



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

July 25, 2016

Mr. 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 revisions to the Wyoming regulations Chapter 5, Notice, Instruction, and Reports; Chapter 9, Transportation of Licensed Material; Chapter 10, Risk Informed Performance Based Licensing and Inspection; and Chapter 1, General Provisions, received by our office on March 29, 2016. These regulations were reviewed by comparison to the equivalent U.S. Nuclear Regulatory Commission (NRC) regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) Parts 19 and 71. We discussed our review of the regulations with Ryan Schierman on July 20, 2016.

As a result of our review, we have 19 comments that have been identified in the enclosure. Please note that we have limited our review to regulations required for compatibility and/or health and safety. Under our current procedure, a finding that the Wyoming regulations meet the compatibility and health and safety categories of the equivalent NRC regulation may only be made based on a review of the final Wyoming regulations. However, we have determined that if your proposed regulations were adopted, incorporating our comments and without other significant change, they would meet the compatibility and health and safety categories established in the Office of Nuclear Material Safety and Safeguards (NMSS) Procedure SA-200, "Compatibility Categories and Health and Safety Identification for NRC Regulations and Other Program Elements."

We request that when the proposed regulations are adopted and published as final regulations, a copy of the "as published" regulations be provided to us for review. As requested in NMSS Procedure SA-201, "Review of State Regulatory Requirements," please highlight the final changes, and provide a copy to Division of Material Safety, State, Tribal, and Rulemaking Programs, NMSS.

The SRS Data Sheet summarizes our knowledge of the status of other Wyoming regulations, as indicated. Please let us know if you note any inaccuracies, or have any comments on the information contained in the SRS Data Sheet. This letter, including the SRS Data Sheet, is posted on the NMSS State Communication Portal: <https://scp.nrc.gov/rulemaking.html>.

K. Wendtland

-2-

If you have any questions regarding the comments, the compatibility and health and safety categories, or any of the NRC regulations used in the review, please contact Michelle Beardsley, State Regulation Review Coordinator, at (610) 337-6942 (Michelle.Beardsley@nrc.gov) or Stephen Poy at (301) 415-7135 (Stephen.Poy@nrc.gov).

Sincerely,

/RA/

PMichalak for PHenderson

Pamela J. Henderson, Deputy Director
Division of Material Safety, State, Tribal
and Rulemaking Programs
Office of Nuclear Material Safety
and Safeguards

Enclosures:

1. Compatibility Comments
2. Wyoming SRS Data Sheet

COMPATIBILITY COMMENTS ON WYOMING PROPOSED REGULATIONS

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
1	Chapter 9	§71.0(c)	N/A	B	<p>Purpose and Scope</p> <p>Wyoming needs to add the phrase “specific or general” to their equivalent of 10 CFR 71.0(c) so that the statement reads, “This Chapter applies to any license authorized by specific or general license issued by the Department to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways.”</p> <p>Wyoming needs to make the changes indicated above in order to meet the Compatibility Category B designation assigned to 10 CFR 71.0(c).</p>
2	Chapter 9	§71.4	N/A	B	<p>Definition: Certificate Holder</p> <p>Wyoming omits equivalent requirements for the definition of Certificate Holder.</p> <p>Wyoming needs to submit a definition of Certificate Holder in order to meet the Compatibility Category B designation assigned to 10 CFR 71.4.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
3	Chapter 9	§71.4	N/A	B	<p>Definition: Certificate of Compliance (CoC)</p> <p>Wyoming omits equivalent requirements for the definition of Certificate of Compliance.</p> <p>Wyoming needs to submit a definition of Certificate of Compliance in order to meet the Compatibility Category B designation assigned to 10 CFR 71.4.</p>
4	Chapter 9	§71.4	N/A	B	<p>Definition: Package</p> <p>Wyoming omits equivalent requirements for the definition of Package.</p> <p>Wyoming needs to revise Chapter 9 Section 3(d) to clarify the difference between its definition of the terms package and packaging.</p> <p>Wyoming needs to submit a definition of Package in order to meet the Compatibility Category B designation assigned to 10 CFR 71.4.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
5	Chapter 9	§71.4	N/A	B	<p>Definition: Packaging</p> <p>Wyoming omits equivalent requirements for the definition of Packaging.</p> <p>Wyoming needs to revise Chapter 9 Section 3(d) to clarify the difference between its definition of the terms package and packaging.</p> <p>Wyoming needs to submit a definition of Packaging in order to meet the Compatibility Category B designation assigned to 10 CFR 71.4.</p>
6	Chapter 9	§71.8	N/A	C	<p>Deliberate misconduct</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.8.</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category C designation assigned to 10 CFR 71.8.</p>
7	Chapter 9	§71.17	N/A	B	<p>General license: NRC-approved package</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.17.</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category B designation assigned to 10 CFR 71.17.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
8	Chapter 9	§71.21	N/A	B	<p>General license: Use of foreign approved package</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.21.</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category B designation assigned to 10 CFR 71.21.</p>
9	Chapter 9	§71.85(d)	N/A	B	<p>Preliminary determinations</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.85(d).</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category B designation assigned to 10 CFR 71.85.</p>
10	Chapter 9	§71.101(a), (b), & (c)(1)	N/A	C	<p>Quality assurance requirements</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.101(a), (b), and (c)(1).</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category C designation assigned to 10 CFR 71.101(a), (b), and (c)(1).</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
11	Chapter 9	§71.103(a) & (b)	N/A	C	<p>Quality assurance organization</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.103(a) and (b).</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category C designation assigned to 10 CFR 71.103(a) and (b).</p>
12	Chapter 9	§71.105	N/A	C	<p>Quality assurance program</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.105.</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category C designation assigned to 10 CFR 71.105.</p>
13	Chapter 9	§71.106	N/A	C	<p>Changes to quality assurance program</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.106.</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category C designation assigned to 10 CFR 71.106.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
14	Chapter 9	§71.127	N/A	C	<p>Handling, storage, and shipping control</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.127.</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category C designation assigned to 10 CFR 71.127.</p>
15	Chapter 9	§71.129	N/A	C	<p>Inspection, test, and operating status</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.129.</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category C designation assigned to 10 CFR 71.129.</p>
16	Chapter 9	§71.131	N/A	C	<p>Nonconforming materials, parts, or components</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.131.</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category C designation assigned to 10 CFR 71.131.</p>

STATE SECTION		NRC SECTION	RATS ID	CATEGORY	SUBJECT and COMMENTS
17	Chapter 9	§71.133	N/A	C	<p>Corrective action</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.133.</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category C designation assigned to 10 CFR 71.133.</p>
18	Chapter 9	§71.135	N/A	C	<p>Quality assurance records</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.135.</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category C designation assigned to 10 CFR 71.135.</p>
19	Chapter 9	§71.137	N/A	C	<p>Audits</p> <p>Wyoming omits equivalent requirements for 10 CFR 71.137.</p> <p>Wyoming needs to submit requirements that meet the essential objectives in order to meet the Compatibility Category C designation assigned to 10 CFR 71.137.</p>

STATE REGULATION STATUS

State: Wyoming

**Tracking Ticket Number: 16-62
Date: 07/25/2016**

Wyoming Submittal Description	Incoming Letter	Outgoing Package	Notes
Proposed Enabling Legislation Wyoming House Bill HB0027	ML15225A439 8/13/2015	Comments 9/28/2015 ML15225A433	
Revised Proposed Enabling Legislation Proposed Wyoming Statutes 35-11-103 and 35-11-2001 through -2004; Wyoming Statutes 16-3-101 through -106; Wyoming Statutes 6-5-101 through -108, -110, -111, -113, and -118; Wyoming Statutes 9-13-102 through -106, -108, and -109.	ML15324A391 11/19/2015		
Wyoming DEQ Proposed Regulations to 10 CFR Part 20 Chapter 1: General Provisions Chapter 3: Radiation Protection Standards	ML16014A133 1/11/2016	Comments 03/15/2016 ML16014A131	
Wyoming DEQ Proposed Regulations to 10 CFR Parts 19 and 71 Chapter 1: General Provisions Chapter 5: Notice, Instructions and Reports to Workers Chapter 9: Transportation of Licensed Material Chapter 10: Risk-Informed and Performance Based Licensing and Inspection	ML16095A093 03/29/2016	Comments 07/25/2016 ML16095A091	