



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

April 2, 2025

Brandi O'Brien, Administrator
Land Quality Division
Wyoming Department of Environmental Quality
200 West 17th Street
Cheyenne, WY 82002

SUBJECT: RESPONSE LETTER WITH COMMENTS ON WYOMING DRAFT AGREEMENT
APPLICATION

Dear Brandi O'Brien:

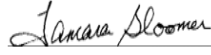
We have finished our review of Wyoming's draft application to amend its Agreement in accordance with Section 274b. of the Atomic Energy Act (AEA), as amended. A U.S. Nuclear Regulatory Commission (NRC) interoffice review team conducted a review to determine whether the proposed amended Wyoming Agreement State Program met the evaluation criteria for an Agreement Program that is adequate to protect public health and safety and compatible with NRC requirements. The review was performed following the guidance in NRC Commission 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 and 48 FR 33376; July 21, 1983](#)] that provides criteria for new and amending existing agreements. The team also utilized the guidance in the NRC Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-700, "Processing an Agreement," and its Handbook (Agencywide Documents Access and Management System Accession (ADAMS) [ML22138A414](#) and [ML22140A396](#)) to ensure a consistent and timely review in accordance with the provisions of the AEA and Commission policy. .

The review team found that the request provided information on all major program elements. Enclosure 1 contains the NRC staff's comments after completing the review. For your reference, the comments are correlated to the sections in your request and the pertinent sections of the SA-700 Handbook. The comments are organized under the heading of specific comments and comments for consideration. For convenience, Enclosure 2 contains a markup of comments for the draft agreement.

We would welcome an opportunity to meet with you to discuss our comments and answer any questions concerning our review, the information needed, or steps involved in processing the

Agreement. Please contact Adelaide Giantelli via email at Adelaide.Giantelli@nrc.gov or Duncan White via email at Duncan.White@nrc.gov to arrange a meeting or conference call.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tamara Bloomer", written over a horizontal line.

Signed by Bloomer, Tamara
on 04/02/25

Tammy E. Bloomer, Acting Director
Division of Materials Safety, Security, State
and Tribal Programs
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. NRC Comments on Wyoming Draft Application
2. NRC Comments on Proposed Wyoming Agreement

**NRC Comments on the Draft Wyoming Application for an Agreement
Dated January 10, 2025**

The draft application ([ML25055A079](#)) was reviewed by the following team of NRC staff:

Duncan White,	Team Leader and Technical Reviewer,	NMSS
Allyce Bolger,	Technical Reviewer,	NMSS
Marti Poston-Brown,	Technical Reviewer,	NMSS
Jackson Barth,	Technical Reviewer,	NMSS
Gaya Mostaghimi,	Legal Reviewer,	OGC
Joan Olmstead,	Legal Reviewer,	OGC
Marcia Simon,	Legal Reviewer,	OGC
Jackie Cook,	Technical Reviewer,	RIV

The review team had 20 specific comments and 49 comments for consideration across the application. We are not requesting a response to our specific comments, but we ask that you address them in the final application. The comments for consideration are not required to be addressed in the final application but are for your evaluation, as appropriate.

Specific Comments

Section 4.1 – Legal Elements

1. Wyoming's proposed amended Agreement appears to be based on the model Agreement in Management Directive 5.8, "Proposed Section 274b. Agreements with States" instead of Wyoming's existing Agreement that became effective on September 30, 2018. Wyoming should base their proposed amended Agreement on their 2018 Agreement, amending it as appropriate as well as incorporating conforming language approved by the Commission in SRM-SECY-25-0010 for all future proposed Agreements. Upon the Commission's approval, the revised amended Agreement would supersede Wyoming's existing Agreement with the NRC. Enclosure 2 contains the NRC staff's markup of Wyoming's 2018 Agreement that incorporates the requested amendment and relevant conforming language.

Section 4.2 – Regulatory Requirements

2. *Units of Radiation Dose.* This comment relates to comment 2 in the NRC's September 16, 2024 letter, detailing NRC's comments on Wyoming's proposed Source Materials Program regulations received by the NRC on May 24, 2024. It appears that Wyoming has taken option 2 and included 20.1004(a) and 20.1004(b) in Chapter 3 Section 4(b) exclusions from Incorporation by Reference. However, Chapter 1 Section 6(c) language still references 20.1004 as being incorporated by reference. Please explain how these changes addressed our comment, since 20.1004 is Compatibility Category A.
3. *Reconciliation of Incorporation by Reference.* This comment relates to comment 8 in the NRC's September 16, 2024, letter to the Wyoming Department of Environmental Quality. Comment 8 stated that the NRC had reviewed the parts of 10 CFR that Wyoming proposed to incorporate by reference and that additional reconciliation language, specifically eleven paragraphs, needed to be added by Wyoming to Chapter 3, Section 4. Wyoming implemented all of the changes outlined in comment 8, with the exception of

the change listed in comment 8, number 11. Therefore, Wyoming needs to add the new paragraph listed in comment 8, No. 11 which stated that the following paragraph needed to be added to Chapter 3, Section 4: "References regarding Parts 30, 50, 52, 54, 60, 61, 63, and 72 and any sections within those parts, are not incorporated by reference."

Wyoming needs to make this change to reconcile differences created due to incorporation by reference.

4. *Reconciliation of Incorporation by Reference.* Comment 17 in the NRC's September 16, 2024 letter, needed to reconcile differences due to incorporation by reference of 10 CFR 40.36 (d)(1)(ii) and (iii), 40.36(d)(2)(i)-(viii), and 40.36(f)(1)-(3). Wyoming is missing the reference to 40.36(f)(1)-(3) in Chapter 6, Section 6(e). Therefore, Wyoming needs to address comment 17 by revising Chapter 6, Section 6(e) by replacing "and 40.36(d)(2)(i)-(viii)." with "40.36(d)(2)(i)-(viii) and 40.36(f)(1)-(3)".

Section 4.3 – Licensing

No Comments

Section 4.4 - Inspection

5. In Appendix A, sections 3.0(ii) and Table 1 of the "Source Material Program Inspection Procedures" and section 6.3.2 of the "Source Material Program, Inspection Procedures Technical Quality of Inspections and Inspection Reports," contain outdated references. Specifically, MC 2641, IP 88035, and IP 88064 have been rescinded. Wyoming should incorporate IMC 2602, IP 89035, IP 89045 and IP 89050 for the SMURP and IP 89025 and IP 89010 for the URP.
6. Appendix A, "Source Material Program Inspection Procedures," does not establish a timeliness requirement for issuance of inspection reports. To be compatible with the NRC, please update the procedure to include a timeliness requirement that inspection reports be issued at least 30-days from the exit date or 45-days for a team inspection.

Section 4.5 - Enforcement

7. Section 4.5.2 of the application states that escalated enforcement should be used for "serious or repeated violations," and that escalated enforcement actions may include administrative or civil monetary penalties, as authorized by Wyo. Stat. § 35-11-901(a), or the modification, suspension, or revocation of a license, as authorized by Wyo. Stat. § 35-11-109(a)(xiii), -409, -412, and -2003. However, civil penalties and revocation or suspension of licenses, as authorized under those statutory sections, are not included as possible escalated actions in the procedures in Appendix A, Section 3.0. Rather, they are included as routine enforcement actions in Appendix A, Section 2.0 (civil penalties authorized under § 35-11-901(a) are included in Appendix A, Section 2.2, and orders to suspend or revoke a license are included in Appendix A, Section 2.3).

Escalated civil penalties are included in Appendix A, Section 3.2, which states that a person who “willfully and knowingly” violates the Wyoming Environmental Quality Act, rules, regulations, etc., “is subject to higher penalties not to exceed \$25,000.00 per day per violation.” However, the statutory authority for the \$25,000 amount is Wyo. Stat. § 35-11-901(j), which, according to Section 4.5.2(c) of the application, is the authority for “referral for criminal prosecution.” The language of § 35-11-901(j), which states in part that a person who knowingly and willfully commits a violation “shall be fined not more than twenty-five thousand dollars (\$25,000.00) per day of violation or imprisoned for not more than one (1) year, or both,” indicates that this fine is intended to be a criminal sanction. Therefore, it does not appear that the penalty in Section 3.2 can be considered an escalated civil penalty. Furthermore, even if the \$25,000 fine could be considered a civil penalty, it would only apply to knowing and willful violations and thus could not be used for “serious and repeated violations” that are not knowing and willful.

The other escalated enforcement actions described in SMURP’s enforcement procedures are emergency orders (Section 3.1) and criminal sanctions (Section 3.3). As described in Section 3.1, emergency orders are authorized only in limited situations (i.e., an emergency where immediate action is necessary to protect health and safety) and criminal sanctions require referral for prosecution. Thus, SMURP’s enforcement procedures appear to contain no escalated enforcement options for serious or repeated violations that are neither knowing and willful nor emergency situations. Please update the enforcement procedures to address serious or repeated violations that are neither knowing and willful nor emergency situations.

8. Appendix A, Section 1.4, references NUREG-1600. The NRC stopped using the designation “NUREG-1600” for the Enforcement Policy in 2005. Accordingly, the reference to NUREG-1600 needs to be changed to “NRC Enforcement Policy.” Also, consider providing a link to the most recent version of the NRC Enforcement Policy, which is available on the NRC website at <https://www.nrc.gov/about-nrc/regulatory/enforcement/enforce-pol.html>.
9. Appendix A, Section 2.1.3, “Letters of Conference,” requires several clarifications. First, despite the title, both “letters of conference” and “letters of violation” are described, and it is unclear what the difference is between the two. Second, the letter of conference as described in the first sentence sounds similar to the inspection letter described in Section 2.1.2. Third, the term “letter of conference” suggests that it would be used to ask a licensee to participate in a conference. Fourth, in the final sentence of Section 2.1.3, it is unclear whether a letter of violation is used only before issuing a notice of violation (NOV) and Order together, as opposed to issuing an NOV alone (without an order). Please revise Section 2.1.3, “Letters of Conference,” to provide clarity of the different types of letters and their uses.
10. In Appendix A, Section 3.0, the first sentence states that escalated enforcement action may be taken for serious or repeated violations but does not state whether escalated actions would apply to willful violations, such as deliberate misconduct as defined in

Chapter 1, Section 9 of the Source Material Program Rules (Appendix A to Subsection 4.2). Please clarify the procedure to make this distinction.

11. Appendix A, Section 3.0, refers to a “notice of escalated enforcement.” What does that notice include, and how is it different from a letter of violation or a NOV? Please revise Section 3.0 to clarify the different types of notices.
12. Appendix A, Section 3.1, states that an Emergency Order may be issued “for conditions which pose immediate and substantial danger to human or animal health or safety, which require immediate action.” Appendix A, Section 5.0, end of paragraph 2, states that an Emergency Order may be issued for “violations that have immediate risk to health and safety of the public, worker(s), or the environment.” These two descriptions are not consistent. It appears that the standard in Section 3.1 tracks more closely to the statutory language in Wyo. Stat. § 35-11-115(a). Please revise Section 3.1 or Section 5.0 to make the descriptions consistent.
13. In Appendix A, Section 5.0, the description of the enforcement process and accompanying flowchart (Figure 1) are incomplete or unclear in several respects. First, Section 5.0 does not identify or discuss the criteria that are used to decide whether a violation is determined to have low health and safety significance versus “significant” risk that would warrant an NOV, or who makes that determination. Second, Section 5.0 does not identify or discuss the criteria used to decide whether an order is necessary, other than stating that the LQD Administrator and WDEQ Director make that determination “after reviewing the violation.” Third, Section 5.0 does not describe the process that occurs after an NOV is issued, and the flowchart does not clearly illustrate the process. Questions include the following: (1) are all NOVs, including those where no civil penalty is being considered, subject to either litigation or settlement discussions/agreement, as the flowchart suggests? (2) what is the process for deciding whether a civil penalty is warranted—what criteria are used to make this determination? (3) if a civil penalty is deemed appropriate, who decides on the amount, when is that decision made, and what is the process for imposing the penalty? (4) in the litigation route, does SMURP propose a civil penalty amount and seek an imposition order from the court, or does the court have sole power to propose and decide on the civil penalty amount? Please revise Section 5.0 and Figure 1 to address the comment outlined above.
14. In Appendix A, Section 5.0, the last paragraph states as follows: “Each NOV that is issued is tailored to the individual violation and is issued by both the LQD Administrator and the WDEQ Director. The NRC process is similar in the fact that each violation has to be evaluated to determine Severity Level I-IV.” The NRC has a process for assigning severity levels that includes specific criteria and examples. As noted in the previous comment (Comment 13), the WY process for handling violations, as described in Section 5.0, does not include such a process; rather, the “tailoring” seems to be largely left to the discretion of staff and/or the WDEQ Director and LQD Administrator. Therefore, the statement about similarity to the NRC process seems unsupported. Please either strike

the sentence about the NRC process being similar or explain how the WY process is similar.

Section 4.6 - Technical Staffing and Training

15. Table 1 and subsection 4.6.3 will need to be updated with the final names for all positions. Please include the names for each position.
16. Table 5, under the table header for "Type of Request" there should be separate line items for "Amendment" and "License Renewal."
17. For the final application, Wyoming will need to submit the completed qualification cards for SMP health physicists to demonstrate the individuals have met the qualification requirements.

Section 4.7 - Events and Allegations

18. Appendix A and Appendix B state "For the purposes of this procedure, contaminated waste will be referred to as to as byproduct material." If Wyoming chooses to keep this statement, please provide additional context that elaborates and provides the rationale for this sentence. The statement should clearly differentiate between byproduct material produced as waste from uranium recovery and source material waste during the rare earth processing.
19. In Appendix A, section 2.3(a), fourth sentence, replace the text "Wyoming's SMURP is responsible for maintaining radiological regulations for source and byproduct materials, and small quantities of special nuclear material" with "Wyoming has only assumed regulatory authority over source material involved in uranium or thorium recovery or milling and the associated 11e.(2) byproduct material including source material recovered from any other mineral resources processed primarily for purposes other than obtaining the source material content."
20. Appendix A, section 3.19 states that allegation refresher training should be provided at least every three years. The NRC Allegations Manual provides that Allegation refresher training is provided annually. To be compatible, Wyoming should reduce the training frequency to at least annually. Please update section 3.9 with the reduced training frequency.

Comments for Consideration

Generic Comments

1. Consider using consistent naming for documents. For instance, In Wyoming draft application section 4.7, the following examples were found:
 - a. “Event Reporting Procedural Manual” and “Event Reporting Manual”
 - b. “Allegation Casework Review Summary Sheet” and “Allegation Report Form”
2. Doublecheck the section and paragraph numbering and ensure the table of contents is updated.

Section 4.2 – Regulatory Requirements

3. *Definitions Relating to Pre-Licensing Construction.* Wyoming should consider deleting the definition of “Commencement of Construction” in Chapter 1, Section 5(v) and Chapter 4, Section 6, “Pre-licensing Construction.” As noted in editorial comment number one in the NRC’s September 16, 2024, letter to the Wyoming Department of Environmental Health, the section on “Pre-licensing Construction” and “Commencement of Construction” are applicable only to uranium recovery activities. Wyoming already removed the definition of “Construction” consistent with NRC’s previous editorial comment. Similarly, Wyoming should consider deleting the definition of “Commencement of Construction” and Chapter 4, Section 6, “Pre-licensing Construction.”
4. Wyoming Chapter 1, Section 10 on “Exemptions” includes an (a), when there are no additional subparts Chapter 1, Section 10. Previously, Wyoming deleted Sections 10(b) and 10(c) in Wyoming Chapter 1 to avoid duplications. Wyoming should delete the “(a)” in Chapter 1, Section 10 because there is no need for (a) if there are no longer subparts (b) and (c) in the same section.
5. *Reconciliation of Incorporation by Reference.* Comment 9 in the NRC’s September 16, 2024, letter to the Wyoming Department of Environmental Quality, stated Wyoming must add new paragraphs in Wyoming Chapter 4, Section 3 to reconcile differences due to incorporation of 10 CFR Part 40. Comment 9 lists eleven substitutions and clarifications that Wyoming needed to add to Chapter 4, Section 9. Wyoming implemented all the changes in comment 9, with the exception of some of the language listed in the paragraphs to be added in numbers 6 and 11 of comment 9. Comment 9, number 6 stated Wyoming must add the following to reconcile differences due to incorporation of 10 CFR Part 40, which is currently listed in Chapter 4, Section 3(d)(vi)”

“In 40.22(b)(3), references to “§§ 40.1 through 40.10, 40.41(a) through (e), 40.46, 40.51, 40.56, 40.60 through 40.63, 40.71, and 40.81” is substituted with “10 CFR 40.41(a)-(c), 40.51, and 40.61; Chapter 2 Section 3; and Chapter 4 Sections 2(b), 4, 8(e), 10(c), and 14.”

Wyoming used some of this language but referenced “Chapter 1, Section 9” rather than “Chapter 2, Section 3.” Therefore, Wyoming needs to replace “Chapter 1, Section 9” with “Chapter 2, Section 3.” In addition, Wyoming must also replace the references to Chapter 4, Sections “7(e), 9(c), and 13” with “4, 8(e), 10(c), and 14.”

Comment 9, number 10 also stated that Wyoming should add “In 40.54(a) a reference to “§ 40.32” means “Section 8 of this Chapter.” This language is included by Wyoming in Chapter 4, Section 3(d)(x), but Wyoming cites “Section 7” rather than “Section 8.” However, § 40.32 contains specific requirements for a part 40 license. Wyoming Chapter 8 discusses risk informed, performance-based licensing and inspection. Should this reference be to Wyoming Chapter 4 which covers Wyoming’s licensing requirements? Wyoming needs to confirm whether Section 8 is the correct reference.

6. *Reconciliation of Incorporation by Reference.* Comment 10 in the NRC’s September 16, 2024, letter to the Wyoming Department of Environmental Quality stated that Wyoming must add new paragraphs to Wyoming Chapter 4, Section 3 to reconcile differences due to incorporation of 10 CFR Part 150.20 by reference in paragraph (c). Specifically, comment 10, number one stated that Wyoming must add the following in Chapter 4, Section 3(e) to reconcile the differences: “Where the words” “non-agreement states”, “areas of exclusive federal jurisdiction within agreement states”, or “offshore waters” are used in subsections (a)(1)(i), (ii), (iii), (b), (b)(3), and (b)(4), substitute the words “the State of Wyoming.” Wyoming is missing “iii” as it relates to reconciling this difference due to incorporation of 10 CFR Part 150.20 by reference. Wyoming must include the reference to (a)(1)(iii) to reconcile this difference.

Comment 10, number 4 also stated that Wyoming needs to add the phrase “and applications filed in” after the phrase “Article 20 of the Environmental Quality Act” in Wyoming Chapter 4 Section 3(d)((vii). Wyoming needs to make this change to reconcile differences created due to incorporation by reference of 10 CFR 150.20.

7. Wyoming Chapter 6, Section 7(c)(i) concerning “Financial Assurance Recordkeeping” includes a typo in the citation. The citation to “10 CFR 40,41(b)” includes a comma. Wyoming should correct the citation to “10 CFR 40.41(b)” by removing the comma.
8. Comment 15 in the NRC’s September 16, 2024, letter to the Wyoming Department of Environmental Quality stated that the NRC should add the following statement to Chapter 5, Section 3: “The statement required by 10 CFR 19.13 is revised to ‘This report is furnished to you under the provisions of Chapter 5 of Wyoming’s Rare Earth Program. You should preserve this report for further reference.’” Wyoming included this provision in Chapter 5, Section 3(g)(i), however, Wyoming uses the singular form of “provision.” Wyoming needs to replace “provision” with “provisions.”

Section 4.3 – Licensing

9. Appendix A includes NUREG-1556, Volume 12, Revision 1, “Program Specific Guidance about Possession Licenses for Manufacturing and Distribution,” as a reference document for evaluation of licensing actions. Wyoming should consider also including NUREG-1556, Volume 18, “Program Specific Guidance About Service Provider Licenses” and NUREG-1556, Volume 16, “Program Specific Guidance About Licenses Authorizing Distribution to General Licenses” as those documents may be useful for dealing with emergent technology associated with uranium and thorium ores. Additionally, Wyoming should consider referencing Regulatory Guide 4.14, “Effluent and Environmental Monitoring for Uranium Mill Sites,” as it provides some useful information associated with the establishment of a baseline pre-operational background determination for airborne particulate, radon and direct gamma associated with uranium and thorium ores.
10. In Appendix A, sections 3.9 and 3.10, Wyoming should consider establishing timeliness goals for processing license amendments and renewals.

Section 4.4 – Inspection

11. In Appendix A, the following sections in the “Source Material Program Inspection Procedures” reference NRC regulations and should be replaced with the applicable Wyoming regulation:
 - a. Section 12(c)(H)
 - b. Section 12(d)
 - c. Section 12(f)(ii) and (vii)
 - d. Section 12(g)(i)(j)
 - e. Section 12(j)(i)
 - f. Section 13(c)
 - g. Table 1, Inspection Guidelines

Section 4.5 – Enforcement

12. Appendix A, Section 1.5 – Please identify the specific section of SMURP rules and regulations where relevant definitions can be found.
13. Appendix A, Sections 2.0 and 3.0 – Section 2.0 states that the manner in which a violation is dispositioned “should account for” the seriousness and circumstances. If dispositioning violations accounts for seriousness and circumstances in all cases, then use “will account for” or “accounts for” instead of “should account for.” Similarly, Section 3.0 states that notices of escalated enforcement “should be” signed by the Administrator and Director and “should be” reviewed by the Attorney General’s office. If notices of escalated enforcement are signed by the Administrator and Director in all cases and reviewed by the Attorney General in all cases, then use “are” instead of “should be.”

14. In Appendix A, Section 2.1.3, the first part of the last sentence states that a letter of violation is “generally utilized prior to a Notice of Violation and Order,” while the second part says a letter of violation “may be used prior to the issuance of a Notice of Violation and Order or escalated enforcement.” The first part of the sentence seems unnecessary. Consider revising.
15. Appendix A, Sections 2.1.7, 2.2, 3.2, and 3.3, which all contain this language or similar: “...the Wyoming Environmental Quality Act, rule, regulation, standard, or permit...” As written, it is not clear which rules, regulations, standards, etc. are being referred to. For clarity, and for consistency with the relevant statutory provisions, consider revising to: “...the Wyoming Environmental Quality Act or any rule, regulation, standard, or permit adopted or issued thereunder...”
16. In Appendix A, Section 2.2, for clarity and to distinguish from monetary penalties that are authorized as criminal sanctions, change the title of this section to “Civil Monetary Penalties and Injunctions” and add “civil monetary” before the first use of “penalties” in the text (end of first sentence).

Section 4.6 - Technical Staffing and Training

17. In section 4.6.2, Appendix B, section 2.0, which describes the training objectives for qualification, consider adding language that inspector competency and proficiency will determine readiness for completion of the qualification.
18. In section 4.6.2, Appendix B, section 8.0, consider renaming the “URP Tracker” to the “SMURP Tracker.”
19. In Appendix B, URP Qualification Card 4, “NRC Regulations and History,” contains NRC regulations (i.e., 10 CFR 19, 20, 40, and 71) that are incorporated into Wyoming’s SMP and URP regulations. Since the applicable portions of these requirements are reviewed under URP Qualification Card 2 “Wyoming State Statutes, Rules, and Regulations,” they should not be duplicated. Please delete the NRC regulations from the qualification card.
20. In Appendix B, SMP Qualification Card 4, “Relevant NRC Regulations and Documents” contains NRC regulations and guidance that are not applicable to the SMP. Specifically, 10 CFR 21, 30, 37, and 75 are not relevant to Wyoming’s Agreement and should not be included in the Qualification Card. Additionally, the NUREG 1620 and 2126 are involving uranium milling and not specific to the SMP and should be moved to the URP Qualification Cards. Please delete the NRC regulations and NUREGs from the qualification card.

21. In section 4.6.2, Appendix A “Job Content Questionnaire,” consider updating as follows:
- a. Update the “Supervisor Name” in the final application as necessary.
 - b. Under “Purpose”, 3rd sentence, “The new source material program’s purpose.....content”, should that be updated to reflect our updated revised mission?
 - c. Under “Essential Duties”, under “Description” for “Duty 1” 3rd line, delete “the” before “developed”.
 - d. Under “Supervisory Responsibilities”, “Work Direction” can the “yes” statements and tables be deleted?
 - e. Under “Budgetary Responsibility”, delete “budget amount.....responsible” and the amounts specified.
 - f. Under “Challenges”, 1st paragraph, delete “d” from “Described”.

Section 4.7 - Events and Allegations

22. In Appendix A, section 2.1 and 2.4(b), which deals with Event Reporting, remove the statement “Allegation reports should be recorded on the allegation form provided in Attachment B.”
23. In Appendix A, section 2.3(b) replace “10 CFR Part 20.2202” with the applicable Wyoming URP/SMP rule.
24. In Appendix A, section 2.5(a) and (b) replace references to 10 CFR parts to the applicable Wyoming URP/SMP rule and in paragraph (a)(iv) replace the mention of “NRC” with “Wyoming.”
25. In Appendix A, section 2.5(a)(vi) states “[I]f an inspector is not dispatched immediately, the SMURP should consider conducting a special inspection.” This appears to contradict section 2.3(b)(1)(i) which states, “[E]valuate the need to dispatch a SMURP inspector to conduct a special inspection of the incident site, if necessary. If an inspector is not dispatched immediately, determine whether the incident requires inspection attention before the next routine inspection, based on an evaluation of its safety significance.” Please revise these paragraphs to be consistent.
26. Appendix A, section 2.15(a) replace “10 CFR Part 20” with the applicable Wyoming URP/SMP rule.
27. In Appendix A, section 3.11(a)(i) references Section 3.19 to enter an allegation into the State database. However, Section 3.19 discusses training, and the correct reference appears be to Section 3.20 “Allegation Tracking and Follow Through.”
28. Wyoming draft application section 4.7, Appendix A, in section 3.11(c), “Storage of Official Agency Allegation Files and Document,” discusses the multiple digital storage locations for allegation files. It is unclear what the purpose of having multiple databases

and Wyoming should consider the impact on the duplication of efforts and possibility of sensitive or security-related information may be accessed by individuals without the appropriate authorization.

29. In Appendix A, section 3.12(a), "Acknowledgement Letter," states, "[F]or sensitive, security-related concerns, the acknowledgement letter will reiterate the concern(s) raised...." Wyoming should provide clarity that sensitive, security-related information would not be included in the acknowledgement letter.
30. In Appendix A, section 3.20(ix) replace "resident inspectors" with "SMURP inspectors."
31. In Appendix A, Attachment C, the 7th bullet listed under the definition of Allegation, states "Concerns related to Agreement State licensee activities when the concerned individual agrees to have his or her concerns and identity provided to the Agreement State." This bullet should be deleted as it is not applicable to Wyoming. Additionally, consider adding a new bullet stating, "Matters reported to NRC by Wyoming resulting from an SMURP inspection."
32. In Appendix A, Attachment C, the definition of Allegation, review the footnote for clarity as it appears to discuss examples of what is considered an allegation and would be better characterized in the definition of allegation. Specifically, the last two sentences state "An individual who or an organization that submits an allegation to SMURP or NRC or that provides information in a public forum that is recognized as an allegation. Anonymous concerns are accepted."
33. In Appendix A, Attachment C, add definitions for "Alleger" and "Concerned Individual." Wyoming may also consider the consistent use of either "Alleger" or "Concerned Individual" to avoid confusion.
34. In Appendix B, section 1.0, the date for Procedure SA-300, Reporting Material Events, and Appendix-Handbook on Nuclear Material Event Reporting in the Agreement States, Final Report should be December 2024 and not August 2024.
35. In Appendix B, section 1.3 references to NRC reporting requirements instead of Wyoming URP/SMP rules. Wyoming should revise the section to reference their own regulations. Note: the sentence "The reporting requirements in Title 10 of the U.S. Code of Federal Regulations (CFR) form the basis for the compatible reporting requirements in Agreement State regulations," should **not** be revised.
36. In Appendix B, section 2.1, states "Information should be initially reported to the HOO by telephone at (301) 816-5100." Per SA-300, it is preferred for all reports to the HOO, event initial reports, are done via email, but phone/fax are acceptable.

37. In Appendix B, section 2.3, discusses for events that require reporting between 5-30 days. To be consistent with the guidance in SA-300, Wyoming should revise this section to provide clarity that these reports should be submitted directly to Nuclear Material Events Database (NMED) and do not need to be emailed to the HOO or the NRC's RMSB.
38. In Appendix B, section 2.3(e), "Written Event Reports" does not align with the current version of SA-300. Wyoming should consider deleting this section in totality.
39. In Appendix B, section 2.4, "Reporting Following-up Event Information," does not align with the current version of SA-300. Consider replacing the information in this section with the text in SA-300 Section 4.5, "Follow-up Reports."
40. In Appendix B, section 2.5, "Reporting Transportation Events," consider referencing SA-300 Table 2 or otherwise including the table in the document.
41. In Appendix B, section 2.5 the references to "10 CFR 71.5" and "Part 20" should be replaced with the applicable Wyoming URP/SMP rule.
42. In Appendix B, section 2.7, "International Nuclear Event Scale Reporting," considering using the hyperlink <https://www.nrc.gov/reading-rm/doc-collections/management-directives/volumes/vol-5.html> instead to ensure that the most recent version of NRC Management Directive 5.12 is used.
43. In Appendix B, section 4.2, "Preliminary Notifications" is not a topic discussed in SA-300, nor does it have particular applicability to Wyoming. Wyoming should consider deleting this section in totality.
44. In Appendix B, section 5.1, "NRC Review of Material Events for Safety Significance and Generic Assessment" does not align with the current version of SA-300. Wyoming should consider replacing the intro paragraph and bullets a-d, with the text in SA-300 Section 10.1, "Evaluation of Event Notifications."
45. In Appendix B, section 6.3, "Root Cause Analysis for Uranium Recovery Facilities," has not been revised for the SMP program. If the SMP is applicable to this section, Wyoming should revise accordingly.
46. In Appendix B, section 7.0, "Abnormal Occurrences (AO) Guidelines and Criterial," contains extraneous information that is not in SA-300. Wyoming should consider revising this section to reflect the information contained in SA-300 and specifically consider deleting section 7.4, "Guidelines for AO Write-ups" since Agreement States do not need to write up AOs and would only be requested to provide feedback.

47. In Appendix B, Attachment A, should reference the Wyoming SMP/URP regulations instead of the NRC requirements. Additionally, Wyoming should also include the Wyoming equivalent to 10 CFR 40.60 to the table.
48. In Appendix B, Attachment D, discusses medical events which are not applicable to Wyoming's Agreement. This information should be deleted.
49. In Appendix B, Attachment G, "References" is missing SA-300 under the list of NMSS procedures. Wyoming should include SA-300 as a reference.

RESPONSE LETTER WITH COMMENTS ON WYOMING DRAFT AGREEMENT APPLICATION DATE
April 4, 2025

DISTRIBUTION:

ADAMS Accession No.: ML25056A047; Ltr ML25056A044

OFFICE	R-IV/DNMS/MIB	NMSS/MSST/SLPB	NMSS/MSST/SMPB	RES/DSA/AAB
NAME	ABolger	ABWhite	AWAGiantelli	AGTBloomer
DATE	Feb 27, 2025	Mar 5, 2025	Mar 6, 2025	Apr 2, 2025

OFFICIAL RECORD COPY