

RULE MAKING OUTREACH DOCUMENT

Responses to Written Comments

Received by the Department of Environmental Quality by July 10, 2014

**For the Wyoming Water and Waste Advisory Board Meeting, July 25, 2014,
Casper College, Casper, Wyoming**

Wyoming Hazardous Waste Rules and Regulations (HWRR)

Chapter 1

General Provisions



July 14, 2014

List of Commenters

1. Mr. John Brueck, Hazardous Waste Regulation & Policy Coordinator, Idaho Department of Environmental Quality, Boise, Idaho
2. Ms. Jessica Franken, Director of Government Affairs, INDA (Association of Nonwoven Fabrics Industry), Arlington, Virginia
3. Mr. Phil Bunten, Environmental Compliance Coordinator, Sinclair Oil Corporation, Sinclair, Wyoming
4. Ms. Jackie King, Executive Director, SMART (Secondary Materials and Recycled Materials Association), Abingdon, Maryland

Written Comments and Responses

Comment #1

Date: 6/10/14

Format: E-mail

Commenter: Mr. John Brueck, Hazardous Waste Regulation & Policy Coordinator, Idaho DEQ

Comment: Congratulations on implementation of IBR rules and support for IBR.

DEQ Response: Thank you via e-mail.

Comment #2

Date: 6/13/14

Format: E-mail

Commenter: Ms. Jessica Franken, Director of Government Affairs, INDA

Comment: Provided support letter for adoption of Solvent Wipes Rule, EPA Checklist 229.

DEQ Response: Thank you via e-mail, additionally informed INDA that exclusion for 40 CFR 261.4(b)(18) will be removed from Section 261, as it applies to the Solvent Wipes Rule.

Comment #3

Date: 6/16/14

Format: E-mail

Commenter: Mr. Phil Bunten, Environmental Compliance Coordinator, Sinclair Oil Corporation

Comment: Found error in Statement of Principal Reasons (SOPR), Page 1, Paragraph 1. The State of Idaho is in Region 10, not Region 8.

DEQ Response: Thank you via e-mail, error has been corrected in SOPR, the "Region 8" designation for the states of Idaho, Montana, and South Dakota has been removed.

Comment #4

Date: 6/18/14

Format: E-mail

Commenter: Ms. Jackie King, Executive Director, SMART

Comment: Provided support letter for adoption of Solvent Wipes Rule, EPA Checklist 229.

DEQ Response: Thank you via e-mail.

Recommendations from EPA Prior to Public Notice

Throughout the process of developing the IBR format, DEQ has worked with EPA and their consultant DPRA collaboratively to ensure that the rules meet the authorization requirements for EPA. The DEQ received initial recommended changes to the IBR draft rules via e-mail on April 29, 2014. The DEQ revised the rules and submitted them to EPA via e-mail on May 19, 2014. The original draft IBR rules for Public Notice dated June 10, 2014 contained the revisions based on the initial EPA review.

The EPA provided a second "re-review" on June 9, 2014, via e-mail, prior to the beginning of the Public Notice period. The second "re-review" consisted of six clarifying recommended changes and a number of other minor clarifying recommended changes. Via phone correspondence with EPA, DEQ stated the recommended clarifying changes would be made. However, DEQ did not agree that the minor clarifying changes would provide additional clarity or usability of the rules, and if implemented would make the rules longer. The EPA agreed that the six clarifying recommended changes should be made, but authorization would not be impacted if the other minor clarifying changes were not made. Therefore, based on EPA's recommendations and follow-up e-mail correspondence, the DEQ would like to implement the following six clarifying changes to the IBR rules prior to presenting them to the Environmental Quality Council. These changes will help facilitate authorization by EPA at a later date.

EPA/DPRA Recommendation #1:

The DEQ should separate the definitions for "*existing tank system or existing component*" and "*new tank system or new component*" in Sections 260, 264, and 265 to make the language more easily understood. The DEQ should also add the definitions for *HWSA tank* and *non-HWSA tank* to Section 4.

DEQ Response to Comment #1:

The DEQ recommends making the changes to Sections 4, 260, 264, and 265 of the IBR draft. The changes may be found on Pages 1-4, 1-5, 1-11, 1-15, and 1-21 of the revised IBR draft. As a result of the changes to Sections 260, 264, and 265, it was necessary to revise the State cross-references in Column 2 of Table 1-1 (Appendix A) on Pages 1-A-2 and 1-A-8.

EPA/DPRA Recommendation #2:

The internet web link for ordering hard copies of the 40 CFR at HWRR Section 2(d)(ii) should be updated from <http://bookstore.gpo.gov/baskets/cfr-listing.jsp> to <http://bookstore.gpo.gov/catalog/laws-regulations/code-federal-regulations-cfrs-print>.

DEQ Response to Comment #2:

The DEQ recommends updating the web link. Please see Page 1-2 of the revised IBR draft.

EPA/DPRA Recommendation #3:

The exclusion for 40 CFR 261.4(b)(18) for solvent wipes (EPA Checklist 229) should be removed from Section 261(a) to maintain consistency with adoption of the Solvent Wipes Rule.

DEQ Response to Comment #3:

The exclusion was a remnant from previous rule-making activities and should be removed. Please see Page 1-12 of the revised IBR draft.

EPA/DPRA Recommendation #4:

The typographical error "generation" should be revised to "regeneration" in HWRR Section 261(a)(iv).

DEQ Response to Comment #4: The error has been corrected on Page 1-12 of the revised draft.

EPA/DPRA Recommendation #5:

The exclusion for 40 CFR 270.60 should be updated to 270.60(a) under HWRR Section 270(a).

DEQ Response to Comment #5:

The exclusion has been updated on Page 1-26 of the revised draft.

EPA/DPRA Recommendation #6:

"Broader-In-Scope" language should be added to the text and appendix of the IBR draft. Additionally, the categories "FITNESS OF THE APPLICANT" and "TRAINING REQUIREMENTS" should be added to Table 1-1 of Appendix A.

DEQ Response to Comment #6:

Since there are two rule entries under Table 1-1 which do qualify as "broader-in-scope" relative to the 40 CFR, the DEQ made the changes to Table 1-1 on Pages 1-A, 1-A-2, and 1-A-9 of the revised draft. The Table of Contents and Section 2(c) have also been updated in the appropriate places with the "broader-in-scope" language added to the headings.

DEQ Summary for EPA/DPRA Recommendations: The DEQ recommends adopting the minor changes recommended by EPA above, excluding the clarifying comments provided in the re-review.

DEQ Internal Recommendations From Public Notice Period:

DEQ Recommendation #1: The heading for Section 270 is currently "EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM". The DEQ recommends shortening this heading to "THE HAZARDOUS WASTE PERMIT PROGRAM" to avoid the misperception that the State does not have primacy for this section. Please see the changes in the Table of Contents, Page iii, and also Page 1-25 of the revised IBR draft (strike/underline copy).

DEQ Recommendation #2: The definition "HWRR. Wyoming Hazardous Waste Rules and Regulations" should be added to the State-specific list of definitions in Section 4. This would make the rules consistent, as the acronym is found in the Table of Contents and Table 1-1 of Appendix A. Please see Page iv of the Table of Contents, Page 1-4 of the revised IBR draft, and Table 1-1 of Appendix A.

A revised IBR strike/underline draft with the proposed changes has been enclosed for your review. If the WWAB wishes to view the two review documents from EPA, they will be available for review in hard copy form during the WWAB meeting on July 25, 2014, or they may be provided via e-mail upon request.

The DEQ requests that the Wyoming Water, Waste, and Advisory Board approve the proposed revised IBR draft rules so that we may proceed forward in the State rules adoption process. Thank you.

Respectfully submitted,

Alan D. Thompson
HWRR Project Manager
DEQ/SHWD