

Proposed Revisions to Water Quality Rules and Regulations Chapter 14

**Response to Comments For Water and Waste Advisory Board Comment Period
Ending June 23, 2017**



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Prepared by:

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Water Quality Division

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Commenters:

Petroleum Association of Wyoming
Powder River Basin Resource Council (PRBRC)
Lorie Cahn, Water and Waste Advisory Board
Brian Deurloo, Water and Waste Advisory Board
Klaus Hanson, Water and Waste Advisory Board

Comments and Responses

General

Petroleum Association of Wyoming and Powder River Basin Resource Council: *The Petroleum Association of Wyoming and the Powder River Basin Resource Council expressed support for the proposed revisions to require financial assurance for grandfathered commercial oilfield waste disposal facilities.*

Department Response: WDEQ/WQD appreciates the support of the proposed changes to Water Quality Rules and Regulations Chapter 14.

Powder River Basin Resource Council: *The Land Quality Division is about to embark on a comprehensive review of the self-bonding rules for mines and we encourage the Water Quality Division and the Advisory Board to follow that process and incorporate any lessons learned into this rulemaking.*

Department Response: WDEQ/WQD will follow the progress of our sister division, Land Quality Division (LQD), in their review efforts and will consider revisions to Water Quality Rules and Regulations if the results of LQDs review are applicable to WQD processes as well.

Lorie Cahn and Brian Deurloo, Water and Waste Advisory Board: *Ms. Cahn and Mr. Deurloo pointed out editorial corrections.*

Department Response: WDEQ/WQD corrected the chapter as needed.

Section 1(b)

Klaus Hanson, Water and Waste Advisory Board: Mr. Hanson asked WDEQ/WQD to verify that publicly owned facilities are exempt from the rule.

Department Response: As discussed at the June 23 meeting, Section 1(b) of Chapter 14 exempts publicly owned facilities from the rule. The passage exempting these facilities was moved from Section 1(b)(ii).

Section 2(a)

Petroleum Association of Wyoming: *The Petroleum Association of Wyoming contacted several bonding companies specific to oil and gas and the company that returned their requests for information, Argo Security, explained that the 90-day requirement would be a sufficient amount of time for facilities to get bonded.*

Department Response: WDEQ/WQD appreciates the support of this requirement.

Section 3(d)

Powder River Basin Resource Council: *PRBRC is concerned that self-bonding is not an acceptable financial assurance mechanism. W.S. 306(g) provides that self-bonding may be used only if “such a program will provide protection consistent with the objectives and purposes of article 3 of the act.” This means self-bonding should be used sparingly and the rules must ensure that only operators with a proven history of financial fitness and no risk of forfeiture should self-bond.*

Department Response: WDEQ/WQD considered this comment. While the rule allows self-bonding, WDEQ/WQD does not currently have any facilities that use self-bonding for their form of financial assurance. WDEQ/WQD agrees that if an operator requests to use a self-bond as their form of financial assurance must demonstrate a history of financial fitness, as required in Section 4(a)(i)(F). Additionally, Section 3(d) of Chapter 14 includes a statement that “The Department may reject the proposed forms of assurance of financial responsibility if the evidence submitted does not adequately assure that funds will be available as required by these rules.” Bonds, whether they are surety bonds or self-bonds, are reviewed thoroughly by WDEQ staff. The approval of these forms of financial assurance is at the discretion of the Administrator and the Director.

Section 4

Powder River Basin Resource Council: *PRBRC is concerned that some COWDF operators may not meet the financial health qualifications and given that DEQ does not currently*

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accept or consider public comment before approving COWDF permits, the public does not have an opportunity to comment on the adequacy of the bonds.

Department Response: WDEQ/WQD considered this comment. The chapter under revision, Chapter 14, covers only financial assurance requirements and does not cover permitting or public notice requirements for COWDFs. WDEQ/WQD has begun the compilation process for creating a new chapter for permitting requirements for COWDFs and will propose passages concerning public notice requirements related to permitting. WDEQ/WQD anticipates that we will have a draft rule ready for public comment in 2018.