

Additional Comments on the Draft Wyoming Application for a Limited Agreement related to Inspection, Licensing, Allegations, and Enforcement Procedures

Subsection 4.3 – Licensing Program Elements

1. On page 3 of 296, the last paragraph states, “In licensing research and development, medical uses, or other activity involving multiple uses of materials, the State may issue broad scope licenses without evaluating each specific use.”

Please delete this paragraph. This language is inconsistent with the scope of the Agreement.

DEQ Response: Language was intended to mirror the Handbook for Processing an Agreement. Wyoming understands it has no authority for licensing research and development, medical uses, or issuing broad scope licenses. To pick and choose what we include from the Handbook for Processing an Agreement changes the structure of the Agreement.

2. On page 4 of 296, the last paragraph in section 4.3.4 states, “If the NRC will not transfer a licensed site or an application for a site license, and there is no reasonable expectation of an application for a license being submitted in the foreseeable future, the State may assume the authority without having the resources and procedures in place. In this case, information showing that the State has the authority to acquire the resources and adopt appropriate procedures before undertaking the implementation of a program, accompanied by the conceptual description of the program, is sufficient.”

This paragraph is not clear. It is understood by NRC staff that this paragraph is referring to the American Nuclear Corporation site. In order to avoid confusion, the NRC staff recommends that Wyoming clarify the intent of this paragraph.

DEQ Response: Language mirrors the Handbook for Processing an Agreement. It is presented solely to aid NRC while using the handbook. For Wyoming to add clarity to NRC guidance would not be prudent.

3. On page 6 of 296, the last sentence in section 4.3.6 states, “The State may propose an alternative to transferring licenses, if desired.”

This statement does not appear to be applicable to the program. The NRC staff recommends that Wyoming clarify what is meant by an “alternative”.

DEQ Response: Language mirrors the Handbook for Processing an Agreement. It is presented solely to aid NRC while using the handbook. For Wyoming to add clarity to NRC guidance would not be prudent

Appendix A to Subsection 4.3 – Licensing Procedure Manual

4. On page 11 of 296, Item 11 refers to NUREG-1757. This reference only refers to

materials facilities and is not applicable to uranium recovery facilities. The NRC staff recommends removing this reference from the procedures.

Additionally, the first paragraph under section 2.0 states, "Radioactive materials licensing is a process whereby applicants are approved to receive, possess, and use licensed materials governed by the URP in Wyoming." The statement excludes on-site disposal of tailings. If these activities of on-site disposal of tailings will be regulated by Wyoming, the NRC staff recommends that Wyoming include activities of on-site disposal of tailings in the statement.

DEQ Response: While we understand NUREG 1757 excludes uranium recovery, the guidance has useful information that can aide URP staff in evaluating submittals. The following changes were made Licensing Procedural Manual:

11. Applicable portions of NUREG 1757, Consolidated Decommissioning Guidance (~~Financial Assurance requirements contained within explicitly exclude uranium recovery facilities~~ Generally speaking, NUREG 1757 excludes uranium recovery operations, however the guidance contains useful information that may be applied where warranted).

Additionally on site disposal of tailings was included in the list as follows.

Radioactive materials licensing is a process whereby applicants are approved to receive, possess, and use licensed materials governed by the URP in Wyoming. Radioactive materials licensing may also include onsite disposal of licensed material for applicants approved to do so by the URP in Wyoming

5. On page 12 of 296, under section 2.2, it states, "The license review is based on common sense, scientific and health physics principles."

Given that common sense is subjective, the NRC staff recommends the phrase be revised to state, "The license review is based on regulations, guidance, scientific, and health physics principles."

DEQ response: Change made as follows:
Licensing Procedural Manual Section 2.2.

The license review is based on ~~common-sense~~ regulations, guidance, scientific, and health physics principles.

6. On page 13 of 296, under section 2.4, it states, "License reviewers should remember that good health physics practices guide the reviewers' evaluations of any action."

NRC staff recommends that this sentence be changed so that it states, "License reviewers should remember that good health physics practices, earth science, and engineering principles guide the reviewers' evaluations of any action."

DEQ Response: Change made as follows

License reviewers should remember that good health physics practices, earth

science, and engineering principles guide the reviewers' evaluations of any action

7. On page 14 of 296, under section 3.1 (c), it states, "Any licensee who does not send the license renewal in a timely manner receives a letter acknowledging URP receipt of the renewal, however this letter may also describe any stipulations or notices resulting from the late submittal. Please note that some renewal submissions may require enforcement action such as a Notice of Violation if the license being renewed has already expired."

On page 21 of 296, under section 3.12 (c), it states, "The issuance of a new license number when the original license has expired will be reviewed on a case-by-case basis."

There are several sections in the procedures that refer to expired licenses. NRC staff recommends with regard to expired licenses that these procedures require a site to come into timely renewal and to ensure financial assurance is in place.

DEQ Response: URP appreciates the recommendation and agrees with the suggestion, but feels it has tools and mechanisms already to accomplish these objectives. No changes were made.

8. On page 16 of 296, under section 3.8 (b), it states, "Confirm that all financial assurance documents have been received and are being processed and approved through the WYDEQ Administration Division. The URP cannot issue a new license without payment."

If the above statement excludes discussion on decommissioning financial assurance, the NRC staff recommends with regard to the above phrase including a discussion on decommissioning financial assurance.

DEQ Response: The URP appreciates the recommendation, the above referenced language does not exclude discussion on decommissioning financial assurances and therefore no page changes are anticipated to address this comment.

Under section 3.8 (f), it states, "Coordinate with the different divisions within WYDEQ, including LQD, Solid and Hazardous Waste Division (SHWD), Air Quality Division (AQD), and WQD for their concerns with amendments to the license and any aspects of their programs which will be impacted by the license amendment, including permit forms, reclamation, waste management, injection well and monitor well abandonment, etc."

The above statement discusses license amendments although the section is titled New License Applications. License Amendments are discussed in section 3.10. The NRC staff recommends that Wyoming move the above statement to the more appropriate section.

DEQ Response: The URP appreciate the comment. The phrase "amendments to the license" has been removed from the citation above, and replaced with "the license-application" The word "amendment" has been replaced by the word "application" Changes are made as follows

Coordinate with the different divisions within WYDEQ, including LQD, Solid and Hazardous Waste Division (SHWD), Air Quality Division (AQD), and WQD for their concerns with ~~amendments to the license~~ the license application and any aspects of their programs which will be impacted by the license amendment application, including permit forms, reclamation, waste management, injection well and monitor well abandonment, etc

9. On page 18 and 19 of 296, there are sections that refer to the decontamination criteria for the uranium recovery program.

It is implied that licensees will be required to remediate to this criteria. The NRC staff recommends that Wyoming provide a discussion on the applicability of these decontamination criteria. Additionally, the NRC staff recommends including a discussion to long-term boundary care and institutional controls.

DEQ Response: When referencing decontamination criteria, the URP added additional language referencing 10 CFR 40 App A. An example follows.

Statement of how decontamination criteria in [10 CFR 40 Appendix A](#) have been met

10. On page 20 of 296, section 3.11 (f) discusses the coordination with NRC for decommissioning and termination of licenses. There is no discussion of review of the Long Term Surveillance Plan (LTSP) or the Long Term Surveillance Boundary. Wyoming should include their input regarding the Long Term Surveillance Plan and the Long Term Surveillance Boundary in this section.

DEQ Response: The URP made the requested change as shown.

Licensing Procedural Manual Section 3.11(f) 6.

The URP will provide NRC with comments in regards to the Long-Term Surveillance Plan and the Long Term Surveillance Boundary

11. On page 21 of 296, section 3.12 (b) cites the Wyoming equivalent to the NRC Timeliness Rule which can be found in 10 CFR 40.42.

Wyoming should clarify how this rule applies to conventional mills versus in-situ recovery facilities.

DEQ Response: The timeliness rule applies equally to all licenses assumed by the State. Unsure if this comment is directed towards partial site release which we have already provided provisions,

12. On page 22 of 296, under section 4.1, it states, "For non-licensed sites, decommissioning includes documenting in correspondence to the site owner that the facility or site is released for unrestricted use."

The NRC staff recommends that Wyoming clarify the term "non-licensed sites" in their procedures. This term is not defined and is not clear in the procedures.

DEQ Response: The reference to non licensed sites was removed. However the requirement that the URP will inform the appropriate land owners that the facility or site is released for unrestricted release was maintained.

13. On page 22 of 296, under section 4.2, it states, “The dose based criteria for termination of a license are located in Criterion 6 of Appendix A of 10 CFR Part 40.”

Please revise this sentence to state the following: “The concentration based criteria for termination of a license are located in Criterion 6 of Appendix A of 10 CFR Part 40.”

DEQ Response: Criterion 6 of 10 CFR 40 App A states it is a dose base criteria. The URP will continue to refer to it as a dose base criteria. However, to add clarity the URP added references to 10 CFR 40 App A so that it was clearer on which dose base criteria were applicable. In other words that 10 CFR 40 App A are the Criteria not 10 CFR 20 Subpart E.

14. On page 23 of 296, under section 4.2, it states, “The applicant must address the components of Section 6.0 in NUREG-1569 in the development of their decommissioning plan. The reviewer(s) will use NUREG-1569 for a completeness evaluation of the applicant’s Decommissioning Plan. Further technical review will be required to be completed by knowledgeable staff or subject matter experts.”

Please clarify that NUREG-1569 is applicable only to in-situ recovery facilities and not conventional mills.

DEQ Response: Changes made as follows:

The applicant must address the components of Section 6.0 in NUREG-1569, or [applicable sections of NUREG-1620 in the development of their decommissioning plan.](#)

15. On page 23 of 296, under section 4.2 (c), it states, “The applicant must maintain a financial surety to cover potential restoration costs in the event that monitoring results are contrary to model predictions and groundwater restoration must be initiated.”

Guidance in NUREG-1757, Volume 1, states that based on a review of the Decommissioning Funding Plan, the regulatory authority will determine whether the cost estimate submitted by the licensee adequately reflects all of the costs necessary to carry out all required decommissioning activities prior to license termination and, if the license is being terminated under restricted conditions, to enable an independent third party to assume and carry out responsibilities for any necessary control and maintenance of the site.

The Decommissioning Funding Plan is not be based solely on monitoring results that are contrary to model predictions. The NRC staff recommends that Wyoming clarify all the bases used to develop a Decommissioning Funding Plan.

DEQ Response: The language from NUREG 1757 cited above was added to Section 4.2(c). with slight modifications.

The applicant must maintain a financial surety to cover potential restoration costs in the event that monitoring results are contrary to model predictions and groundwater restoration must be initiated. The applicant must maintain financial surety reflecting all of the costs necessary to carry out all required decommissioning activities prior to license termination and, if the license is being terminated as an UMTRCA Title II site, to enable the State, or the Department of Energy, to assume and carry out responsibilities for any necessary control and maintenance of the site

16. On page 24 of 296, section 4.5 is titled Decommissioning Restricted Use and Alternate Criteria. There does not exist any alternate criteria and all conventional mill sites with tailings are restricted use. A better title to the section is Decommissioning Restricted Use Criteria. Additionally in this section, please include the statement that the NRC should accept the LTSP prior to license termination.

Additionally, it states, "URP staff will review the information supplied by the licensee to determine if the description of the activities undertaken by the licensee is adequate to allow the staff to conclude that the licensee has complied with the applicable requirements of 10 CFR Part 40, Appendix A for those licensees who intend to request termination of their radioactive materials licenses. The basic dose-based requirement for license termination for land areas is Criterion 6 of Appendix A of 10 CFR Part 40. After the URP has determined standards are met, URP will develop the CRR to be sent to the NRC for concurrence. The CRR will be developed in accordance with NRC document NMSS Agreement State Procedure Approval SA-900, "Termination of Uranium Milling Licenses in Agreement States." Once concurrence from the NRC is achieved the license will be terminated."

There is no reference to a LTSP for the tailings impoundments. Please modify the above section to include a reference for a LTSP.

DEQ Response: Section 4.5 was re-titled based on the comment, additionally the following language was added in response to the comment:

Once concurrence from the NRC is achieved, including for Title II sites acceptance of the Long Term Surveillance Plan (LTSP) and the Long Term Care Fee by the NRC, the license will be terminated

17. On page 26 of 296, under section 4.7 (b), it states in the first sentence of the second paragraph, "At least one inspection should be conducted while the site is being characterization for major decommissioning efforts that . . ."

Please revise this to say, "At least one inspection should be conducted while the site is being characterized for major decommissioning efforts that . . ."

URP Response: Change made

18. On page 26 and 27 of 296, there are references in the procedures to safeguards requirements, safeguard inspections, and criticality safety. Please delete these references. This language is inconsistent with the scope of the Agreement.

DEQ Response: References to safeguards requirements, safeguards inspections and criticality safety have been removed.

19. On page 27 of 296, under section h, please clarify the difference between the “final survey plan” and the “final survey report”. The two terms appear to be used interchangeably. Additionally, it appears section h (2) neglects to discuss the rationale for confirmatory surveys with regard to addressing the decommissioning criteria. Please clarify the use of the terms “final survey plan” and “final survey report” and add the rationale for confirmatory surveys with regard to addressing the decommissioning criteria.

DEQ Response: Changes were made to bring clarity. The two terms were changed such that it only references the final status survey.

20. On page 28 of 296, in section 4 there is no discussion for the approval of contractors or labs for performing surveys or analyzing samples by the State of Wyoming. The NRC staff recommends that Wyoming provide a discussion for the approval of contractors or labs performing surveys or analyzing samples. Also, the NRC staff recommends that Wyoming indicate that only approved contractors or laboratories will be used for performing surveys or analyzing samples for the State.

DEQ Response: The following sentence was added to the end of the paragraph. "When selecting contractors and laboratories, the URP will select only contractors and laboratories that are able to meet the data quality objectives (DQOs) of the project.

21. On page 43 of 296, under section IV (D), it states, “Data from the nearest official weather reporting station(s) may be used. However, if operations are more than 50 miles from an official weather station that is permanently staffed, or orographic effects preclude acceptable extrapolation of data, an on-site meteorological station may be required. For uranium or thorium recovery facilities, the applicant should include any additional meteorological measurement program requirements found in NUREG 1569 Section 2.5.1.”

This statement conflicts with NUREG-1569 and Regulatory Guide (RG) 3.63. NUREG-1569 indicates that data should be obtained from NWS stations within 50 miles of the site and the data can be used only if it is representative of the site. If these conditions are not met, an on-site meteorological station will be needed to gather the data as discussed in RG 3.63. If one year of data is collected on site, the data needs to be representative of long-term conditions as discussed in RG 3.63.

The NRC staff recommends that Wyoming revise the requirement to be consistent with NRC guidance,

DEQ Response: Changes made as requested, as follows.

" Additionally, for uranium or thorium recovery facilities, if meteorological data is not

representative of the site, an onsite meteorological station will be needed to gather the data which must be demonstrated to be representative of long term site meteorological conditions. "

22. On page 65 of 296, under section VI (Q), it states, "Include a section that summarizes all reporting requirements and include a table that lists all items that are to be reported to LQD. The table should include type of report, content summary, frequency of report, etc."

It appears that the above statement refers to instructions to LQD with regard to reporting requirements to the licensees. The NRC staff recommends that Wyoming replace the statement with the Wyoming reporting requirements with references for the semiannual effluent and monitoring reports that are required by 10 CFR 40.65.

DEQ Response: The URP appreciates the comment, and 10 C.F.R 40.65 would be included in the table the applicant needs to provide. The URP is part of the LQD thus the reports mentioned are included. No page changes.

23. On page 68 of 296, under section VII (B), it states, "The data should be evaluated against baseline quality and variability to determine if the restoration goal is met - the primary restoration goal is always baseline. The secondary goal is to restore the water within class of use. The secondary goal of restoration within class of use is applicable for "problem" parameters if and only if BPT has been demonstrated."

NRC staff recognizes the restoration standards in NUREG-1569, Section 6.1.3 (4) is not consistent with 10 CFR Part 40, Appendix A. Regulatory Issue Summary 2009-05, "NRC REGULATORY ISSUE SUMMARY 2009-05 URANIUM RECOVERY POLICY REGARDING: (1) THE PROCESS FOR SCHEDULING LICENSING REVIEWS OF APPLICATIONS FOR NEW URANIUM RECOVERY FACILITIES AND (2) THE RESTORATION OF GROUNDWATER AT LICENSED URANIUM IN SITU RECOVERY FACILITIES," corrected the error to the guidance in NUREG-1569 regarding restoration standards.

The NRC staff recommends that Wyoming revise the above statement such that the restoration standards will reflect the requirements as found in 10 CFR Part 40, Appendix A, Criterion 5.

DEQ Response: The URP added the following statement to Section VII (B) for uranium or thorium recovery facilities groundwater must also meet criteria listed in 10 C.F.R 40 App A Criterion 5(b)5

24. On page 215 of 296, under section I, it states, "NUREG 1569 Section 2.2.3(2), 22½-degree sectors centered on the 16 cardinal compass points is not required."

Not including the 16 cardinal points is inconsistent with the guidance in RG 3.63. The NRC staff recommends that Wyoming include the 16 cardinal points.

DEQ Response: The above referenced section applies to land use surveys and many of the uranium recovery operators are currently not following this guidance. Most have a LC that states they will extend their annual land use survey 2km in all directions. For meteorological data we will require wind direction in 16 cardinal

points.

25. On page 216 of 296, in the first table of II. Reference, the table includes a statement, "Note on RG 1.86: For the release for unrestricted use of materials and equipment, guidance is included in NUREG-1757, Vol. 1, describing the current NRC staff practice for release of materials and equipment. In addition, RG 8.21, "Health Physics Surveys for Byproduct Material at NRC Licensed Processing and Manufacturing Plants," RG 8.23, "Radiation Safety Surveys at Medical Institutions," and RG 8.30, "Health Physics Surveys in Uranium Recovery Facilities," provide information similar to that included in Table 1 of RG 1.86. Specifically, Table 1 in RG 1.86 is now included in RG 8.23 and is titled, "Table 3 Acceptable Surface Contamination Levels for Uncontrolled Release of Equipment."

The NRC staff notes that current Wyoming NRC licensees are required by license condition to follow the "Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material," dated April 1993 (the guidelines). See (ADAMS Accession No. ML003745526). The guidelines should be referenced in the Wyoming Agreement State application since licensees are required to follow this guidance in their licenses.

URP Response: Change made as requested. Added language "Also note that Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for the Byproduct, Source, or Special Nuclear material dated April 1993 may be applicable to applicants."

26. On page 238 of 296, in Appendix D-11, it states, "Monitoring Program including frequency, sampling methods, and sampling locations and density are in accordance with Regulatory guide 4.14 Section 1.1. Air monitoring stations are located in a manner consistent with the principal wind directions outlined in Appendix D-4."

Eliminating the cardinal directions discussed in comment 24 will make review of monitoring programs difficult. The NRC staff recommends that Wyoming include the 16 cardinal points.

DEQ Response: Wind Directions will be in 16 cardinal directions as outlined in Appendix D-4 of Guideline 4 and the licensing checklist.

27. On page 271 of 296, under section IV (a), it states, "Please see Appendix C of NUREG-1569 for additional guidance."

Appendix C of NUREG-1569, is for cost estimates. Please verify if this is the correct reference.

DEQ Response: The reference was correct, but other appendices were added as well

28. On page 274 of 296, under section VI, it states, "For an EIS, the environmental information is reviewed by the EPAD EIS Project Manager."

This reference is out of date. Please refer to the person in the Wyoming program who will review environmental information.

DEQ Response: The URP removed reference to the EIS EPAD.

29. On page 275 of 296, under section VIII, it states, "For Part 70 licensees, a summary of how the licensee will ensure that the risks addressed in the facility's Integrated Safety Analysis will be addressed during decommissioning."

The NRC staff recommends that Wyoming revise that statement in referring to Part 70 licensees. 10 CFR Part 70 is outside of the scope of the Wyoming Agreement, and Wyoming will not have Part 70 licensees.

DEQ Response: References to Part 70 was removed as requested.

30. On page 277 of 296, under section VIII (e), item 2 states, "A statement acknowledging that the dates in the schedule are contingent upon NRC approval of the DP."

Item 3 states, "A statement acknowledging that circumstances can change during decommissioning, and, if the licensee determines that the decommissioning cannot be completed as outlined in the schedule, the licensee will provide an updated schedule to NRC."

Item 4 states, "If the decommissioning is not expected to be completed within the timeframes outlined in NRC regulations, a request for alternative schedule for completing the decommissioning."

Please remove references to the NRC and replace with "the State of Wyoming".

DEQ Response: The references to NRC have been replaced with "WDEQ"

31. On page 283 of 296, under section XII (a), it states, "A summary of the volumes of Class A, B, C, and Greater-than-Class-C solid radwaste that will be generated by decommissioning operations."

Please remove the reference to Greater-than-Class-C waste.

DEQ Response: reference to Greater than Class C waste was removed.

32. On page 284 of 296, under section XII (a), it states, "Please see Appendix C of NUREG-1569 for additional guidance."

Please verify if Appendix E is the appropriate reference.

DEQ Response: The reference to App C was retained considering the context of the sentence relative to contents of the section, radioactive waste-management.

33. On page 284 of 296, under section XII (b), it states, "A summary of the estimated volumes of Class A, B, C, and Greater-than-Class-C liquid radwaste that will be generated by decommissioning operations."

Please remove the reference to Greater-than-Class-C waste. This type of waste is not included within the scope of the Agreement.

DEQ Response: Reference to Greater than Class C waste was removed.

34. On page 284 of 296, section XII (c) is titled Mixed Waste.

Please delete this section titled Mixed Waste. This waste type is not included within the scope of the Agreement.

DEQ Response: The section was removed as requested.

Appendix A to Subsection 4.7 – Event and Allegation Response Procedural Manual

General Comment: In your application, you do not specify whether Wyoming's Department of Environmental Quality has an existing procedure for the handling and disposition of complaints and/or allegations. If WYDEQ has such a procedure, reference(s) to this Department procedure can be used to provide responses and supplement the URP allegation procedure.

35. On page 8 of 61, under section 2.3 (b) (iv), it states, "Evaluate the need for a hazardous chemical consultant. The NRC Operations Center can help contact chemical safety experts at NRC. The EPA may also be contacted for logistical assistance from an EPA On-Site Coordinator. EPA and NRC phone numbers may be found in Section 4 of this manual."

Please remove references to the NRC in the paragraph and insert the appropriate State information.

DEQ Response: References to NRC were removed from this section.

36. On page 10 of 61, under section 2.8 (a) (ii), it states, "Availability of radiation monitoring resources near scene of incident (State Radiological Health Dept., DOE Radiological Assessment teams, NRC regional offices, licensee's qualified staff, hospital, or university with radiation protection technicians)."
Please verify that the State Radiological Health Department is the correct Wyoming Agency referenced in the sentence. If not, please correct.

DEQ Response: The reference to State Radiological Health Dept. was replaced with Wyoming URP

37. On page 13 of 61, under section 2.14 (b), it states, "If additional assistance is needed, NRC staff can call the Radiation Emergency Assistance Center/Training Site (REAC/TS) at 865-576-1005."

Please remove this sentence indicating the NRC staff will contact the Radiation Emergency Assistance Center, and replace with a statement indicating that

Wyoming staff will contact REAC/TS

DEQ Response: Change made as requested.

38. On page 17 of 61, under section 3.6 in the second paragraph, it states, "If the request for no contact is made in writing, or it is not clear that the URP employee receiving the verbal contact has explained the advantages of the alleged's continued involvement in the allegation process, then the responsible branch URP staff member will attempt an additional contact with the alleged."

Wyoming does not state it would attempt to make an additional contact to inform an alleged that the State is considering sending a Request For Information (RFI) to the licensee after the alleged requested no further contact with the State.

Under section 3.12 (f) (iv), Wyoming states that a reasonable effort will be made to contact an alleged before issuing an RFI letter. It is not clear the State will attempt to make an additional contact the alleged when the alleged asked not to be contacted further under section 3.6.

For comparison, in the Handbook of Management Directive 8.8, "Management of Allegations", in section II (B) (6) (c) (ii), it states that the NRC will attempt an additional contact to inform the alleged, that had requested no further contact before sending the RFI, to see if the alleged had any objections to issuing the RFI. Please clarify and align the two statements in sections 3.6 and 3.12.

DEQ Response: Changed Manual such that if an alleged asks for no further contact that request will be honored. The URP will try to stress the benefits of further contact but if the alleged request no further contact WDEQ will honor that request.

39. On page 18 of 61, under section 3.8 in the fourth paragraph, it states, "For an alleged who has been granted confidential source status, identity protection is also referred to as confidentiality. See Attachment C, "Glossary," of this manual for definitions of "identity protection", "confidentiality", and "confidential source"."

Wyoming procedures lack a reference to a section discussing the granting and revoking of confidential source status. The Wyoming allegation procedures should include a section discussing how confidential source status will be granted and revoked, that can be referenced in the fourth paragraph of section 3.8. The procedures for explaining how granting and revoking confidential status will occur are needed to fulfill the essential element in NMSS Agreement State Procedure Approval SA-700, "Handbook for Processing an Agreement", section 4.7.1.2, titled Evaluation Criteria.

The procedures should also provide for protection of the identity of a person making an allegation when requested. (See the Handbook of Management Directive 8.8, "Management of Allegations", section II (F) (3) (b) and section IV for further information on granting and revoking confidential source status.)

DEQ Response: The manual was changed such that the URP will grant confidentiality by not recording alleged's name or contact information. When taking

an allegation the URP staff is to explicitly ask if the alleged wishes to remain anonymous. There will revoking of confidential status. Granting confidential status will be by remaining anonymous.

40. On page 18 of 61, under section 3.8 in the tenth paragraph, it states, "Approval of the applicable regional administrator or headquarters office director is required if the licensee is to be informed that the inspection activity is related to an allegation." The paragraph also states "The licensee is notified when it is deemed necessary during the conduct of an inspection requested by a worker in accordance with 10 CFR Part 19.16(a)."

Please replace references to the regional administrator or headquarters office director with the equivalent Wyoming staff. Please also replace references to the Code of Federal Regulations with the equivalent Wyoming regulation.

DEQ Response: The change was made as requested.

41. On page 19 of 61, under section 3.9, please include more detailed information in the procedure on who would make a decision in "upper management" to release an alleged's identity who wanted confidentiality, how the alleged would be notified and how the alleged would be advised about confidential source status. (See the Handbook of Management Directive 8.8, "Management of Allegations", sections II (F) (12) (c) and II (F) (13) for further information.)

DEQ Response: If alleged wishes to remain confidential the URP will remove contact information and inform the alleged that the allegation will be treated as an anonymous tip. Allegations will be released only after public records request have come in and after the attorney generals office has approved release.

42. On page 19 of 61, under section 3.10, the procedures should provide more information about how URP will work with the Department of Labor regarding allegations involving discrimination in order to meet the essential objectives in NMSS Agreement State Procedure Approval SA-700, "Handbook for Processing an Agreement", section 4.7.1.2, titled Evaluation Criteria, to address allegation response, follow-up, closeout, provide for protection of the identity of a person making an allegation, and protection of other sensitive information. Section 3.10 can reference other relevant state procedures or provide more information in the URP procedures similar to the level of detail in the Handbook of Management Directive 8.8, "Management of Allegations", section III (A).

DEQ Response: Added language from Management Directive 8.8 as follows.

For allegations involving discrimination, the URP will work with the Department of Labor on a case by case basis. [These requests may involve technical issues associated with protected activity, the organizational structure of employers, or WDEQ requirements. WDEQ is available to assist DOL personnel and individuals with accessing WDEQ information, understanding technical issues, or determining whether an individual is engaged in protected activity. The URP Program Manager is the WDEQ contact if DOL is requesting information about a specific allegation. If this](#)

contact occurs, staff should respond promptly because DOL investigators have a short statutory time frame within which to complete their investigation.

43. On page 20 of 61, under section 3.11, the procedures should provide additional information on how allegations will be processed after they are referred to upper management. This information should include the title of the upper management personnel making these decisions. Wyoming can reference other State procedures, or develop further information in the URP procedures using the Handbook of Management Directive 8.8, "Management of Allegations", sections II (H), II (I), and II (J) or another Agreement State procedures as guidance.

DEQ Response: The URP is still amending to comply with this section.

44. On page 21 of 61, under section 3.11 (c), there should be a requirement in this section stating that the information concerning the identity of the alleged, and any information that the NRC will classify as sensitive unclassified non-safeguards or safeguards information must be stored in an approved storage container. Please identify the location of the approved storage container. (See the Handbook of Management Directive 8.8, "Management of Allegations", section II (H) (4) for guidance).

DEQ Response: DEQ Policy 29 dictates how to store sensitive information. The information will be locked and not publically available.

45. On page 23 of 61, under section 3.12 (f) (v), bullet 5 states, "The licensee is also expected to note any violation of URP requirements identified during the course of the review."

Please revise the paragraph to state, "The licensee is expected to note any instance identified during the course of its review in response to a request for information letter indicating that an URP requirement may have been violated." The URP has to determine whether a violation of a URP requirement occurred, not the licensee.

DEQ Response: Change made as requested.

46. On page 25 of 61, under section 3.12, the NRC staff recommends that Wyoming provide a standardized request for information letter that can be referenced in this procedure. (Exhibit 14 in NRC Allegation Manual provides a sample request for information letter to a licensee.)

DEQ Response: Added the following language to Section 3.12 Please refer to Exhibit 14 in NRC Allegation Manual for guidance in drafting a letter.

47. On page 25 of 61, under section 3.12 (g) (ii), it states, "If, after the URP is described to an individual who contacts NRC with concerns about an URP licensee, the concerned individual agrees to contact and be contacted directly by the URP, the concerns are provided to the appropriate Regional State Agreements Officer (RSAO) for referral to the URP and are not processed as allegations."

Please delete the phrase "and are not processed as allegations". The phrase

refers to the NRC's practice of tracking Agreement State performance concerns and is not relevant to the Wyoming procedures.

DEQ Response: Change made as requested.

48. On page 25 of 61, under section 3.12 (g) (iii), it states, "If the concerned individual is unwilling to contact or to have his or her identity disclosed to the URP, the allegation program is used to track the evaluation of the concerns raised about the URP license."

Please remove this paragraph. It refers to the NRC practice of tracking Agreement State Performance Concerns and is not relevant to the Wyoming procedures.

49. On page 25 of 61, under section 3.12 (i), the paragraph appears to discuss the referral of allegations or concerns to other Agreement States. If that is the intent of the paragraph, please revise to clearly specify the process that will be followed. If that is not the intent of the paragraph, please include a section in the procedures that clearly states the process for referring allegations and performance concerns to other Agreement States.

DEQ Response: Change made as requested.

50. On page 26 of 61, under section 3.14, this section should include further information including: 1) having a sample closure letter in the procedure; and 2) providing more information on how the staff will handle closures involving enforcement matters. (Exhibits 18 and 20 of the NRC Allegation Manual provides sample closure letters, and the Handbook of Management Directive 8.8, "Management of Allegations", section II (L) (4) provides further information on handling the closure of allegations related to enforcement matters.)

DEQ Response: Language added that states for guidance in drafting the letter please refer to NRC allegation Manual Exhibit 18 and 20.

51. On page 29 of 61, under section 3.17, it states, "Ideally, all allegations concerning a particular licensing or certification matter will be satisfactorily resolved by the applicant before any license or certificate is issued."

Please revise the first sentence in the paragraph to state, "Ideally, all allegations concerning a particular licensing, certification or operational matter will be satisfactorily resolved by the applicant before any license or certificate is issued or any operational decision is made." This change is necessary to state that allegations also cover the licensee's operational activities that may not be involved with issuance of a license or certification. (For guidance see the Handbook of Management Directive 8.8, "Management of Allegations", sections II (P) (1-3).)

DEQ Response: Change made as requested.

52. On page 32 of 61, in Attachment A, at the top of the page remove the phrase, "NRC Review By."

DEQ Response: Change made as requested.

53. On page 33 of 61, the Allegation Report Form is incorrectly labeled as Appendix B when it should be labeled as Attachment B.

DEQ Response: Change made as requested.

54. On page 36 of 61, in Attachment C under the Glossary, please revise the definition of the term “Allegation” to remove references to NRC regulatory provisions and NRC employees or NRC contractors. Replace these references with the appropriate Wyoming Program information.

DEQ Response: Change made as requested.

55. On page 36 of 61, in Attachment C under the Glossary. Recommend defining the following words using Wyoming equivalent terms for: “Allegation File,” “Allegation Guidance Memorandum,” “Allegation Management System” and “Allegation Manual”.

DEQ Response: Recommendation still evaluating need

56. On page 36 of 61, in Attachment C under the Glossary. Please revise the definition of “Alleger” to state, “An individual who or an organization that submits an allegation to URP or NRC or that provides information in a public forum that is recognized as an allegation. Anonymous concerns are accepted.”

DEQ Response: Change made as requested.

57. On page 36 of 61, in Attachment C under the Glossary. Recommend providing a model confidentiality agreement as an attachment to Subsection 4.7 Appendix A. Wyoming can use other Wyoming agencies’, other Agreement States’ or the NRC’s model confidentiality statements to develop their model. (Exhibit 5 of the NRC Allegation Manual provides a sample Confidentiality Agreement.)

DEQ Response: Removed reference to confidentiality agreements. DEQ maintains confidentiality by not taking contact information.

58. On page 36 of 61, in Attachment C under the Glossary. Recommend defining the following words using Wyoming equivalent terms for: “Discrimination,” “Licensee,” “Referral,” and “Staff.”

DEQ Response: Recommendation still evaluating need.

59. On page 36 of 61, in Attachment C under the Glossary. Please revise the definition of “Emergency Incident” to indicate it requires activation of the Wyoming response program instead of the NRC’s Incident Response Program.

DEQ Response: Change made as requested.

60. On page 38 of 61, in Attachment C under the Glossary, the definition of inspection states, “A special activity usually conducted by regional office and/or headquarters

office staff, and used to evaluate an allegation.”

Please revise the definition to state, “For the purposes of this procedure, an evaluation conducted by the Wyoming staff and used to evaluate an allegation.” The revision removes the reference to the NRC and clarifies the inspections are related to an allegation.

DEQ Response: Change made as requested.

61. On page 38 of 61, Attachment C under the definition of Protected Activity, discusses NRC activities. Wyoming should revise the definition to identify what Wyoming activities apply to this definition.

DEQ Response: Changes to the definition occurred.

Additional Comments on previous draft Application

1. On pages 928 and 955 of 1080, the staff notes that in the previous Wyoming Agreement State submission, the Wyoming Uranium Recovery Inspector Qualification Journal, Qualification Guide 4, references “Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Byproduct, Source, and Special Nuclear Material Licensees,” dated November 1983. The NRC has updated this guidance with, “Guidelines for Decontamination of Facilities and Equipment Prior to Release for Unrestricted Use or Termination of Licenses for Byproduct, Source, or Special Nuclear Material,” dated April 1993. See (ADAMS Accession No. ML003745526).

Please ensure this and other references are up to date.

DEQ Response: Change made as requested.

Comments Previously Provided in Letter dated April 20, 2017 on the Draft Wyoming Application for a Limited Agreement related to Inspection, Licensing, Allegations, and Enforcement Procedures

Subsection 4.3 - Licensing Program Elements

66. On page 751 of 1080, General Comment: Licensing Procedural Manual Uranium Recovery Program (Licensing Manual), the introduction section references NUREG-1757. All aspects of this document do not apply to uranium recovery facilities. In NUREG-1757, Volume 3, Revision 1, under section 1.1 Purpose and Applicability, it states, “[T]his volume applies to the timeliness and recordkeeping requirements for licensees under Title 10 of the *Code of Federal Regulations* (10 CFR) Parts 30, 40, 70, and 72. It also applies to financial assurance requirements for licensees under 10 CFR Parts 30, 40, 70, and 72, with the exception of licensees (uranium recovery facilities) subject to Criteria 9 and 10 of Appendix A, ‘Criteria Relating to the Operation of Uranium Mills and the

Disposition of Tailings or Wastes Produced by the Extraction or Concentration of Source Material From Ores Processed Primarily for Their Source Material Content,' to 10 CFR Part 40, 'Domestic Licensing of Source Materials.'"

The reference to NUREG-1757 with regard to financial assurance requirements for licensees under 10 CFR Parts 30, 40, 70, and 72 should be removed from this section.

Comment Resolved

67. On page 752 of 1080, Licensing Manual, section 2.1, it states "[T]he license review is designed to assure that the uses of, and authorizations for, licensed material will not present a hazard to the general public or the workers." The appropriate standard with regard to regulatory language is "adequate to protect public health and safety of the general public and workers" instead of "not present a hazard."

The NRC review team recommends revising the sentence to read, "[T]he license review is designed to assure that the uses of, and authorizations for, licensed material will be adequate to protect the public health and safety of the general public and workers."

Comment Resolved

68. On page 752 of 1080, Licensing Manual, section 2.4, it states, "[T]he license review is done by at least two persons: a main technical staff reviewer and a secondary peer staff reviewer."

The NRC review team agrees that the above arrangement is typical in many technical reviews. However, more complex reviews may require two or three main technical reviewers (e.g., a hydrologist, health physicist (HP), and geotechnical engineer). A lead technical reviewer may be responsible for coordinating requests for information or writing a draft version of the licensing action, but the lead technical reviewer will need assistance in areas outside their expertise.

To aid the program, the NRC review team recommends the Wyoming's procedures be revised to include language that clarifies the need to have sufficient technical expertise for each licensing action particularly for more complex actions.

Comment Resolved

69. On page 755 of 1080, Licensing Manual, section 3.0 needs additional review and revision. For example, section 3.8 (a) (2) states, "[A]pplication meets the technical requirements contained in Chapter 4 and Guideline 4."

The NRC review team notes that Guideline No. 4 has not been updated for the review of radioactive materials and has not been updated to incorporate radiation protection standards. Additionally, the regulations in Chapter 4 do not provide clear guidance for a comprehensive technical review for Agreement materials. While there are references listed in the "Licensing Procedure Manual," section 1.0, Introduction, there is little specific guidance or criteria as to which documents to use for review of radioactive materials or radiation protection. The templates and checklists provided

on page 770 of 1080 (Licensing Manual Appendix A) and on page 771 of 1080 (Licensing Manual Appendix B) do not appear adequate for a complex review.

Please provide additional information to address these concerns. You may find the checklists in NUREG-1727 useful in responding to this question.

Comment Stands – There appears to be placeholder in the procedures for this document, but the checklist is missing.

DEQ Response: Checklist is in App C to Subsection 4.3 in the final application that the NRC received on Nov 9th in the Licensing Procedure Manual.

70. On page 754 of 1080, Licensing Manual, section 3.1, there is no mention of the option to request additional information from the applicant, if any is required.

To aid the program, the NRC review team recommends revising this document to specifically mention of the staff's ability to request additional information from the applicant between 3.1(d) and (e) in the Licensing Manual. This is good regulatory practice.

Comment Resolved

71. On page 754 of 1080, Licensing Manual, section 3.2, it states "[T]he reviewers should also assess if a pre-licensing inspection is necessary for the license application."

Technically, the program does not carry out "inspections" until after a license is issued and does pre-licensing on-site visits.

For consistency with terms used by the NRC, the NRC review team recommends that this sentence be revised to state, "[T]he reviewers should also assess if a pre-licensing on-site visit is necessary for the license application." Corresponding changes should be made throughout the document (e.g., the Licensing Review Checklist in Appendix B). Guidance on pre-licensing on-site visits can be found in NUREG-1556, Volume 20, "Guidance on Administrative Licensing Procedures." This comment is related to comment 14.

Comment Resolved

72. On page 757 of 1080, Licensing Manual, section 3.11 does not discuss coordination with the DOE or the NRC. The procedure also does not mention the development of a Completion Review Report which is inconsistent with the process as described in SA-900.

Wyoming needs to revise the procedure for termination of licenses to capture the license termination process as it is described in SA-900.

Comment Resolved

73. On page 760 of 1080 Licensing Manual, section 4.0 in its entirety needs to be reviewed for consistency with 10 CFR Part 40 and rewritten because it incorrectly

mixes Part 40 and Part 20 cleanup requirements and omits many of the requirements of Part 40. It should be noted that uranium recovery sites are not subject to 10 CFR Part 20 Subpart E cleanup requirements.

It is necessary that Wyoming indicates in the regulations with regard to when Wyoming will require licensees to meet 10 CFR Part 20 equivalent clean up requirements and when Wyoming will require licensees to meet 10 CFR Part 40 equivalent clean up requirements, particularly with regard to when determination is being made for the release of equipment and structures with detectable contamination. Please specify the guidance documents you will be using to implement these requirements.

Comment Resolved

74. On page 761 of 1080, Licensing Manual, section 4.2 where the Components of a Decommissioning Plan are addressed, the discussion included is more appropriate for a non-milling site and inconsistent with NUREG-1757. The information is incomplete. A more complete set of guidance would be more helpful in aiding Wyoming with regard to the review of decommissioning plans and other information to support the decommissioning of licensed facilities.

In order to aid the program, please revise this section so it is consistent with NUREG-1757.

Comment Resolved

75. On page 762 of 1080, Licensing Manual, section 4.5, the information provided in this section is not applicable to milling sites because the requirements in 10 CFR Part 20.1403 and 20.1404 do not apply to uranium recovery sites. Please provide clarification with regard to when Wyoming will require licensees to meet 10 CFR Part 20 equivalent clean up requirements and when Wyoming will require licensees to meet 10 CFR Part 40 equivalent clean up requirements, particularly with regard to when determination is being made for the release of equipment and structures with detectable contamination. Please specify the guidance documents you will be using to implement these requirements.

Comment Resolved

76. On page 762 of 1080, Licensing Manual, section 4.6, the NRC review for license termination is not identified. This review is required and needs to be referenced in Wyoming procedures. Additionally, there is no mention of the NRC review for partial site decommissioning or partial site release.

Wyoming needs to revise the licensing manual to include NRC review of partial license terminations in site decommissioning. NRC provides guidance on license termination (including partial license terminations) in SA-900.

Comment Resolved

77. On page 764 of 1080, Licensing Manual, section 4.7 (d), it states, “[T]hree- to four-foot thick soil covers over contaminated soil, slag, or tailing piles are also generally acceptable.”

The NRC review team recommends that Wyoming revise the licensing manual to be consistent with 10 CFR Part 40, Appendix A, Criterion 6 which is Compatibility Category C. 10 CFR Part 40, Appendix A, Criterion 6 requires that a designed engineered barrier should be used when disposing of waste by-product material.

Please revise the Wyoming procedures accordingly.

Comment Resolved

78. On page 765 of 1080, Licensing Manual, section 4.7 (h) (2), the NRC review team notes the reference to “complex materials site” in this chapter is the only instance where this term is used in the draft application. NRC staff has provided guidance in Regulatory Issue Summary 2014-08, Revision 1 (ML15181A223) with regard to how the NRC defines the term “complex materials facility.” Please clarify or define the term “complex materials site” and ensure that your definition is consistent with RIS 2014-08, Revision 1.

Comment Resolved

79. On page 767 of 1080, Licensing Manual, section 7.0 appears to be inconsistent with the procedures listed in section 3.0, “Procedures for Handling License Actions.” For example, there is no discussion of Phase I or Phase II reviews.

In order make the Licensing Manual a more effective tool for the program, the NRC review team recommends resolving the discrepancies between section 3.0 and section 7.0.

Comment Resolved – there appears to be no separate references to Phase I and Phase II.

80. On page 770 and 771 of 1080, Licensing Manual, Appendix A and Appendix B are not as complete when compared to other guidance documents, such as Guideline No. 4 and NUREG-1569 “Standard Review Plan for New ISR Applications.” The documents in Appendix A and B provides minimal review guidance for a new complex uranium recovery facility application.

Please revise Appendix A and B to include additional information for a license reviewer. You may find NUREG-1569 “Standard Review Plan for New ISR Applications” useful in revising these appendices.

Comment Stands – There appears to be placeholder in the procedures for this document, but the checklist is missing.

DEQ Response: Checklist is in App C to Subsection 4.3 in the final application that the NRC received on Nov 9th in the Licensing Procedural Manual.

Subsection 4.4 – Inspection Program Elements

81. On page 781 of 1080, Appendix A to Subsection 4.4, should include the following references: Inspection Procedure 88045, Effluent Control and Environmental Monitoring; Inspection Procedure 88035, Radioactive Waste Processing, Handling, Storage, and Transportation; Inspection Procedure 88030, Radiation Protection; and Inspection Procedure 88005, Management Organization Controls.

Comment Stands

DEQ Response: Change made as requested.

82. On page 829 of 1080, Inspection Procedure (URP-003) section 4.0 includes reference to NUREG/BR-0241. This document has been superseded by NUREG-1727, NUREG-1757, and MARSSIM.

Comment Resolved

Please delete reference to NUREG/BR-0241, and replace it with a reference to NUREG-1727, NUREG-1757, and MARSSIM.

Comment Resolved

83. On page 850 of 1010, Uranium Recovery Inspection Procedure (URP-05) section 6, "Other Inspection Sampling Processes," please include procedures to specify how field samples of soil or water will be taken, handled, packaged and shipped for analysis.

Comment Resolved

Subsection 4.5 - Enforcement Program Elements

84. On page 859 of 1080, Appendix A to Subsection 4.5, section 2.1.2, it states "[A]n inspection letter is issued at the conclusion of an inspection to document the occurrence of the inspection." However, "inspection letters" are not specifically mentioned in the Inspection Procedures provided in Subsection 4.4 "Inspection Program Elements."

For consistency, in order to help the Wyoming inspection program, the NRC review team recommends that Wyoming revise the Inspection Procedures to specifically mention issuance of inspection letters to document the occurrence of an inspection.

Comment Resolved

85. On page 859 of 1080, Appendix A to Subsection 4.5, Wyoming has provided information on their proposed enforcement program.

These enforcement elements should include the following:

Wyoming should have enforcement procedures for ensuring the fair and impartial administration of regulatory law.

a. Wyoming should scale the actions to the seriousness of the violation.

DEQ Response: Procedures specify that the enforcement action is scaled to the seriousness of the violation. The NOV's that are issued followed a prescribed format with a standard process. See App A to Subsection 4.5 Section 2.0 and Section 3

b. The procedures should establish standard methods of communicating sanctions to the licensee. Wyoming should give written notice using standardized wording and format. Legal counsel should review the wording and format.

DEQ Response: Standard methods of communicating sanctions to the licensee are described in App A to Subsection 4.5 Section 2.1 through 2.4. The Wyoming Attorney General's Office will be involved in enforcement for tracking the completion of enforcement actions.

c. The procedures should include a means for tracking the completion of enforcement actions.

DEQ Response: The URP has a section dedicated to this in Appendix A to Subsection 4.5 Section 2.1.6 which describes how enforcement actions will be tracked.

For serious or repeated violations of regulatory requirements, the program should use escalated enforcement. Escalated enforcement actions may include:

- a. Administrative or civil monetary penalties;
- b. The modification, suspension, or revocation of the license;
- c. Referral for criminal prosecution.

DEQ Response: Escalated enforcement will be governed by Wyoming Statutes, the URP's rules and regulations, and App A to Subsection 4.5 Section 3.0 through 3.3

Wyoming needs to submit procedures for escalating enforcement actions.

a. Wyoming should scale the sanctions in escalated enforcement cases to the seriousness of the violation. The sanctions should be more serious than routine enforcement.

DEQ Response: Wyoming will scale sanctions in enforcement actions dependent on the seriousness of the violations. Please see Wyoming Statute (Title 35, Chapter 11, Articles 7 and 9), the URP 's rules and regulations (Chapter 2, Section 5) and Appendix A to Subsection 4.5 Section 3.0 through 3.3

b. The procedures should address notifying the licensee of proposed escalated enforcement actions. The notice should be written, using standard wording and format when practical.

DEQ Response: The URP will notify licensees of escalated enforcement. Please see Appendix A to Subsection 4.5 Section 3.0

- c. The enforcement program element manager, or higher, should sign the notices of escalated enforcement.

DEQ Response: Please see Appendix A to Subsection 4.5, Section 3.0

- d. Escalated enforcement actions should be coordinated with legal counsel.

DEQ Response: Escalated enforcement actions will be coordinated with legal counsel pursuant to Appendix A to Subsection 4.5 Section 3.0 through 3.3

Wyoming needs to address the above comment in their enforcement procedures by providing additional detail. The following references can assist the State:

- a. Criteria Policy Statement, criteria 1, 18, and 23
- b. NUREG-1600, NRC Enforcement Policy
- c. NRC Inspection Manual Chapter 2800 and 2801 Comment Modified

In your response to this question on the WYDEQ/URP enforcement program, your application should include references to the Department's current enforcement program and/or revise your enforcement procedure in the application to include a discussion of the procedures that will be used to implement the 10 lettered items listed above for this comment. In preparing your response, you can consider the NRC Enforcement Policy, sections 2.0 – 2.2.2 and section 2.3, and section 2.4 of the NRC Enforcement Policy discussion of escalated enforcement.

Subsection 4.6 - Technical Staffing and Training Program Elements

86. On page 868 of 1080, Subsection 4.6.1, the paragraph before Table 1 states that Wyoming determined staffing needs based upon an available 1704 hours per employee per year. In comparison, the NRC uses approximately 1430 productive hours per full time employee (FTE) for NRC headquarters staff (See 80 FR 37432 and 81 FR 41171).

The NRC review team recommends that Wyoming confirm that 1704 hours per FTE is the appropriate figure used for the NRC review teams budgetary and resource analyses of the Wyoming program.

Comment Resolved

87. On page 868 of 1080, Subsection 4.6.1, the second paragraph after Table 1 states that the WDEQ predicts 0.5 FTE/yr. for "major licensing actions" (e.g., new licensing actions.) The NRC analysis for the Jane Dough application estimates approximately 0.77 FTE/yr. for new licensing (safety licensing only, not environmental). Since licensing actions undertaken by Wyoming need to include environmental written analysis and potential hearings required under Section 274o. of the Act, please confirm or revise Wyoming's estimation of time needed for new licensing actions.

Comment Resolved

88. On page 869 of 1080, Subsection 4.6.1, it states that Wyoming will set aside 0.4 FTE for staff to work on decommissioning sites and sites on standby. The review team

concludes this amount of effort does not appear adequate to regulate all decommissioning sites.

Wyoming will need to provide additional information that demonstrates adequate FTE to support the decommissioning of the following sites.

1. Anadarko Bear Creek, Powder River Basin;
2. Pathfinder, Lucky Mc, Gas Hills;
3. Umetco Minerals Corporation, Gas Hills;
4. Western Nuclear Inc., Split Rock, Jeffrey City;
5. Exxon Mobile, Highlands, Converse County; and
6. American Nuclear Corporation.

Please revise your estimate to include the decommissioning sites. The NRC has provided Wyoming with an estimate of the amount of work needed for each of the decommissioning sites.

Comment Resolved

89. On page 870 of 1080, 4.6.1, Table 2, Inspection Workload/Year analysis, does not appear to take into account initial start-up inspections or re-start inspections. The NRC review team has found that these type of inspections are generally more labor intensive than regular inspections and typically take approximately 40 hours per inspection at a site.

Table 2 also lists the Staff Hours at uranium recovery sites at 20 hours. The NRC review team has found generally that three full days (8 hour days) are needed for on-site inspections, which would equal 24 hours.

Please provide additional information to clarify Wyoming's estimates for the inspection workload.

Comment Resolved

90. On page 868 of 1080, Subsection 4.6.1, the NRC review team notes the uranium recovery program appears to have only one Health Physicist (HP) on staff, not counting the Program Manager.

The NRC has nine active licenses, seven of which are in Wyoming and provides approximately 8 FTE for Wyoming uranium recovery projects. The NRC uranium recovery program is currently reviewing one new application and four major expansions in Wyoming. Generally, approximately 75% of the NRC uranium recovery program new licensing, major expansion, and licensing actions have been in Wyoming. The NRC uranium recovery program HP staff is at capacity with four full-time FTE, not including the HP staff in NRC Region IV that perform onsite inspections, with approximately 2 FTE of support for Wyoming uranium recovery projects.

The Texas uranium recovery program has 5 technical staff and one full time manager with 11 active radioactive material licenses. The Texas program provides 10 FTE to the uranium recovery program with 2.15 FTE of support going to the HP staff. The Utah uranium recovery program has 5.9 FTE with one active radioactive material license, one license in standby, and one license in decommissioning. The

Utah program HP staff provides support of 1.9 FTE.

Please provide a clarification on the level of HP support the uranium recovery program estimates it will need to support the program.

Comment Resolved

91. On page 871 of 1080, Subsection 4.6.1, Wyoming estimates 5.6 FTE is needed for the uranium recovery program technical review and inspection workload. This workload referenced in the analysis was for licensing review/project management or inspections. The draft application states the uranium recovery program will employ five technical FTE to meet the estimated workload described.

The NRC review team notes the Uranium Recovery Program Manager is counted as one of the technical FTE. It does not appear the uranium recovery program should count the Program Manager as of the technical FTE needed to fulfil the staffing estimate provided. The Program Manager is shown in the application as primarily a supervisory and administrative position. On page 874 of 1080 on the Program Manager Job Content Questionnaire, the position description for the Program Manager shows the position as specifically general management (40%), understanding of law and regulation (25%), human resource management (15%) and program representation (20%). There is no time allotted in the Program Manager's position description to uranium recovery program technical review or inspection, although the Program Manager would be expected to review final work products or accompany inspectors as part of staff qualifications.

Please clarify the Wyoming workload estimates taking into account the above comments and the discussion provided in comment 90.

Comment Resolved

92. On page 871 of 1080, Subsection 4.6.1, it states, "[T]he URP budget includes an additional 3.0 FTE, which are existing Wyoming personnel, to assist the URP workload. Most of the URP workload assigned to these 3.0 FTE will be similar to their existing job duties, which is duplicative of portions of current NRC efforts." The Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption thereof by States through Agreement, Criteria 33, indicates that when other state offices are utilized for contributing to the regulation of uranium processing and disposal of tailings, the lines of communication and administrative control between the state offices and the radiation control program should be clearly drawn.

It is unclear in the draft application if the existing Wyoming personnel will be qualified under the uranium recovery program. It is also unclear how the management of these personnel will be utilized for uranium recovery program reviews.

The Wyoming uranium recovery program currently has one geologist FTE identified. Other geologists and/or hydrogeologists FTEs have not been specifically identified in the application. The Texas program geologist and hydrogeologist staff currently provides support of 1.8 FTE. The Utah program geologist and hydrogeologist staff currently provides support of 1.6 FTE.

Please confirm that Land Quality Division personnel will be qualified under the uranium recovery program. Please describe how these individuals will be managed to perform uranium recovery program activities when needed. Specific Land Quality Division staff utilized for the budgeted staff should be identified and their qualifications included in the final application. Please explain how Wyoming's proposed staffing level will provide adequate resources for the uranium recovery program.

Comment Resolved

Subsection 4.7 - Event and Allegation Response Program Elements

93. On page 986 of 1080, Appendix A to Subsection 4.7, Wyoming has provided information on their proposed event and allegation response procedures. In Appendix A, some of the relevant sections regarding the handling of security related information, procedures for referring allegation to the State Attorney General or State Office of Inspector General equivalent for investigation, information on how the allegations will be tracked in the office and records maintained, and the State response to handling an alleged's fears of retaliation and granting or revoking confidential source status are absent.

Please review the Allegation Response Procedural Manual to ensure it captures the relevant provisions of Management Directive 8.8 to ensure that the State will have an adequate and compatible program for handling allegations. Criteria Policy Statement, Criteria 1 and 11, NMSS Agreement State Procedure Approval, SA-105, "Reviewing Common Performance Indicator, Technical Quality of Incident and Allegation Activities," and NMSS Agreement State Procedure Approval, SA-400, "Management of Allegations" can provide additional guidance.

Please revise your procedures for event and allegation response to include all elements in the three documents listed in the previous paragraph.

Comment Modified

Please provide additional information on your procedures for granting and revoking confidential source status mentioned in Subsection 4.7, Appendix A, section 3 of your application. Reference to existing Wyoming procedures can be used in your response. Wyoming can also use Handbook of Management Directive 8.8, "Management of Allegations", section IV, Granting and Revoking Confidential Source Status, NMSS Agreement State Procedure Approval SA-400, "Management of Allegations", and section 4.5 of the NRC Allegation Manual or other Agreement State procedures as examples for developing procedures to grant or revoke confidential source status. If you address the comments on the State's allegation program in Subsection 4.7, Appendix A, requested earlier to this letter (Comments 35 to 61, above), no further action is needed to address this comment.

Additional Comments

94. On page 881 of 1080, Appendix A to Subsection 4.6.2, on the Job Content Questionnaire, for the position titled, Vacant – Administrative Assistant II, the Administrative Assistant II Position Description is missing page 2 of 5 and page 4 of 5.

Please provide the missing pages for the Questionnaire.

Comment Resolved

95. On page 890 of 1080, Appendix A to Subsection 4.6.2, on the Job Content Questionnaire for the position titled, Vacant (New position authorized by Legislature), and the Position Description is missing page 2 of 6, 3 of 6, and page 5 of 6.

Please provide the missing pages for the Questionnaire.

Comment Resolved

96. On page 905 of 1080, Appendix B to Subsection 4.6.2, in Section 4.6.2.1, Qualification Plan Uranium Recovery Inspector,
- a. On Qualification Card 9, consider adding the specific uranium recovery events to review
 - b. On Qualification Card 10, the training list may be out of date.
 - c. On Qualification Guide 4,

Some of the guidance listed in this document are out-of-date. For example, NUREG-1569 is no longer in draft.

Please revise the document to list the current guidance documents.

Comment Resolved

97. On page 905 of 1080, Appendix B to Subsection 4.6.2, in Section 4.6.2.2 on Qualification Guide 4, some of the guidance listed is out-of-date. For example, NUREG-1569 is no longer in draft. Several recent RISs are not referenced such as the following:

1. Regulatory Issue Summary 2009-05, "Uranium Recovery Policy Regarding: (1) The Process for Scheduling Licensing Reviews of Applications for New Uranium Recovery Facilities and (2) The Restoration of Groundwater at Licensed Uranium In Situ Recovery Facilities"
2. Regulatory Issue Summary 2009-12, "Uranium Recovery Policy Regarding Site Preparation Activities at Proposed, Unlicensed Uranium Recovery Facilities"
3. Regulatory Issue Summary 2009-14, "Licensing Approach for Uranium In Situ Recovery Facility Applications"
4. Regulatory Issue Summary 2011-11, "Regarding Long-Term Surveillance Charge for Conventional or Heap Leach Uranium Recovery Facilities Licensed Under 10 CFR Part 40"
5. Regulatory Issue Summary 2012-06, "NRC Policy Regarding Submittal of

Amendments for Processing of Equivalent Feed at Licensed Uranium Recovery Facilities”

6. Regulatory Issue Summary 2014-08, Rev. 1, “Regulatory Requirements for Transfer of Control (Change of Ownership) of Specific Materials Licenses”
7. Regulatory Issue Summary 2015-09, “Decommissioning Timeliness Rule Implementation and Associated Regulatory Relief”
8. Information Notice 1999-03, Rev. 1: “Exothermic Reaction Involving Dried Uranium Oxide Powder (Yellowcake)”

Please revise the document to list the current guidance documents.

Comment Resolved

98. On page 927 of 1080, Appendix B to Subsection 4.6.2, under section Qualification Guide 4, Regulatory Guidance under subsection 3, NUREGs, there is a reference to NUREG/CR-5849 which has been superseded.

The following is an up-to-date list of NUREG and Regulatory guide references:

1. NUREG 1748, “Environmental Review Guidance for Licensing Actions Associated with NMSS Programs”
2. NUREG 1569, “Standard Review Plan for In Situ Leach Uranium Extraction License Applications”
3. NUREG/CR-6733, “A Baseline Risk-Informed, Performance-Based Approach for In Situ Leach Uranium Extraction Licensees”
4. NUREG-2126, “Standard Review Plan for Conventional Uranium Mill and Heap Leach Facilities, Draft Report for Comment”
5. NUREG-1910, “Generic Environmental Impact Statement for In-Situ Leach Uranium Milling Facilities”
6. NUREG-0706, “Final Generic Environmental Impact Statement on Uranium Milling”
7. NUREG-2173, “Tribal Protocol Manual”
8. NUREG- 1556, Vol. 15, Consolidated Guidance About Materials Licenses, Guidance About Changes of Control and About Bankruptcy Involving Byproduct, Source, or Special Nuclear Materials Licenses”
9. Regulatory Guide 3.11, Rev. 3, “Design, Construction and Inspection of Embankment Retention Systems at Uranium Recovery Facilities”
10. Regulatory Guide 3.46, “Standard Format and Content of License Applications, Including Environmental Reports, for In Situ Uranium Solution Mining”
11. Regulatory Guide 3.63, “Onsite Meteorological Measurement Program for Uranium Recovery Facilities – Data Acquisition and Reporting”
12. Regulatory Guide 4.14, Rev. 1, “Radiological Effluent and Environmental Monitoring at Uranium Mills”
13. Regulatory Guide 4.15, “Quality Assurance for Radiological Monitoring Programs (Inception through Normal Operations to License Termination) – Effluent Streams and the Environment”
14. Regulatory Guide 4.22, “Decommissioning Planning During Operations”
15. Regulatory Guide 8.22, Rev. 2, “Bioassay at Uranium Mills”
16. Regulatory Guide 8.30, Rev. 1, “Health Physics Surveys in Uranium Recovery Facilities”

17. Regulatory Guide 8.30, Rev. 1, "Information Relevant to Ensuring that Occupational Radiation Exposures at Uranium Recovery Facilities will be as low as is Reasonably Achievable"

Please revise the document to list the current guidance documents.

Comment Resolved

99. On page 991 of 1080, Appendix A to Subsection 4.7, Section 1.0, all of the references to FSME (Office of Federal, State, Material and Environmental Management Programs) need to be replaced with references to NMSS (Office of Nuclear Material Safety and Safeguards).

Please revise the document to reference NMSS (Office of Nuclear Material Safety and Safeguards).

Comment Resolved