



Department of Environmental Quality

To protect, conserve, and enhance the Quality of Wyoming's environment for the benefit of current and future generations



Matthew H. Mead, Governor

Todd Parfitt, Director

Memorandum

DATE: July 27, 2017

TO: Wyoming Environmental Quality Council (EQC)

FROM: Ryan Schierman, Program Manager, WY DEQ/Uranium Recovery Program

RE: Response to comments to Rule-Making for Revised URP Rules, EQC Meeting August 02, 2017, Cheyenne WY

The Wyoming Department of Environmental Quality/Uranium Recovery Program (DEQ/URP) has received a total of two additional responses on the URP proposed rules since the rules were presented to the EQC on May 24, 2017. The responses were provided to the URP by the following interested parties:

1. U.S. Nuclear Regulatory Commission (NRC), letter dated July 18th, 2017; and
2. Wyoming Association of Professional Archaeologists, letter dated, July 18th, 2017.

The URP greatly appreciates the contribution and comments provided by the above listed parties. The URP has enclosed those comments along with responses that addresses the concerns of the interested parties. The URP will present changes to the proposed rules as a result of comments received and will answer questions related to the revised URP rules at the EQC meeting on August 2nd, 2017.

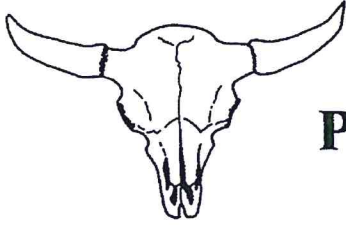
Respectfully submitted,

Ryan Schierman
Uranium Recovery Program Manager

200 West 17th Street, 2nd Floor · Cheyenne, WY 82002 · <http://deq.wyoming.gov>

ADMIN/OUTREACH (307) 777-7397 FAX 635-1784	ABANDONED MINES (307) 777-6145 FAX 635-1784	AIR QUALITY (307) 777-7391 FAX 635-1784	INDUSTRIAL SITING (307) 777-7369 FAX 635-1784	LAND QUALITY (307) 777-7756 FAX 635-1784	SOLID & HAZ. WASTE (307) 777-7752 FAX 635-1784	WATER QUALITY (307) 777-7781 FAX 777-5973
--	---	---	---	--	--	---





**WYOMING ASSOCIATION of
PROFESSIONAL ARCHAEOLOGISTS**

July 18, 2017

Mr. Kyle Wendtland, Administrator
Wyoming Department of Environmental Quality
Land Quality Division
200 W. 17th Street, Suite 10
Cheyenne, WY 82002

Re: Uranium Recovery Program Proposed Rules—Additional Comment Period

Dear Mr. Wendtland,

Thank you for providing a response to the Wyoming Association of Professional Archaeologists' (WAPA) letter dated March 13, 2017. Based on your response, WAPA has additional comments.

The Wyoming Department of Environmental Quality (DEQ), Land Quality Division (LQD) stated the following:

“The NRC and DEQ are in agreement that the DEQ’s Uranium Recovery Program and the State of Wyoming are not subject to the requirements of Section 106 of the NHPA.”

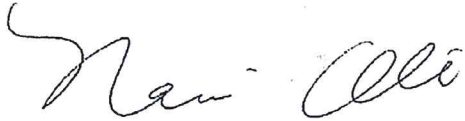
This is due to the NRC’s discontinuance of federal authority over the radioactive materials and activities specified in Section 274b. of the Atomic Energy Act.

WAPA would like to ask that the Wyoming DEQ-LQD consider consultation with the Wyoming State Historic Preservation Office (SHPO) as part of the permitting process on all projects as the DEQ assumes regulatory responsibilities under the Proposed Rules.

Historically the uranium permitting process has included consideration for cultural resources. As areas where uranium is mined often have potential for sensitive cultural resources, WAPA requests that DEQ continue the tradition of cultural sensitivity in the uranium permitting process.

Thank you for your attention to our concerns.

Sincerely,

A handwritten signature in black ink that reads "Naomi Ollie". The signature is written in a cursive style with a large initial 'N' and a long, sweeping underline.

Naomi Ollie, President
Wyoming Association of Professional Archaeologists

Cc: Milford Wayne Donaldson, Chairman (or John M. Fowler, Executive Director), ACHP
Eric Hein, Executive Director, National Council of State Historic Preservation Officers
Mary Hopkins, Wyoming State Historic Preservation Officer
D. Bambi Kraus, President, National Association of Tribal Historic Preservation Officers
Stephen G. Burns, Chairman, U.S. Nuclear Regulatory Commission
Diane Gifford-Gonzalez, President, Society of American Archaeology
Susan Chandler, Incoming President, Society of American Archaeology
Julia Stubble, President, Alliance for Historic Wyoming



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

July 18, 2017

Kyle Wendtland, Administrator
Wyoming Department of Environmental Quality
Land Quality Division
200 W. 17th Street
Cheyenne, WY 82002

Dear Mr. Wendtland:

We have reviewed the proposed regulations on general licensing in Chapter 10 of Wyoming's Uranium Recovery Program Rules, received by our office on May 3, 2017. Wyoming submitted the proposed regulations in response to Comment No. 57 in the NRC's April 20, 2017 letter evaluating the Wyoming draft application package for a limited 274b. Agreement for source material involved in uranium or thorium milling or recovery, and associated 11e.(2) byproduct material (Agencywide Document Access and Management System Accession No. ML17062A962). The proposed regulations were reviewed by comparison to the criteria in Section 4.1.1 of the Office of Nuclear Material Safety and Safeguards (NMSS) procedure SA-700 and Handbook, "*Processing an Agreement*" (<https://scp.nrc.gov/procedures/sa700.pdf>). We discussed our comments of the proposed regulations with Ryan Schierman on May 25, 2017. As a result of our discussions, the U.S. Nuclear Regulatory Commission (NRC) and the Wyoming Uranium Recovery Program agree that Wyoming does not need to adopt the regulatory provisions relating to the issuance of general licenses that are normally needed for compatibility because of the scope of the limited agreement approved by the Commission in SRM 16-0084.

Under the terms of the Agreement, Wyoming will only obtain regulatory authority over source material involved in uranium or thorium milling or recovery and 11e.(2) byproduct material. The on-site laboratories associated with these activities would be covered under the facility's specific Wyoming license. Since Wyoming is not adopting general licensing regulations, Wyoming would issue a specific license for any situations that would normally be covered under these general license provisions. The NRC will retain regulatory authority over off-site independent or commercial laboratories in the State

As a result of our review, correspondence and subsequent discussions, we have the following comment:

- Please delete Chapter 10 in its entirety from Wyoming's Uranium Recovery Rules. In addition, please remove any language from Wyoming's Uranium Recovery Rules that indicates that Wyoming will incorporate by reference 10 CFR §§ 40.20, 40.21, 40.22, and 40.26.

Normally, Agreement States are required to adopt the following regulatory provisions: 10 CFR §§ 40.20, Types of license, 40.21, General license to receive title to source or byproduct material, 40.22, Small quantities of source material, and 40.26, General license for possession

and storage of byproduct material as defined in this part. The NRC has reviewed these regulations with regard to the scope of the limited Agreement approved by the Commission in SECY 16-0084, and determined Wyoming not adopting these regulatory provisions to issue general licenses, will not create a conflict, gap or duplication with regard to the regulation of agreement materials on a nationwide basis.

If you have any questions, please contact Michelle Beardsley, State Regulation Review Coordinator at (267) 884-2305 (Michelle.Beardsley@nrc.gov), or Stephen Poy at (301) 415-7135 (Stephen.Poy@nrc.gov).

Sincerely,

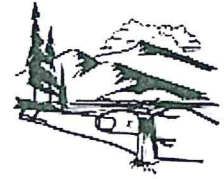
/RA Paul Michalak for/

Kevin Williams, Deputy Director
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards



Department of Environmental Quality

To protect, conserve, and enhance the Quality of Wyoming's environment for the benefit of current and future generations



Matthew H. Mead, Governor

Todd Parfitt, Director

July 26, 2017

Ms. Naomi Ollie
President
Wyoming Association of Professional Archaeologists (WAPA)
1000 East University Avenue, Dept. 3431
Laramie, WY 82071

Dear Ms. Ollie:

The Wyoming Department of Environmental Quality (WDEQ)/Uranium Recovery Program (URP) is appreciative of the additional comments prepared by the Wyoming Association of Professional Archaeologists dated July 18th, 2017. We recognize the time and resources committed in reviewing and commenting on the proposed rules. We have reviewed your comments and your request that that the URP consider consultation with the Wyoming State Historic Preservation Office (SHPO) as part of the permitting process on all projects as the WDEQ assumes regulatory responsibilities under the proposed rules.

The WDEQ understands the request and recognizes and appreciates SHIPO's expertise on cultural resources. The WDEQ has collaborated with SHIPO on past projects and has benefited from their professional insights. The WDEQ and the URP will continue to seek out the expertise of SHIPO as statute and regulations permit.

Thank you for providing additional feedback relative to the proposed rules for the URP. Please contact Mr. Ryan Schierman, Uranium Recovery Program Manager, at 307-777-7757 if you have any further questions concerning this letter or the Uranium Recovery Program.

Sincerely,

Kyle Wendtland
Administrator
Land Quality Division

200 West 17th Street, 2nd Floor · Cheyenne, WY 82002 · <http://deq.wyoming.gov>

ADMIN/OUTREACH (307) 777-7397 FAX 635-1784	ABANDONED MINES (307) 777-6145 FAX 635-1784	AIR QUALITY (307) 777-7391 FAX 635-1784	INDUSTRIAL SITING (307) 777-7369 FAX 635-1784	LAND QUALITY (307) 777-7756 FAX 635-1784	SOLID & HAZ. WASTE (307) 777-7752 FAX 635-1784	WATER QUALITY (307) 777-7781 FAX 777-5973
--	---	---	---	--	--	---



Wyoming Department of Environmental Quality Response to NRC

Comment Received July 18, 2017

The Wyoming Department of Environmental Quality (WDEQ) received comments regarding general licensing and how those authorities would be handled in Wyoming's Limited Agreement with the NRC. An agreement was reached between the NRC and the WDEQ such that the program did not need to adopt the regulatory provisions relating to the issuance of general licenses that are normally needed for compatibility. With this agreement the NRC will retain regulatory authority over off-site independent or commercial laboratories. To accommodate this change the WDEQ followed NRC recommendations and proposes to delete Chapter 10 of the URP rules in its entirety. Additionally the URP proposes any reference to 10 C.F.R. §§ 40.20, 40.21, 40.22, or 40.26 be deleted.

Along with the conversations regarding general licenses the NRC requested that the URP define the term commercial or independent laboratory. Rather than define that term The URP recommended clarifying language be added to Chapter 1 Section 3(a). NRC revised and approved language on June 27th, 2017 and is shown below.

Chapter 1 General Provisions

Section 3

- (a) Except as otherwise specifically provided, these rules apply to all persons who receive, possess, use, offer, and receive for transfer, own, or acquire any byproduct material or source material involved in the extraction or concentration of uranium or thorium in source material and ores at uranium or thorium milling facilities and the management and disposal of the associated byproduct material. Nothing in these rules shall apply to any person to the extent such person is subject to regulation not relinquished by the United States Nuclear Regulatory Commission (NRC). These rules do not govern the mining or removal of source material in its natural state or independent or commercial laboratory facilities that possess, use, or accept byproduct or source material. These rules apply to laboratories located at facilities licensed under these regulations.