



POLICY ISSUE

(Notation Vote)

April 10, 2026

SECY-26-0053

FOR: The Commissioners

FROM: Michael F. King
Executive Director for Operations

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

PURPOSE:

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

BACKGROUND:

Section 274b of the Atomic Energy Act of 1954, as amended (AEA), authorizes the Commission to enter into an Agreement with the Governor of a State providing for the discontinuance of the regulatory authority of the Commission with respect to certain materials. In 1981, the Commission adopted the policy statement entitled, "Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement" (46 FR 7540; January 23, 1981). The policy statement was amended on July 16, 1981 (46 FR 36969), and on July 21, 1983 (48 FR 33376). The Office of Nuclear Material Safety and Safeguards (NMSS) subsequently adopted State Agreement (SA) SA-700, "Processing an Agreement," as an internal procedure for applying the policy statement to the processing of a new Agreement. The criteria and approaches in these documents form the basis for the staff's evaluation of the State's request.

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Enclosures 1, 2 & 3 transmitted herewith contains Official Use Only – Sensitive Information. When separated from Enclosure 1, 2 & 3 this transmittal document is decontrolled.

DISCUSSION:

By letter received January 29, 2026, Indiana Governor Michael (Mike) Braun requested that the Commission enter into an Agreement with the State under Section 274b of the AEA (Agencywide Documents Access and Management System (ADAMS) Accession No. [ML26033A182](#)). Indiana's application requests that the Commission discontinue its regulatory authority and allow Indiana to assume regulatory authority for byproduct material (AEA §§ 11e.(1), 11e.(3), and 11e.(4)), source material, and special nuclear material not sufficient to form a critical mass. Governor Braun certified that Indiana has a program for the control of radiation hazards that is adequate to protect public health and safety with respect to the materials covered by the proposed Agreement. The Governor further certified that Indiana wishes to assume the regulatory responsibility for those materials.

Pending the Commission's approval, as required by Section 274e of the AEA, the NRC staff will publish the proposed Agreement for comment in the FR once each week for four consecutive weeks. The *Federal Register* Notice (FRN) (Enclosure 1, non-public) will also include a summary of the staff's draft assessment of the proposed Indiana regulatory program. The staff's draft assessment is provided in the non-public Enclosure 2. Following the public comment period and the resolution of public comments, the NRC staff will recommend whether the Commission should approve the proposed Agreement. The NRC staff will include an updated schedule, along with an analysis of the public comments, as part of its final notation vote paper to the Commission. If approved by the Commission, the final Agreement will be published in the FR within 30 days after signature by the Chairman and the Governor of Indiana. The State requested an effective date for the Agreement of October 1, 2026. Additionally, the State has requested a signing ceremony.

The NRC staff's draft assessment of the State's program covers seven subjects: (1) objectives, (2) radiation protection standards, (3) prior evaluation of uses of radioactive material, (4) inspection, (5) enforcement, (6) personnel, and (7) administration. Based on its draft assessment, the NRC staff has concluded that the State's regulatory program is compatible with the NRC's regulatory program and is, therefore, adequate to protect public health and safety, with the exception of several sections of Indiana's final radioactive materials regulations that NRC staff identified as not compatible with the NRC's regulations. The staff also identified a limited number of editorial comments that are not necessary for compatibility but should be addressed in the State's next rulemaking. By letter dated January 21, 2026, and a communication dated February 27, 2026, the NRC staff described the compatibility comments and requested that the Department make the described regulatory changes as soon as practicable ([ML26007A161](#)). The Department committed to making the necessary compatibility changes in a future rulemaking in letters dated January 21, 2026 ([ML26026A076](#)), and February 27, 2026 ([ML26068A068](#)). The resolution of these comments does not interfere with the NRC staff's processing of Indiana's Agreement State Application. Therefore, the State has committed to adopting an adequate and compatible set of radiation protection regulations that apply to byproduct, source, and special nuclear materials in quantities not sufficient to form a critical mass.¹ If the proposed Agreement is approved, the NRC would transfer 213 specific licenses to the State's jurisdiction.

¹ The most updated version of the relevant Indiana statutes can be found within Section 4.1 of Indiana's application at [ML26068A234](#) and is also available on Indiana's General Assembly website at <https://iga.in.gov/>. The draft assessment discusses several relevant State statutes.

Tribal Outreach and Consultation Activities

The NRC staff has conducted outreach activities with Federally recognized Tribes located within the States of Indiana, Kansas, Iowa, Michigan, Oklahoma, Texas, and Wisconsin. These outreach activities were performed for the major milestones of the process using their preferred methods of communication. For example, the NRC staff communicated through emails, letters, and government-to-government meetings to notify the Tribes of Indiana's letter of intent,² draft,³ and final⁴ applications, and availability of draft regulations for public comment.⁵

Additionally, in 2022 ([ML22018A178](#)) and February 2022 ([ML22046A305](#)), the NRC staff offered 29 Federally recognized Tribes the opportunity to engage in consultation regarding Indiana's request to become an Agreement State, consistent with the NRC's Tribal Policy Statement ([ML17011A243](#)). The Match-E-Be-Nash-She-Wish Band of Pottawatomis ([ML23142A326](#)), Miami Tribe of Oklahoma ([ML23142A327](#)), Osage Nation ([ML22018A178](#)), and Pokagon Band of Potawatomi Indians ([ML23142A328](#)) requested consultation, which was granted by the NRC's Deputy Executive Director for Nuclear Materials, Administrative, and Corporate Programs.

Consultation was completed and concluded with all participating Tribes, with the exception of Osage Nation. In accordance with the agreed-upon consultation framework, the NRC staff will continue to provide the Osage Nation with quarterly updates on the status of the staff's review until the review process is complete.

The NRC staff will continue to keep the Tribes informed throughout the remainder of the Agreement State review process. Specifically, the NRC staff will notify the Tribes when the proposed Agreement is published for public comment, and again upon publication of the final Agreement.

CONCLUSIONS:

Throughout its process to become an Agreement State, Indiana consistently engaged with the NRC staff to develop their program and submitted high quality application material. The NRC staff concludes that, as documented in its draft assessment, the State program will satisfy the criteria in the Commission's policy statement, and therefore, will meet the requirements of Section 274 of the AEA. The NRC staff also concludes that the proposed State program to regulate Agreement materials, as comprised of statutes, regulations, and procedures, will be compatible with the NRC's regulatory program on the effective date of the Agreement and will adequately protect public health and safety.

² On October 15, 2021, the NRC staff informed Federally recognized Tribes that the NRC received the State of Indiana's letter of intent to enter into an Agreement with the NRC ([ML21267A058](#)) (package).

³ On April 10, 2025, the NRC staff notified Osage Nation of receipt of the State's draft application ([ML26065A236](#)).

⁴ On February 13, 2026, the NRC staff notified Federally recognized Tribes that the NRC has received the State of Indiana's final application for Agreement ([ML26065A064](#)) (package).

⁵ On August 21, 2025, the NRC staff notified Federally recognized Tribes that the Indiana Department of Homeland Security (IDHS) was soliciting comments on its proposed rule establishing IDHS radiation control program ([ML26065A230](#)) (package).

RECOMMENDATIONS:

The staff recommends that the Commission:

1. Approve the publication of the enclosed FRN, which includes the proposed Agreement between the State and the NRC pursuant to Section 274 of the AEA, once each week for four consecutive weeks, as required by the AEA.
2. Review the draft NRC staff assessment of the State's regulatory program, in parallel with the publication of the proposed Agreement in the FR.

COMMITMENT:

Listed below are the staff's commitments:

- a. Provide an updated schedule, additional Tribal outreach activities, an analysis of public comments, and the staff's recommendation regarding whether the Agreement should be approved in a notation vote paper to the Commission.
- b. Place the NRC Staff Draft Assessment (summarized in the FRN) in ADAMS at <http://www.nrc.gov/NRC/ADAMS/index.html>.
- c. Dispatch letters to the appropriate Congressional Committees and the Indiana Congressional Delegation informing them that the Commission is considering entering into an Agreement with the State.
- d. Issue a press release.
- e. Dispatch a State and Tribal communication letter to all states and a letter to each of the following Federal agencies listed in NMSS Procedure SA-700: Occupational Safety and Health Administration, Department of Energy, Council on Environmental Quality, Food and Drug Administration, Environmental Protection Agency, Advisory Council on Historical Preservation, and Department of Homeland Security.
- f. Coordinate with the State of Indiana in the event the final Agreement is approved by the Commission to ensure an efficient transition of byproduct, source, and special nuclear material licensees in the State of Indiana, within legal requirements.

The staff requests that the Commission provide a staff requirements memorandum, including any changes to the FRN of the proposed Agreement with the State of Indiana and summary of the draft NRC staff assessment of the State's regulatory program, by May 15, 2026, so that the agency can finalize and issue the Agreement by September 30, 2026.⁶

⁶ As explained above, Indiana requested the agreement be effective October 1, 2026. The staff seeks to finalize and issue the Agreement by September 30, 2026, to be responsive to Indiana's request and to facilitate an efficient transition of licenses to the State with respect to fees. Consistent with Title 10 of the *Code of Federal Regulations* (10 CFR) 171.16(d), table 2, footnote 1 and 10 CFR 171.17(b), if licenses are not transferred to Indiana jurisdiction prior to October 1 (the start of the fiscal year), licensees would be assessed at least half of the applicable NRC annual fee for that fiscal year. These same licensees would also be subject to applicable Indiana fees once the agreement is effective. To avoid duplicate fees for affected licensees, the staff seeks to finalize the agreement by September 30, 2026, before the start of the next fiscal year.

RESOURCES:

Resources for this activity are included the fiscal year (FY) 2026 enacted budget and the FY 2027 Congressional Budget Justification. Resource estimates are provided in the non-public Enclosure 3, "Fiscal Year 2026 and 2027 Resources."

COORDINATION:

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



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Executive Director
for Operations

Enclosures:

1. Draft FRN Including the Summary of the Draft Staff Assessment and the Proposed Agreement (Non-public)
2. Draft NRC Staff Assessment of the Proposed Indiana Agreement program (Non-public)
3. FY 2026 and 2027 Indiana Resources (Non-public)

SUBJECT: PROPOSED AGREEMENT BETWEEN THE STATE OF INDIANA AND THE COMMISSION PURSUANT TO SECTION 274 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED DATED: April 10, 2026

ADAMS Accession Numbers: PKG: ML26069A563, SECY: ML26069A564 , Encl 1: ML26069A566, Encl 2: ML26069A567, Encl 3: ML26069A565

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