

**Proposed New Rules, Department of Environmental Quality, Land Quality Division,
Source Material Program, Chapters 1 – 9**

Analysis of Comments Received for Docket #24-4103

October 18, 2024

On August 30, 2024, the Department of Environmental Quality, Land Quality Division (LQD) submitted a Notice of Intent to adopt rules in accordance with Wyoming Statute § 16-3-103 and the Wyoming Secretary of State's Rules on Rules for State Agencies, which initiated a minimum 45-day public comment period for the LQD's new Source Material Program Rules.

The LQD also notified interested parties electronically through the GovDelivery system on August 31, 2024 and published a public notice in the Casper Star-Tribune on August 31, 2024. Comments on the proposed rules were requested beginning September 1, 2024. The LQD received final review comments from the Nuclear Regulatory Commission (NRC) on September 16, 2024. Attached is a table listing the NRC's comments and LQD's response to those comments. The LQD did not receive any other comments, electronically or hard-copy during the open comment period which ended at the close of business on October 16, 2024.

The following table includes DEQ responses to final comments from the Nuclear Regulatory Commission (NRC) dated September 16, 2024 on the Source Material Program (SMP) proposed rules Chapters 1-6 and 9. No comments were provided by the NRC for Chapters 7 and 8. Comments were based on NRC review, comparing the SMP proposed rules to adequate and compatible criteria for regulations at an Agreement State. Revisions were made to the proposed rules as noted in Table 1, below:



Wyoming Department of Environmental Quality

**FINAL NRC COMPATIBILITY COMMENTS ON
PROPOSED SOURCE MATERIAL PROGRAM REGULATIONS
AND DEQ RESPONSES**

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
1	Chapter 1 Section 5	20.1003	A	<p>Definitions – Background Radiation</p> <p>In the definition of “background radiation,” the language should state that “[b]ackground radiation from source, byproduct, or special nuclear materials regulated by the Commission [or the Department.]”</p> <p>Wyoming has not included the “or the Department” language in the definition for “background radiation” in Chapter 1, Section 5(o)(iv). Therefore, Wyoming needs to add “or the Department”</p>	Added	1-3

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION	NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #	
			language to account for Wyoming’s limited authority to regulate special nuclear material and limited byproduct authority.			
1	Chapter 1 Section 5	20.1003	A	<p>Definitions – Sanitary sewerage</p> <p>In the definition of “sanitary sewerage” the language should state “owned or operated by the licensee.”</p> <p>In Wyoming’s definition of “sanitary sewerage” in Chapter 1, Section 5(cx) the language states “owned and operated by the licensee.”</p> <p>Therefore, Wyoming needs to revise the language in the definition of “sanitary sewerage” to “owned or operated by the licensee.</p>	Revised	1-11
2	Chapter 1 Section 6 & Chapter 3 Section 4	20.1004(b)	A	<p>Units of radiation dose</p> <p>Wyoming incorporates by reference the requirement in 20.1004(b) in Chapter 3 Section 4 and adopts the same requirement in Chapter 1 Section 6(c).</p> <p>To correct this duplication, Wyoming needs to do one of the following:</p> <ol style="list-style-type: none"> 1. Delete paragraph (c) in Chapter 1 Section 6, including Table 1, or 2. Include 20.1004(b) in the list of requirements 	Kept (c), Added NRC references Deleted Tables Chose Option 1	1-14

Table 1 Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
				<p>excluded from incorporation by reference in Chapter 3 Section 4(b).</p> <p>Note: If Option 2 is selected, Wyoming will additionally need to add language to reconcile the reference in 20.1004(c) [which is also incorporated by reference] to 20.1004(b).</p> <p>Wyoming needs to make this change to avoid creating duplication and conflict in its rules.</p>		
3	<p>Chapter 1 Section 9</p> <p>Chapter 4 Section 4</p>	40.10	C	<p>Deliberate misconduct</p> <p>Wyoming needs to revise the deliberate misconduct requirement in Chapter 1, Section 9:</p> <p>1. Revise paragraph (a) to read “Any licensee, applicant for a license, employee of a licensee or applicant; or any contractor (including a supplier or consultant), subcontractor, employee of a contractor or subcontractor of any licensee or applicant for a license, who knowingly provides to any licensee, applicant, contractor, or subcontractor, any components,</p>	Revised	1-15

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION	NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #	
			equipment, materials, or other goods or services that relate to a licensee's or applicant's activities in this part, may not.”			
3	Chapter 1 Section 9 Chapter 4 Section 4	40.10	C	2. In subparagraph (a)(i) replace the term “this Chapter” with the term “these rules”	Replaced	1-15
3	Chapter 1 Section 9 Chapter 4 Section 4	40.10	C	3. Paragraph (a)(ii) should state “Deliberately submit to the Department, a licensee, an applicant, or a licensee's or applicant's contractor or subcontractor, information that the person submitting the information knows to be incomplete or inaccurate in some respect material to the Department.”	Language added to (a)(ii)	1-15
3	Chapter 1 Section 9 Chapter 4 Section 4	40.10	C	4. Redesignate the current paragraph (a)(ii) as paragraph (b). Subparagraphs (a)(ii)(A) &(B) would then be redesignated to (b)(i)&(ii), respectively.	Re-designated Paragraphs	1-15
3	Chapter 1 Section 9 Chapter 4 Section 4	40.10	C	5. Redesignate the current paragraph (b) as paragraph (c).	Re-designated	1-15
3	Chapter 1 Section 9	40.10	C	6. Delete the current paragraph (c).	Not Deleted Brandi added	1-15

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION	NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #	
	Chapter 4 Section 4				comment instead	
3	Chapter 1 Section 9 Chapter 4 Section 4	40.10	C	<p>Additionally, Wyoming also adopts the deliberate misconduct requirements in Chapter 4, Section 4. Wyoming needs to delete one of these sections to avoid duplication.</p> <p>Wyoming needs to make these changes to meet the Compatibility Category C designation of 10 CFR 40.10.</p>	Deleted Ch. 4, Sec. 4	4-3
4	Chapter 1 Section 10 (b) Chapter 4 Section 6 (g)	40.11	B	<p>Persons using source material under certain DOE and NRC contracts</p> <p>In Chapter 1, Section 10(b) and in Ch 4 Sec 6(g), Wyoming has duplicative language to address 10 CFR 40.11. To avoid duplication and keep all regulatory exemptions together in the same section, please delete Chapter 1, Section 10(b).</p>	Deleted	1-16
5	Chapter 1 Section 10 (c) Chapter 4 Section 6 (f)	40.12	B	<p>Carriers</p> <p>Previously, the NRC provided a comment on Chapter 1, Section 10, stating, “Unless this is covered in another chapter, Wyoming needs to incorporate the exemption for carriers in 10 CFR 40.12(a) to meet</p>		

Table 1					
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9					
STATE SECTION	NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
			<p>the Compatibility B designation.”</p> <p>In response, Wyoming added Chapter 1, Section 10(c), which states “The Department fully adopts and hereby incorporates by reference the exemption in 10 C.F.R. 40.12(a) for common and contract carriers, freight forwarders, warehousemen, and the U.S. Postal Service.”</p> <p>However, Wyoming already has a compatible regulation on the exemption in 40.12(a) in Chapter 4, Section 6(f).</p> <p>To avoid duplication, please delete Chapter 1, Section 10(c).</p>	Deleted	1-16
6	<p>Chapter 1 Section 10 (d)</p> <p>Chapter 4 Section 6 (a)-(d)</p>	40.13	<p>Unimportant quantities of source material</p> <p>Previously, the NRC provided a comment on Chapter 1, Section 10, stating, “Unless this is covered in another chapter, Wyoming needs to incorporate requirements for unimportant quantities of source material in 10 CFR 40.13, with the exclusion of 40.13(c)(5)(iv), to meet the Compatibility B designation.”</p>		

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION	NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #	
			<p>In response, Wyoming added Chapter 1, Section 10(d), which states “<u>The Department fully adopts and hereby incorporates by reference the requirements for unimportant quantities of source material in 10 C.F.R. 40.13, along with the exclusion of 40.13(c)(5)(iv).</u>”</p> <p>However, Wyoming already has regulations equivalent to 10 CFR 40.13(a)-(d) (with the appropriate exclusion of 40.13(c)(5)(iv) in Chapter 4, Section 6(a)-(d). To avoid duplication, please delete Chapter 1, Section 10(d).</p>	Deleted	1-16	
7	Chapter 3 Section 4 (e)	Part 20	NA	<p>10 CFR Part 30 is not applicable to Wyoming’s Source Material Program. Revise paragraph (e) of Chapter 3 Section 4 to add 10 CFR Part 30 to the list of federal rules that are not adopted under the incorporation of 10 CFR Part 20.</p>	Added	3-2
8	Chapter 3 Section 4	Part 20	NA	<p>Reconciliation of Incorporation by Reference</p> <p>The NRC reviewed the Parts of 10 CFR that Wyoming proposes to incorporate by reference and there are multiple instances where additional</p>	Added	3-2

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION	NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #	
			<p>reconciliation language is needed to ensure that areas outside of Wyoming’s authority are not inappropriately incorporated, and that reference to NRC or NRC regulations are not inadvertently read out of the regulatory text, as incorporated. This additional reconciliation language is also needed to provide additional clarity and avoid confusion.</p> <p>To address this issue, please add new paragraph(s) in Chapter 3, Section 4 stating the following:</p> <ol style="list-style-type: none"> 1. Reports and notifications referenced in 10 CFR 20.2201-20.2207 (except as excluded in paragraph (b) of this Section), shall be directed to the Department [Note: consider providing contact information here]. 	Did not add contact info	3-2	
8	Chapter 3 Section 4	Part 20	NA	2. In 10 CFR 20.1201, references to “20.1206” are not incorporated by reference.	Added	3-2
8	Chapter 3 Section 4	Part 20	NA	3. In 10 CFR 20.1401(a) a reference to “this subpart” means “10 CFR 20.1401- 1405.”	Added	3-2

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
8	Chapter 3 Section 4	Part 20	NA	4. In 10 CFR 20.1401(a) a reference to “facilities licensed under part 40” means “facilities licensed under these rules.”	Added	3-2
8	Chapter 3 Section 4	Part 20	NA	5. In 10 CFR 20.1403(d) and 20.1404(a)(4) the reference to “40.42(d)” means “Chapter 4 Section 16(a)-(c) of these Rules.”	Added	3-2
8	Chapter 3 Section 4	Part 20	NA	6. In 10 CFR 20.1501(b) the phrase “§§ 30.35(g), 40.36(f), 50.75(g), 70.25(g), or 72.30(d)” means “[insert applicable section of Chapter 6].”	Added	3-2
8	Chapter 3 Section 4	Part 20	NA	7. In 20.1906 references to “§ 71” and “part 71 of this chapter” mean the specified section in “10 CFR 71”, as incorporated by reference in Chapter 9 of these rules.	Added	3-2
8	Chapter 3 Section 4	Part 20	NA	8. The notifications required by 10 CFR 20.1906(d) and 20.2201(a)(2) must be made to [insert department info].	Added	3-2
8	Chapter 3 Section 4	Part 20	NA	9. In 10 CFR 20.2108 “§§ 30.51, 40.61, 70.51, and 72.80” means “10 CFR 40.61,” as incorporated by reference in Chapter 1 Section 11(c) of these rules.	Added	3-3

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
8	Chapter 3 Section 4	Part 20	NA	10. In 10 CFR 20.2205, the reference to “20.2204” is not incorporated.	Added	3-3
8	Chapter 3 Section 4	Part 20	NA	11. 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 these changes to reconcile differences created due to incorporation by reference.	Added	3-2
8	Chapter 3 Section 4	Part 20	NA	Additionally, we recommend that Wyoming add 10 CFR 20.1403(c)(2) to the list of regulations not incorporated by reference as this regulation is specific to Part 30, which is outside the scope of Wyoming’s program.	Added	3-1
9	Chapter 4 Section 3	Part 40	NA	Reconciliation of Incorporation by Reference The NRC reviewed the Parts of 10 CFR that Wyoming proposes to incorporate by reference and there are multiple instances where additional reconciliation language is needed to ensure that areas outside of Wyoming’s authority are not inappropriately incorporated, and that	Added	4-2

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION	NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #	
			<p>reference to NRC or NRC regulations are not inadvertently read out of the regulatory text, as incorporated. This additional reconciliation language is also needed to provide additional clarity and avoid confusion.</p> <p>To address this issue, please add new paragraph (d) in Chapter 3, Section 3 stating:</p> <p>To reconcile differences due to incorporation of 10 CFR Part 40 by reference in paragraph (a), the following substitutions and clarifications must be made:</p> <ol style="list-style-type: none"> 1. A reference to “the Act” or “the act” means “[appropriate State Statutes]”, except in 10 CFR 40.51(b)(2). 			
9	Chapter 4 Section 3	Part 40	NA	<ol style="list-style-type: none"> 2. A reference to “NRC”, “Commission”, or “Atomic Energy Commission” means the “Department”, except in 10 CFR 40.51(b)(2). 	Added	4-2
9	Chapter 4 Section 3	Part 40	NA	<ol style="list-style-type: none"> 3. A reference to “Commission or an Agreement State”; “Commission or with an Agreement State”, “Commission or the licensing agency of an Agreement State” means the 	Added	4-2

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
				"Department, NRC, or Agreement State".		
9	Chapter 4 Section 3	Part 40	NA	4. Communications and reports referenced in 10 CFR 40.22(b)(4) and (c) and 40.55(d)(1), shall be directed to the Department.	Added	4-2
9	Chapter 4 Section 3	Part 40	NA	5. In 40.22(a), the word "Federal" is not incorporated.	Added	4-2
9	Chapter 4 Section 3	Part 40	NA	6. In 40.22(b)(3), reference 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."	Added	4-2
9	Chapter 4 Section 3	Part 40	NA	7. In 40.22(b)(5) a reference to "part 110 of this chapter" means "10 CFR part 110".	Added	4-2
9	Chapter 4 Section 3	Part 40	NA	8. In 40.22(d), a reference to "parts 19, 20, and 21 of this chapter" means "Chapters 3 and 5 of these rules".	Added	4-2
9	Chapter 4 Section 3	Part 40	NA	9. In 40.51(b)(3) a reference to "regulations in this part" means "regulations in this Chapter and Chapter 6".	Added	4-2

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
9	Chapter 4 Section 3	Part 40	NA	10. In 40.54(a) a reference to “§ 40.32” means “Section 8 of this Chapter”.	Added	4-2
9	Chapter 4 Section 3	Part 40	NA	11. In 40.55(d)(2) a reference to “Agreement State” means “NRC or Agreement State”.	Added	4-2
9	Chapter 4 Section 3	Part 40	NA	Note: Item 5 above may differ depending on how Wyoming resolves the comments regarding the duplication of 10 CFR 40.10 and 40.62. Specifically, “Chapter 2 Section 3” may become “Chapter 4 Section 8(j)” [this is the equivalent to 40.62] and “Chapter 4 Section 4” may become “Chapter 1 Section 9” [this is the equivalent to 40.10]. Wyoming needs to make these changes to reconcile differences created due to incorporation by reference.	Added	4-2

Table 1 Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
10	Chapter 4 Section 3	Part 150	NA	<p>Reconciliation of Incorporation by Reference</p> <p>The NRC reviewed the Parts of 10 CFR that Wyoming proposes to incorporate by reference and there are multiple instances where additional reconciliation language is needed to ensure that areas outside of Wyoming’s authority are not inappropriately incorporated, and that reference to NRC or NRC regulations are not inadvertently read out of the regulatory text, as incorporated. This additional reconciliation language is also needed to provide additional clarity and avoid confusion.</p> <p>To address this issue, please add new paragraph (e) in Chapter 4, Section 3 stating:</p> <p>To reconcile differences due to incorporation of 10 CFR Part 150.20 by reference in paragraph (c), the following substitutions and clarifications must be made:</p> <p>1. Where the words:</p> <p>a. “non-agreement</p>	<p>Added</p>	<p>4-2</p>

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
				states”, “areas of exclusive federal jurisdiction within agreement states”, or “offshore waters” are used in (a)(1)(i), (ii), (iii), (b), (b)(3), and (b)(4), substitute the words “the State of Wyoming”,	Added	4-2
				b. “agreement state license” are used, substitute “agreement state license or Nuclear Regulatory Commission license”,	Added	4-3
				c. “license issued by an agreement state” are used, substitute “license issued by an agreement state or the Nuclear Regulatory Commission”, and	Added	4-3
				d. “license from an agreement state” are used, substitute “license from an agreement state or the Nuclear Regulatory Commission.”		
10	Chapter 4 Section 3	Part 150	NA	2. In 150.20(b) reference to “the Act” means “[appropriate State Statutes]”.	Added	4-3

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
10	Chapter 4 Section 3	Part 150	NA	3. A reference to “NRC”, “Commission”, “Nuclear Regulatory Commission”, “United States Nuclear Regulatory Commission” or “Administrator of the appropriate Regional Office” means the Department”.	Added	4-3
10	Chapter 4 Section 3	Part 150	NA	4. Notifications and reports in 10 CFR 150.20 concerning regulations adopted pursuant to section [applicable State statute] and applications filed in response to such regulations shall be addressed to the [State agency address].	Added (e)vii	4-3
10	Chapter 4 Section 3	Part 150	NA	5. Instructions in 10 CFR 150.20 to use forms of the NRC means to use forms of the Department, which will be available on [State website] or available upon request from the [State agency address]. Wyoming needs to make these changes to reconcile differences created due to incorporation by reference.	Added (e) viii	4-3

Table 1

Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9

STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
11	Chapter 4 Section 8	40.41	C	<p>Terms and conditions of licenses</p> <p>Wyoming only partially adopts 10 CFR 40.41(c). Specifically, Section 8(f) of Chapter 4 only contains the first sentence of 10 CFR 40.41(c). Section 8(f) should be revised to read as follows:</p> <p>“Each licensee pursuant to <u>these rules</u> shall confine use and possession of licensed material to the locations and purposes authorized in the license. <u>Except as otherwise provided in the license, a license issued pursuant to these rules shall carry with it the right to receive, possess, and use source or byproduct material. Preparation for shipment and transport of source or byproduct material shall be in accordance with the provisions of Chapter 9 of these rules.</u>”</p> <p>Wyoming needs to make these changes to meet the Compatibility Category C designation of 10 CFR 40.41(c).</p>	<p>Now Sec. 7(f)</p> <p>Added language</p>	4-7

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
12	Chapter 4 Section 8 Chapter 2 Section 3	40.62	D	<p>Inspections</p> <p>In Chapter 4 Section 8(j), Wyoming adopts language similar to 10 CFR 40.62. However, Wyoming also adopts 10 CFR 40.62 in Chapter 2 Section 3 “Inspections and Testing.” Wyoming needs to delete one of the duplicative requirements.</p> <p>Note – The language in Chapter 4 Section 8(j) is slightly different than that in Chapter 2 Section 3(a) and Wyoming may incorporate some or all of that language into Chapter 2 Section 3.</p>	Deleted Ch 2, Sec 3 language	2-1
13	Chapter 4 Section 9	NA	NA	Paragraphs (g) and (h) of Chapter 4 Section 9 are specific to uranium recovery. Wyoming should remove these paragraphs since they are not relevant to the source material program to avoid creating conflict or confusion	Now Section 8; kept pre-op language but removed in-situ and milling language	4-11
14	Chapter 4 Section 17	40.42 (g)(5)	H&S	Expiration and termination of licenses and decommissioning of sites and separate buildings or outdoor areas Wyoming has adopted the requirement of 40.42(g)(5) in Chapter 4 Section 17(a). Additionally, Wyoming incorporates by reference 40.42(g)(5). Wyoming needs to fix this duplication by deleting 40.42(g)(5) from	Now Section 16; deleted	4-19 4-1

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
				the list of requirements incorporated by reference in Chapter 4 Section 3(a).		
15	Chapter 5 Section 3	Part 19	NA	<p>Reconciliation of Incorporation by Reference</p> <p>The NRC reviewed the Parts of 10 CFR that Wyoming proposes to incorporate by reference and there are multiple instances where additional reconciliation language is needed to ensure that areas outside of Wyoming’s authority are not inappropriately incorporated, and that reference to NRC or NRC regulations are not inadvertently read out of the regulatory text, as incorporated. This additional reconciliation language is also needed to provide additional clarity and avoid confusion.</p> <p>To address this issue, please add new paragraphs in Chapter 5, Section 3 stating:</p> <ol style="list-style-type: none"> 1. 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 	Added	5-2

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
				report for further reference.”		
15	Chapter 5 Section 3	Part 19	NA	2. In 10 CFR 19.13(c)(1)(i) references to “20.1502” and “20.2106” mean “10 CFR 20.1502” and “10 CFR 20.2106,” as incorporated by reference in Chapter 3 of these rules.	Added	5-2
15	Chapter 5 Section 3	Part 19	NA	3. In 10 CFR 19.13(d) a reference to “20.2202, 20.2203 or 20.2204 of this chapter” means “10 CFR 20.2202 and 20.2203,” as incorporated by reference in Chapter 3 of these rules.	Added	5-2
15	Chapter 5 Section 3	Part 19	NA	4. In 10 CFR 19.17(a) the complainant may obtain review of the determination by submitting a written statement of position to [State Department’s Address].	Added	5-2
15	Chapter 5 Section 3	Part 19	NA	5. In 10 CFR 19.20 the references to “holder of a certificate of compliance issued under part 76 of this chapter” are not incorporated by reference.	Added	5-2
15	Chapter 5 Section 3	Part 19	NA	6. In 10 CFR 19.20 the reference to “19.2(a)” means “Section 2 of this Chapter”.	Added	5-2

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION		NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
15	Chapter 5 Section 3	Part 19	NA	7. In 10 CFR 19.20 the reference to “this part or parts 30, 40, 50, 52, 54, 60, 61, 63, 70, 72, 76, or 150 of this chapter” means “these rules”.	Added	5-2
16	Chapter 6 Section 2	20.1401-1405	NA	<p>Incorporation by Reference of 10 CFR 20.1401-1405</p> <p>Chapter 6 Section 2(b), Wyoming states that “Licenses shall comply with the requirements of 10 Code of Federal Regulations (C.F.R.) Sections 20.1401-1405.”</p> <p>In Chapter 3, Section 4, Wyoming already incorporates by reference 20.1401 through 20.1405. To avoid duplications and enhance clarity, please revise Chapter 6, Section 2(b) as follows: “Licenses shall comply with the requirements of 10 Code of Federal Regulations (C.F.R.) Sections 20.1401-1405, as incorporated by reference in Chapter 3, Section 4 of these rules.”</p>	Revised	6-1
17	Chapter 6	NA	NA	<p>Reconciliation of Incorporation by Reference</p> <p>Wyoming incorporates by reference 10 CFR 40.36 (d)(1)(ii) and (iii), 40.36(d)(2)(i)-(viii), and 40.36(f)(1)-(3). Wyoming</p>		

Table 1						
Final – NRC Comments Rcvd 9-16-24, Chapters 1-6, and Chapter 9						
STATE SECTION	NRC SECTION	COMPATABILITY CATEGORY	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #	
			<p>needs to reconcile differences due to this incorporation by reference.</p> <p>For instance, 40.36(d)(1)(iii) references “paragraph (e) of this section” however, Wyoming did not incorporate paragraph (e) by reference and would need to create a substitution to direct readers to the correct location.</p> <p>Conversely, Wyoming may directly adopt the language from 10 CFR 40.36 (d)(1)(ii) and (iii), 40.36(d)(2)(i)-(viii), and 40.36(f)(1)-(3) substituting in the correct references.</p>	<p>Added Section 6 (f)(i)</p>	6-4	
18	Chapter 9	71.4	B	<p>Definitions</p> <p>In paragraph (d)(ii) of Chapter 9 Section 3, Wyoming needs to correct the reference to “71.12” to “71.4”. Paragraph (d)(ii) of Chapter 9 Section 3 states that the definitions of “Certificate holder” and “Certificate of Compliance (CoC)” are in 10 CFR 71.12.</p> <p>Wyoming needs to correct this reference to “71.12” because the definitions for “Certificate holder” and “Certificate of Compliance (CoC) are in 10 CFR. 71.4, not 10 CFR 71.12.</p>	<p>Corrected</p>	9-2

**EDITORIAL SUGGESTIONS ON WYOMING PROPOSED REGULATIONS
AND DEQ RESPONSES**

Table 1

Final – NRC Comments Received 9-16-24, Chapters 1-6 and Chapter 9

EDITORIAL SUGGESTIONS					
STATE SECTION		NRC SECTION	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
1	Chapter 1 Chapter 4, Section 7	NA	<p>Definitions</p> <p><u>Pre-Licensing Construction</u> Wyoming should consider deleting the definition “Commencement of Construction” and Chapter 4, Section 7, “Pre-Licensing Construction.” This section on Pre-licensing Construction has the corresponding definitions for “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 for “Commencement of Construction” and Chapter 4, Section 4.</p> <p><u>Nonstochastic Effect</u> In the definition of “nonstochastic effect,” the last sentence stating, “deterministic effects are equivalent terms” should be revised to state that “deterministic effect is an equivalent term.”</p> <p>Wyoming should make this change to clarify that deterministic effect, as one term written in the singular tense, is an equivalent term for the purposes of these rules.</p> <p><u>Person</u> For clarity, in the definition of “person” Wyoming should consider replacing the term “commission” with “association.”</p>	<p align="center">Revised</p> <p align="center">No changes Kept definition in Chapter 1</p> <p align="center">Replaced</p> <p align="center">Delete</p>	<p align="center">1-4</p> <p align="center">1-9</p> <p align="center">1-9</p>

Table 1					
Final – NRC Comments Received 9-16-24, Chapters 1-6 and Chapter 9					
EDITORIAL SUGGESTIONS					
STATE SECTION		NRC SECTION	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
2	Chapter 1	Section 9	In a previous comment, the NRC suggested that Wyoming change the numbering of paragraph “9(a)(ii)” to “9(c). This was a typo. Wyoming should change “9(c)” back to “9(a)(ii).	Changed	1-15
3	Chapter 3 Section 4	Part 20	Incorporation by Reference Wyoming should consider not incorporating by reference the following part 20 requirements, as they are not applicable to Wyoming’s Agreement. <ul style="list-style-type: none"> • 20.2008 • 20.2201(a)(2)(i)&(b)(2)(i) • 20.2201(c)&(d)(1) 	Excluded these	3-1
	Chapter 3 Section 4	20.2106(d)	Privacy Protection Wyoming incorporates by reference the <i>Privacy protection</i> requirement in 20.2106(d). The public law mentioned in 20.2106(d) is not applicable to State Agencies and therefore this requirement should not be adopted. Wyoming needs to add 20.2106(d) to list of requirements that are not incorporated by reference in paragraph (b) of Chapter 3 Section 4.	Added	3-1
4	Chapter 4 Section 3	40.2a	Coverage of inactive tailings sites In Chapter 4 Section 3(a), Wyoming incorporates by reference 40.2a which is specific to Uranium Recovery. Wyoming should delete 40.2(a) from the list of requirements incorporated from reference in Chapter 4 Section 3(a).	Deleted	4-1

Table 1**Final – NRC Comments Received 9-16-24, Chapters 1-6 and Chapter 9****EDITORIAL SUGGESTIONS**

STATE SECTION		NRC SECTION	SUBJECT and COMMENTS	DEQ RESPONSE	Pg #
5	Chapter 4 Section 8	NA	In Chapter 4 Section 8(e), consider revising the first sentence as follows: “No license or authorization to possess or utilize licensed material can be transferred...” Suggested revisions for clarity.	Revised, now Section 7(e)	4-7
6	Chapter 5 Section 3	NA	In Section 3(b), the incorporation by reference of 10 CFR 19 is not in numerical order. Specifically, “19.8” is after “19.11”.	Corrected order	5-1