for State employees.

(i) Cooperation with Other Agencies. The NRC staff reviewed this area under Criteria 25, 26, and 27 in the draft staff assessment. The State of Wyoming law provides for the recognition of existing NRC and Agreement State licenses and the State has a process in place for the transition of the active NRC license. Upon the effective date of the amended Agreement, the active NRC license for materials covered by the amended Agreement will be recognized as a Wyoming Department of Environmental Quality license.

The State of Wyoming also provides for “timely renewal.” This provision affords the continuance of licenses for which an application for renewal has been filed more than 30 days prior to the date of expiration of the license.

The State of Wyoming regulations in the Source Material Rules and Regulations Chapters 1 – 9 provide exemptions from the State’s requirements for the NRC, and the U.S. Department of Energy (DOE) contractors or subcontractors. The proposed amended Agreement commits the State of Wyoming to use its best efforts to cooperate with the NRC and the other Agreement States in the formulation of standards and regulatory programs for the protection against hazards of radiation, and to assure that the State’s program will continue to be compatible with the Commission’s program for the regulation of Agreement materials. The proposed amended Agreement specifies the desirability of reciprocal recognition of licenses and commits the Commission and the State of Wyoming to use their best efforts to accord such reciprocity. Consistent with NRC requirements, the State of Wyoming would be able to recognize the licenses of other jurisdictions by general license, as appropriate.

Staff Conclusion

Section 274d. of the AEA provides that the Commission shall enter into an

Agreement under Section 274b. with any State if:

(a) The Governor of that State certifies 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 amendment to the Agreement, and that the State desires to assume regulatory responsibility for the Agreement materials; and

(b) The Commission finds that the State program of the State for the regulation of the materials covered by this amendment to the Agreement is in accordance with the requirements of Subsection 274o. and in all other respects ~~is~~ compatible with the Commission's program for the regulation of such materials and is adequate to protect public health and safety with respect to the materials covered by the proposed agreement.

The NRC staff has reviewed the proposed amended Agreement, the certification of Wyoming Governor Gordon, and the supporting information provided by the Source Material Program of the Wyoming Department of Environmental Quality. Based upon this review, the NRC staff concludes that the State of Wyoming ~~s~~Source ~~M~~material ~~P~~program satisfies the Section 274d. criteria as well as 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." The NRC staff also concludes that the proposed State of Wyoming source material program to regulate source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content, as comprised of statutes, regulations, procedures, and staffing, is compatible with the Commission's program and is adequate to protect the public health and safety with respect to the materials covered

by the proposed amended Agreement. Therefore, the proposed amended Agreement meets the requirements of Section 274 of the AEA.

IV. Executive Order Reviews

Executive Order (E.O.) 12866

The Office of Information and Regulatory Affairs (~~OIRA~~) has determined that this proposed amendment to Wyoming's Agreement is not a significant regulatory action under E.O. 12866.

E.O. 13132

This action does not have federalism implications, as defined in Executive Order 13132. It will not significantly limit the rights, roles, and responsibilities of State or local governments.

E.O. 14300

On May 23, 2025, President Donald J. Trump signed E.O. 14300, "Ordering the Reform of the Nuclear Regulatory Commission." Section 5, "Reforming and Modernizing the NRC's Regulations," requires the NRC to undertake a review and wholesale revision of its regulations and guidance documents as guided by the policies set forth in section 2 of the E.O. The NRC is currently in the process of implementing the direction in E.O. 14300. When the NRC finalizes its ~~E.O. 14300~~ rules during the implementation of E.O. 14300, the Agreement States will need to update their own regulations, as necessary, to maintain compatibility with the NRC's program within a specific timeframe.

V. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

DOCUMENT DESCRIPTION	ADAMS ACCESSION NO.
Wyoming Final Application to Amend Agreement, dated August 2025	ML25227A230 (Package)
Wyoming Application Request for Additional Information (if needed)	ML25267A041 (Package)

Letter from Governor Mark Gordon, Wyoming, to Chairman Wright requesting amended agreement be established between the NRC and State of Wyoming, dated August 5, 2025.	ML25227A232
Staff Requirements Memorandum for 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", dated September 19, 2023.	ML23262B163
SECY-23-075 "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", dated August 24, 2023.	ML23172A212
Draft Assessment of the Proposed Wyoming Program	ML25237A057
State Agreement (SA) 700 "Processing an Agreement", dated June 15, 2022.	ML22138A414
SA-700 Handbook for Processing an Agreement, dated June 17, 2022.	ML22140A396

Dated: Month DD, 2025.

For the Nuclear Regulatory Commission.

Dafna Silberfeld, Acting Director,
Division of Materials Safety, Security, State,
and Tribal Programs,
Office of Nuclear Material Safety
and Safeguards.

APPENDIX A

AN AMENDED AGREEMENT BETWEEN THE UNITED STATES NUCLEAR
REGULATORY COMMISSION AND THE STATE OF WYOMING
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 an agreement with the Governor of the State of Wyoming (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 material as defined in Section 11e.(2) of the Act, source material involved in the extraction or concentration of uranium or thorium in source material or ores at milling facilities, and source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content; and,

WHEREAS, The Governor of the State of Wyoming is authorized under Wyoming Statute Section 35-11-2001 to enter into this Agreement with the Commission; and,

WHEREAS, The Commission entered into an Agreement with the State of Wyoming under Section 274 of the Act, which became effective on September 30,

2018 (hereinafter referred to as the “September 30, 2018 Agreement”), and provided 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 Section 11e.(2) of the Act, and source materials involved in the extraction or concentration of uranium or thorium in source material and ores at milling facilities; and,

WHEREAS, The Governor of the State of Wyoming submitted a letter of intent on February 21, 2023, to the Commission to pursue this amended Agreement which would allow the State to assume regulatory authority for source material recovered from any mineral resources processed primarily for purposes other than its uranium or thorium content in addition to the materials covered under the September 30, 2018 Agreement; and,

WHEREAS, The Governor of the State of Wyoming certified on August 5, 2025, that the State has a program for the control of radiation hazards ~~that is also~~ adequate to protect public health and safety with respect to the materials within the State covered by this amended Agreement and that the State desires to assume regulatory responsibility for such materials; and,

WHEREAS, The Commission found on [date], that the program of the State of Wyoming for the regulation of the materials covered by this amended 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 Wyoming 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 Wyoming 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 ~~Wyoming the State~~ acting on behalf of the State that this amended Agreement supersedes the September 30, 2018 Agreement 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:

- A. Byproduct material as defined in Section 11e.(2) of the Act;
- B. Source material involved in the extraction or concentration of uranium or thorium in source material or ores at uranium or thorium milling facilities (hereinafter referred to as "source material associated with milling activities"); and
- C. Source material recovered from any mineral resources processed primarily for purposes other than obtaining the source material content.

ARTICLE II

- A. This Agreement does not provide for the discontinuance of any

authority, and the Commission shall retain authority and responsibility, with respect to:

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 material as defined in Section 11e.(4) of the Act;
4. Source material except for source material as defined in Article I.B. and I.C. of this Agreement;
5. Special nuclear material;
6. The regulation of the land disposal of byproduct, source, or special nuclear material received from other persons, excluding 11e.(2) byproduct material or source material described in Article I.A. and B. of this Agreement;
7. 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;
8. The regulation of the construction, ~~u~~ operation, and decommissioning of any production or utilization facility or any uranium enrichment facility;
9. 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;
10. 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;

11. 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 to be so disposed without a license from the Commission;
 12. The regulation of activities not exempt from Commission regulation as stated in 10 CFR Part 150;
 13. The regulation of laboratory facilities that are not located at facilities licensed under the authority relinquished under Article I.A. and B. of this Agreement; and,
 14. Notwithstanding this Agreement, the Commission shall retain regulatory authority over the American Nuclear Corporation license (License No. SUA-667; Docket No. 040-04492).
- B. Notwithstanding this Agreement, the Commission retains the following authorities pertaining to byproduct material as defined in Section 11e.(2) of the Act:
1. Prior to the termination of a State license for such byproduct material, or for any activity that results in the production of such material, the Commission shall have made a determination that all applicable standards and requirements pertaining to such material have been met.
 2. The Commission reserves the authority to establish minimum

standards governing reclamation, long-term surveillance or maintenance, and ownership of such byproduct material and of land used as its disposal site for such material. Such reserved authority includes:

- a. The authority to establish terms and conditions as the Commission determines necessary to assure that, prior to termination of any license for such byproduct material, or for any activity that results in the production of such material, the licensee shall comply with decontamination, decommissioning, and reclamation standards prescribed by the Commission and with ownership requirements for such material and its disposal site;
- b. The authority to require that prior to termination of any license for such byproduct material or for any activity that results in the production of such material, title to such byproduct material and its disposal site be transferred to the United States or the State at the option of the State (provided such option is exercised prior to termination of the license);
- c. The authority to permit use of the surface or subsurface estates, or both, of the land transferred to the United States or a State pursuant to paragraph 2.b. in this section in a manner consistent with the provisions of the Uranium Mill Tailings Radiation Control Act of 1978, provided that the Commission determines that such use would not endanger

public health, safety, welfare, or the environment;

- d. The authority to require, in the case of a license for any activity that produces such byproduct material (which license was in effect on November 8, 1981), transfer of land and material pursuant to paragraph 2.b. in this section taking into consideration the status of such material and land and interests therein and the ability of the licensee to transfer title and custody thereof to the United States or a State;
- e. The authority to require the Secretary of the United States Department of Energy, other Federal agency, or State, whichever has custody of such byproduct material and its disposal site, to undertake such monitoring, maintenance, and emergency measures as are necessary to protect public health and safety and other actions as the Commission deems necessary; and,
- f. The authority to enter into arrangements as may be appropriate to assure Federal long-term surveillance or maintenance of such byproduct material and its disposal site on land held in trust by the United States for any Indian Tribe or land owned by an Indian Tribe and subject to a restriction against alienation imposed by the United States.

ARTICLE III

With the exception of those activities identified in Article II, A.8 through A.11, 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, A.1 through A.7, 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 byproduct, source, 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:

- (a) protection against hazards of radiation; and (b) to assure that Commission and State programs for protection against the 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:

- (a) protection against the hazards of radiation; and (b) 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 with 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 Wyoming, 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 ~~a~~Agreement creating danger which requires immediate action to protect ~~public~~the health ~~or~~and safety of persons either within or outside the State, and the State has failed to take steps necessary to contain or eliminate the cause ~~or of the~~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

In the licensing and regulation of byproduct material as defined in Section 11e.(2) of the Act, or of any activity that results in production of such material, the State shall comply with the provisions of Section 274o. of the Act, if in such licensing and regulation, the State requires financial surety arrangements for reclamation or long-term surveillance and maintenance of such material.

~~B. A.~~ The total amount of funds the State collects for such purposes shall be transferred to the United States if custody of such material and its disposal site is transferred to the United States upon termination of the State license for such material or any activity that results in the production of such material. Such funds include, but are not limited to, sums collected for long-term surveillance or maintenance. Such funds do not, however, include monies held as surety where no default has occurred and the reclamation or other bonded activity has been performed; and, such surety or other financial requirements must be

sufficient to ensure compliance with those standards established by the Commission pertaining to bonds, sureties, and financial arrangements to ensure adequate reclamation and long-term management of such byproduct material and its disposal site.

ARTICLE X

This Agreement shall supersede the September 30, 2018 Agreement and become effective on [date], and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII.

Done at [City, State], in triplicate, this [date] day of [month], [year].

FOR THE UNITED STATES

NUCLEAR REGULATORY COMMISSION.

David A. Wright,
Chairman for the U.S. Nuclear Regulatory
Commission

FOR THE STATE OF WYOMING.

Mark Gordon, Governor