

MEMORANDUM

TO: Jeremy Gross, Wyoming Assistant Attorney General
FROM: Luke Esch, Administrator, Solid and Hazardous Waste Division (SHWD) *LJE*
DATE: August 18, 2014
PRIORITY: **HIGH** – Deadline for response is **September 5, 2014**
SUBJECT: **Request for review of proposed rules for statutory authority**

Mr. Gross:

The Department of Environmental Quality, Solid and Hazardous Waste Division is proposing to revise Chapters 1 through 14 of the Wyoming Hazardous Waste Rules and Regulations (HWRR) to a single chapter (Chapter 1) which utilizes Incorporation By Reference (IBR) of the Federal Title 40 Code of Federal Regulations. The Water and Waste Advisory Board (WWAB) reviewed the revised rules (Chapter 1) during the July 25, 2014 meeting in Casper, Wyoming. The WWAB conditionally approved the IBR rules and recommended that the rules proceed to formal rulemaking before the Environmental Quality Council after several changes were applied to the rules. These changes included the removal of daily tank inspections and outdated monitoring technology requirements from previous rule-makings, a revision to the definition of "Chronic", and the removal of carots ("^") from the rules which formerly denoted deleted Federal language in the rules. Those revisions have been made, and the SHWD is seeking a review of the proposed rules for statutory authority prior to submitting the rules to the Governor's Office for permission to proceed to formal rulemaking.

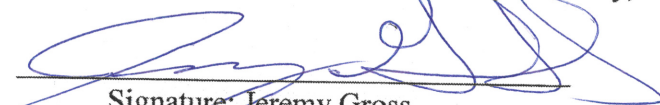
As the changes to the rules are pervasive and in an entirely new rules format, per Section 5(a)(iii) of the *Rules on Rules* (Wyoming Secretary of State) the SHWD would appreciate your concurrence that a clean copy of the rules will be adequate for submission as part of our Notice of Intent which will follow your review.

Attached you will find a copy of the draft Statement of Principal Reasons, a copy of the Chapter 1 HWRR in clean copy (the format of the rules is being completely revised), and a copy of the Takings Checklist and accompanying Takings Analysis. If you have any questions or need additional information regarding the proposed rules please do not hesitate to contact me.

Attorney General's Response Options:

Proposed Rules are within the Division's statutory authority, may seek permission to proceed from the Governor's Office.

Proposed rules exceed statutory authority, delay proceeding with rulemaking


Signature: Jeremy Gross