

Proposed Revisions to Water Quality Rules and Regulations, Chapter 14, Financial Assurance; and Chapter 28, Standards for Issuing Permits for Commercial Oilfield Waste Disposal Facilities

Analysis of Comments Received for Docket 20-3102



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Comments and Responses

Chapter 14

Section 1(c)(vi)

Dominion Energy Wexpro: “In Section 1(c), the proposed revision to the definition of “release” encompasses any pollutant entering or threatening to enter the air, land or waters of the State. We see potential for confusion here, because this regulation governs water quality only, is overseen and enforced by personnel with expertise in water quality, and uses terminology specific to water. We recommend maintaining a narrow water quality-specific definition in the water quality rules and, instead, referring to applicable sections of the regulations that protect air. This would allow for continued reliance on customary terms such as “emissions” in Chapter 1 of Air Quality Standards and Regulations.”

Department Response: WDEQ/WQD considered the comment. The passage at Section 1(c)(vi) is proposed to be revised for consistency with Wyoming Statutes 35-11-306(d)(ii), which requires rules for commercial oil field waste disposal facilities to ensure the availability of funds to cover “the estimated costs of remedying or abating, in a cost-effective manner, the violation or damages caused by the violation in the event of any discharge of pollution to the air, land or to waters of the state which is in violation of a permit, standard, rule or requirement established under the provisions of this act.” While the statutes require WDEQ/WQD to have rules that require financial assurance from Commercial Oil Field Waste Disposal Facilities (COWDFs) for releases to air, land, or water, the statutes do not provide authority to the Air Quality Division or the Land Quality Division to require financial assurance from Commercial Oil Field Waste Disposal facilities. This authority is provided only to the Water Quality Division. The statutes also do not provide Water Quality Division the authority to permit or enforce Air Quality or Land Quality regulations for COWDFs. The passage will remain as written.

Section 4

Dominion Energy Wexpro: “Section 4 of Chapter 14 requires permittees to prepare a plan to conduct an investigation of the release, the release site and any surrounding area that may be affected by the release. This plan includes a comprehensive subsurface investigation to define the extent and degree of contamination. Wexpro recommends that WDEQ clarify the magnitude and character of releases that would require subsurface investigation, as this step would be unnecessary for certain releases depending on volume or specific site characteristics.”

Department Response: WDEQ/WQD considered the comment. Releases would also be subject to the reporting requirements in Water Quality Rules and Regulations Chapter 4, Section 4, which states that if a release “does not physically enter waters of the state, and it is immediately contained, removed, and disposed of in accordance with departmental regulations,” and it is “ten barrels (420 gallons) or less of crude oil, petroleum condensate, produced water, or a combination thereof” or “twenty-five (25) gallons or less of refined crude oil products, including but not limited to, gasoline, diesel motor fuel, aviation fuel, asphalt, road oil, kerosene, fuel oil, and derivatives of mineral, animal, or vegetable oils,” then the release would not be required to be reported to WDEQ/WQD and would not require a subsurface investigation. However, if a release does not meet these criteria, then WDEQ/WQD requires a subsurface investigation. WDEQ/WQD has edited Chapter 14, Section 4(b) to bring in the reference to Chapter 4, Section 4 to add clarity regarding the thresholds and when the subsurface investigation would be required.

Chapter 28

Section 2(c)(i)

Dominion Energy Wexpro: “In Section 2 (c) (ii), we note the proposed requirement for hazardous waste characteristic analysis of all non-exempt wastes proposed to be disposed of at a commercial oilfield waste disposal facility. For this new requirement, we recommend the provision be clarified to align with federal requirements that allow for onsite personnel’s specific knowledge and expertise to be considered. Under the USEPA’s hazardous waste regulations (see 81 FR 85732), acceptable “generator knowledge” can be used includes waste origin, composition, the process producing the waste, feedstock and other reliable and relevant information.”

Department Response: WDEQ/WQD considered the comment. WDEQ/WQD's current practice already takes into account the generator knowledge. We have clarified the passage at Section 2(c)(i) to state "The Division requires hazardous waste characteristic analysis of all non-exempt wastes proposed to be disposed of at a commercial oilfield waste disposal facility. Additional or reduced sampling may be required by the Division based on the type of waste to be disposed and the generator's knowledge of the waste, including waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information. If any of the hazardous waste regulatory levels are exceeded, the wastes shall be disposed at a facility approved to accept hazardous wastes."

Sections 8 and 13

Dominion Energy Wexpro: "We note minor clarifications that would be beneficial in the reporting requirements in Sections 8 and 13. Specifically, we recommend that the regulation specify that the annual reporting and public participation provisions only apply to facilities subject to Chapter 28. Also, specifying that the default reporting period is the calendar year would add standardization and regulatory certainty."

Department Response: WDEQ/WQD considered the comment. Regarding the request to clarify Sections 8 and 13, we note that Section 2 explains that the proposed chapter applies to COWDFs that are required to apply for a Chapter 3 permit. Section 3 further clarifies that applicants for new permits or applicants that are applying to modify an existing permit will be subject to Chapter 28. Section 8 states that it applies to permittees, which would be applicants that have obtained a permit for a new or modified COWDF. Section 13 is triggered only when the Administrator intends to issue a permit, intends to modify a permit, or intends to hold a public hearing related to the intention to issue or modify a permit. Because Sections 2, 3, 8, and 13 already state the conditions of applicability, WDEQ/WQD will not be adding additional language to Sections 8 and 13 to avoid creating redundancy.

Regarding the request to clarify the reporting period in Section 8, WDEQ/WQD has revised the section, as appropriate, to clarify that the reporting components be submitted for the previous calendar year.