

Incorporation By Reference (IBR) of Wyoming Hazardous Waste Rules and Regulations (HWRR)

Presentation to the Wyoming Environmental Quality Council

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January 14, 2015

Thank you!

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- Previous rules teams at DEQ
- Inspection and Compliance: Bob Breuer, Tim Link
- Chris Cosentini/EPA, DPRA
- Outreach: Industrial facilities, ID and MT DEQs, WOC
- WWAB and commenters for WWAB/EQC
- EQC Staff

Brief History of HWRR

- First EPA Authorization of Wyoming HWRR: 1995
- Last State Adoption of HWRR: Revisions 4 & 5 Adopted August 2008
- Last Authorization by EPA: 2002
- Addendum B updated submittal to EPA: November 2011
- Worked with Consultant DPRA on updated Revision 6 through April 2013
- Memo from Governor April 9, 2013
Reduce rules 1/3 in number, 1/3 in length

Previous HWRR

- Hard to use, confusing, duplicative of existing rules from other programs at DEQ
- Many cross-references internally and to 40 CFR
- Difficult to update, typically years to get authorization from EPA, significant delays, long review times
- Long: 1,300 + pages, 14 Chapters
- Out-of-date (last authorization 2002)
- Difficult to identify differences with 40 CFR
(Old rules used bolded State language with carots (^) denoting omitted Federal language)

What is IBR?

- Single Chapter 1 (Revision 6 of HWRR)
- Adopt 40 CFR, Specific Sections
- 40 CFR 124, 260-268, 270, 273, 279
- Adopt by a “Date Certain”, January 31, 2014.
- Contains details of excluded Sections
- Contains details of more stringent provisions
- Contains details of where broader-in-scope
- For Wyoming: Use 40 CFR Section format

Statutory Requirements for Rules and IBR

- Wyoming Statute 35-11-503(a)(v) and 35-11-503(d): We are required to be consistent with, and equivalent to, RCRA C. We can be more stringent than RCRA C if adequate cause exists and with petition to, and approval by, the Wyoming Environmental Quality Council (EQC).
- We may use Incorporation By Reference per Wyoming Statute 16-3-103(h)(i)-(v)
- Wyoming Secretary of State, *Rules on Rules*, Section 9(b)(i)-(ii).
 - Must keep the rules up-to-date with rules incorporated by reference
 - Must keep website address and/or hard copy of incorporated material up-to-date
- EPA allows use of Incorporation By Reference, EPA provides a 2011 IBR Guidance that was consulted for this rulemaking.
- EPA has “broader-in-scope” language in guidance which the State of Wyoming has not used in statute. We have two rules to which this applies.

Why Use IBR for Wyoming HWRR?

- Governor's memo was the initiative.
- Once researched, it became apparent that IBR was the best option for the State.
- Simple, concise, easy to use, generally matches 40 CFR format
- Short (51 pages), a single Chapter 1 versus 14 HWRR Chapters
- Facilitates comparison to 40 CFR and other States' rules
- Eliminates confusing cross-references between State/Fed. Rules
- More stringent/broader-in-scope provisions clearly defined
- IBR has been adopted by nearby states with success (Idaho, South Dakota, Montana).
- Thirty (30) states have adopted full or partial IBR for their hazardous waste rules.

Why Use IBR? (continued)

- Maintains State primacy, favored by industry
- Quicker review times in-state and for EPA
- Reduced material and personnel costs for updates
- Meets requirements in-state for rule reductions requested by Governor Mead
- Wyoming HWRR will be up-to-date with 40 CFR as of January 31, 2014
- Prevents automatic adoption of 40 CFR via “date certain” provision in the HWRR (January 31, 2014). Later changes to 40 CFR will undergo separate rule-making process.
- It is the right thing to do for the regulated community, the regulators, the environment, and people of Wyoming.

Disadvantages of IBR?

- Perception that this rules package differs dramatically from previous rules packages?
 - IBR HWRR are based on previously-adopted HWRR for Wyoming. Most more stringent provisions have been retained with the exception of obsolete provisions or those which are covered by other State rules (e.g. Air Quality Rules).
- Over-regulation by incorporating the federal CFR?
 - We are required by State statute to be equivalent to RCRA C.
 - Wyoming is actually more stringent than the 40 CFR in some cases. These provisions are detailed in Table 1-1 of HWRR.
 - We have avoided automatic adoption of new 40 CFR rules by using “date-certain” language in HWRR.
 - Wyoming will choose for itself which optional 40 CFR rules it is adopting and will adopt in the future (Reviews of 40 CFR new rules each year).

Outreach and Progress to Date for IBR

- In Spring and Summer of 2013, met with State of Idaho DEQ, spoke with State of Montana DEQ
- Calls to: Flying J Refinery, Parsons/FMC (Kemmerer), Sinclair Wyoming Refinery, Wyoming Refining Co. (Newcastle)
- Meetings with:
 - HollyFrontier, Cheyenne Refinery
 - TREC/BP Amoco, Casper
 - Cody Laboratories
 - Wyoming Outdoor Council (WOC)
 - Sinclair Casper Refinery
- Consistently positive responses from permitted facilities and WOC

Outreach and Progress to Date for IBR

- Draft IBR rules were sent to EPA for initial comment 1/29/14. DEQ received initial comments 4/29/14.
- The revised draft IBR and Response to Comments were sent to EPA on 5/19/14. A re-review by the EPA was received by the DEQ on 6/9/14. DEQ did not adopt the majority of the re-review clarifying comments provided by the EPA.
- A revised draft IBR was provided to the Water and Waste Advisory Board (WWAB) on 7/25/14, which gave conditional approval 7/25/14, and final approval 8/26/14.
- Received Governor's approval to proceed on 9/24/14.
- Public Notice Period: 10/10/14 – 12/10/14, mailed a total of 642 notices to interested parties and outreach contacts, advertised public notice twice in Casper Star Tribune on 10/10/14 and 10/24/14.

Outreach and Progress to Date for IBR

- Conducted EQC public notice by bulk mailing to 642 interested parties and outreach contacts. Two notices were published as display ads in the *Casper Star Tribune* on 10/10/14 and 10/24/14. DEQ received no written comments during the EQC public notice period from 10/10/14 to 12/10/14.
- DEQ received 12 email/phone inquiries for the following:
 - Copies of HWRR/SOPR;
 - Mailing address and contact updates;
 - Access issues with EQC website on 10/30/14 (EPA/PRBRC); and
 - Questions/clarifications regarding changes to the HWRR.
 - DEQ responded via e-mail and phone.

Format of Chapter 1, HWRR

- Based on Idaho DEQ HWRR
- Followed 2011 IBR Guidance from EPA, includes revisions based on feedback from EPA, outreach, and WWAB
- Single Chapter (1) of 51 pages, 35 of which are text
- General State of Wyoming language (Section 1), IBR details (Section 2), Substitution of State Terms for Federal Terms (Section 3), & Definitions (Section 4)
- Later sections generally correspond to 40 CFR Sections, i.e. Section 266 of IBR corresponds with 40 CFR 266
- Contains a detailed list of exclusions under each section
- Tables in Appendix A contain the following:
 - More stringent and broader-in-scope provisions versus 40 CFR with State and Federal citations
 - Correlation between 40 CFR and old HWRR
 - Correlation between old HWRR and RCRA Statutes

Format: Table of Contents

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 HAZARDOUS WASTE MANAGEMENT
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WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE DIVISION
HAZARDOUS WASTE MANAGEMENT
CHAPTER 1
GENERAL PROVISIONS

Section 1. IN GENERAL

- (a) **AUTHORITY.** The authority for the rules contained in this Chapter is the Wyoming Environmental Quality Act, W.S. 35-11-101 et seq.
- (b) **APPLICABILITY.** The rules contained herein shall apply to any person, government or governmental subdivision, corporation, organization, partnership, business trust, association, district or other entity involved in any aspect of the management of hazardous waste. These rules are effective immediately upon filing with the Secretary of State.
- (c) **OBJECTIVE.** The objective of these rules is to provide minimum standards for the management of hazardous waste in order to carry out the policy and purpose of the Wyoming Environmental Quality Act, W.S. 35-11-102.
- (d) **SEVERABILITY.** If any Section or provision of these rules, or the application of that Section or provision to any person, situation, or circumstance is adjudged invalid for any reason, the adjudication does not affect any other Section or provision of these rules or the application of the adjudicated Section or provision to any other person, situation, or circumstance. The Environmental Quality Council declares that it would have adopted the valid portions and applications of these rules without the invalid part, and to this end the provisions of these rules are declared to be severable.

Section 2. INCORPORATION BY REFERENCE (IBR) OF 40 CFR.

- (a) **GENERAL.** Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260 – 268, 270, 273, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of January 31, 2014, including any notes and appendices therein, unless expressly provided otherwise in these rules. These rules do not include any later amendments or editions of the incorporated matter.
- (b) **EXCEPTIONS.** The following 40 CFR portions by date are excluded from these rules: May 15, 2000 (65 FR 30886; Amendments to NPDES Program regulations), April 22, 2004 (69 FR 21737; Performance Track), October 25, 2004 (69 FR 62217; Performance Track), October 30, 2008 (73 FR 64668; Definition of Solid Waste), December 19, 2008 (73 FR 77954; RCRA Comparable Fuel Exclusion), and the amendments involving Performance Track requirements made as part of 71 FR 16862 on April 4, 2006. Nothing in 40 CFR Parts 260 - 268, 270, 273, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted

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or included by reference herein. 40 CFR Part 278 is not incorporated by reference, as the part applies to the Tn-State Mining District, not Wyoming.

- (i) More specific exceptions to subparts of the 40 CFR, including more stringent provisions relative to the 40 CFR are detailed in the relevant sections of these rules.
- (c) **MORE STRINGENT AND BROADER-IN-SCOPE PROVISIONS.** Those State-specific rules that are more stringent than, or broader-in-scope than, the 40 CFR are described in detail in Appendix A, Table 1-1 of this Chapter.
- (d) **AVAILABILITY OF REFERENCED MATERIAL.** The federal rules adopted by reference throughout these rules are maintained at the following locations:
- (i) Electronic copies of federal rules may be obtained from the U.S. Government Printing Office, <http://www.ecfr.gov>; and
- (ii) Volumes of the 40 CFR are available for public inspection at the Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division, Herschler Building 4-W, 122 West 25th Street, Cheyenne, WY 82002. Printed copies of the 40 CFR are also available at cost from the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, DC 20401 or at <http://bookstore.gpo.gov/catalog/laws-regulations/code-federal-regulations-cfrs-print>. Copies of the 40 CFR may be requested at cost through the DEQ, which will order the materials from the U.S. Government Printing Office.
- (iii) An electronic copy of these Wyoming rules may be found at http://deq.state.wy.us/shwd/HWRules_z03.asp

Section 3. SUBSTITUTION OF STATE TERMS FOR FEDERAL TERMS.

- (a) **SUBSTITUTION OF TERMS AND INTERNAL REFERENCES.** The following state terms shall replace the federal terms in 40 CFR Parts 260 through 268, 270, 273, 279, and 124, unless otherwise noted in these rules:
- 260.10 (i) Act. Wyoming Environmental Quality Act, W.S. 35-11-101 et seq.
- 260.10/270.2 (ii) Administrator, or Regional Administrator. When used in the context of 40 CFR, the definition shall be the Director of the Wyoming Department of Environmental Quality, or his designee, except where noted in these rules. When used in the context of these rules, the definition shall be the U.S. Environmental Protection Agency Administrator or Region 8 Regional Administrator as appropriate.
- (iii) Board, or Environmental Appeals Board. When used in the context of 40 CFR, the definition shall be the Wyoming Environmental Quality Council except where noted in these rules.
- (iv) Department, or DEQ. The Wyoming Department of Environmental Quality.
- 270.2 (v) Director, Regional Director or State Director. The Director of the DEQ or his or her designee. (In some circumstances however, the EPA retains authority to take certain

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actions even though Wyoming has an approved program. In these cases, reference is made to the EPA Administrator instead of the Director.)

(vi) DOT. Any reference to the "Department of Transportation" or "DOT" shall mean the U.S. Department of Transportation.

270.2 (vii) EPA, U.S. Environmental Protection Agency, EPA Headquarters. When used in the context of 40 CFR, the definition shall be the DEQ, except when used to refer to an EPA identification number, EPA hazardous waste number, EPA forms, publications or guidance, EPA Acknowledgment of Consent, and where noted in these rules. Under the latter circumstances, the definition shall be the U.S. Environmental Protection Agency and the Headquarters of the U.S. Environmental Protection Agency as appropriate. When used in the context of these rules, the definition shall be the U.S. Environmental Protection Agency.

280.10/270.2 (viii) RCRA. When used in the context of 40 CFR, the definition shall be the comparable sections of the Wyoming Environmental Quality Act. When used in the context of these rules, the definition shall be The Resource Conservation and Recovery Act, 42 U.S. Code, Sections 6901 et seq.

(ix) RCRA Permit. State hazardous waste management facility (HWMF) permit. An authorization, license, or equivalent control document issued by the DEQ to implement the requirements of W.S. 35-11-503(d).

261.2 (x) "Solid Waste" (see "Waste Material").

260.10 (xi) State. The state of Wyoming.

260.10 (xii) United States or U.S. When used in the context of 40 CFR, the definition shall be the State of Wyoming, except where noted in these rules. When used in the context of these rules, the definition shall be the United States.

261.2(a)(1) (xiii) Waste material. Specific to 40 CFR 261.2(a)(1), any discarded material that is not excluded under §261.4(a), or that is not excluded by a variance granted by the Director under 40 CFR 260.30 and 260.31.

Section 4. DEFINITIONS.

(a) GENERAL. When used in these rules and any materials incorporated herein by reference, the following definitions apply unless their application would be inconsistent with the Act. Terms not otherwise defined in Section 4(a) of this Chapter will have the meaning given by RCRA.

(i) Air contaminant. Odorous material, dust, fumes, mist, smoke, other particulate matter, vapor, gas or any combination of the foregoing, but shall not include steam or water vapor.

(ii) Air pollution. The presence in the outdoor atmosphere of one (1) or more contaminants in such quantities and duration which may be injurious to human health or welfare, animal or plant life, or property, or unreasonably interferes with the enjoyment of life or property.

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(xx) Non-HSWA drip pad. A drip pad where F034 or F035 wastes are handled.

(xxi) Non-HSWA tank. Inground tank systems, onground tank systems, aboveground tank systems, and existing underground tank systems that can be entered for inspection.

(xxii) One excess cancer per million people. A probability of one chance in one million of an individual developing cancer.

(xxiii) Potentially exposed populations. Any or all individuals potentially coming into contact with contaminants of concern, including those groups within the exposed population that because of specific health effects of some pollutants or factors related to the population itself, would experience a higher risk than would the average population as a result of a given level of exposure.

(xxiv) Risk. The probability of adverse human health or environmental effects from exposure to toxic substances or materials released into the environment.

(xxv) Sewer system. Pipelines, conduits, storm sewers, pumping stations, force mains, and all other constructions, devices, appurtenances and facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal.

(xxvi) Subchronic. That point in time between two weeks to seven years.

(xxvii) Voluntary Remediation Program, or VRP. Wyoming State cleanup program established in the year 2000 per Article 16 of the Act.

Sections 5 - 123. RESERVED.

Section 124. ADMINISTRATIVE PROCEDURES.

(a) IBR AND EXCEPTIONS. 40 CFR Part 124, Subparts A, B and G are herein incorporated by reference as provided in 40 CFR, except that the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. 40 CFR Sections 124.1, 124.4, 124.5(c), 124.5(e)-(g), 124.6(c), 124.6(d)(4)(ii)-(v), 124.8(b)(3), 124.8(b)(8), 124.9(b)(6), 124.10(a)(1)(iv)-(v), 124.10(c)(1)(iv)-(viii), 124.10(c)(2)(i), 124.10(d)(1)(vii)-(viii), 124.10(d)(2)(iv), 124.12(b), 124.15(b)(2), 124.16, 124.18(b)(5), 124.19, 124.21, 124.204(d)(1) and (4), 124.205(a) and (h) are also not incorporated by reference.

(i) For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 8 Regional Administrator, respectively.

(ii) For purposes of 40 CFR 124.10(b)(1) the last sentence shall be deleted, as it addresses NPDES permits.

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Table 1-1. MORE STRINGENT AND BROADER-IN-SCOPE PROVISIONS OF HWRR RELATIVE TO 40 CFR.

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
CLOSURE	HWRR 264(a)(vii). Wyoming is more stringent because it requires that owner/operators at closure will take, and continue to take, all steps to prevent threats to human health and the environment.	264.112(d)(2)(i)
CORRECTIVE ACTION MANAGEMENT UNITS (CAMUs)	HWRR 260(a), 264(e). Wyoming is more stringent for the definitions of "facility" and "remediation waste management site" because facilities not subject to 40 CFR 264.101 are not eligible for the less stringent management standards of the Corrective Action Management Unit (CAMU) program. Wyoming does not adopt the definition of "remediation waste management site" or the third part of the definition for "facility". Also, Wyoming is broader-in-scope because it makes the CAMU requirements available to participants in the State of Wyoming Voluntary Remediation Program implementing corrective action pursuant to a remedy agreement developed under Wyoming Statute W.S. 35-11-1607.	260.10, 264.1(i), 264.73(b)(17), 264.101(d), 264.551(a), 264.552(a), 264.552(e), and 264.553(a)
EMERGENCY REPORTING	HWRR 263(a)(v). Wyoming is more stringent in that it requires an air, rail, highway, or water transporter to report discharged hazardous waste to the Director in addition to the National Response Center and DOT.	263.30(c)
EMERGENCY REPORTING	HWRR 262(a)(v), 264(a)(v), 265(a)(v), 267(a)(iii). Wyoming is more stringent because the State requires the emergency coordinator to also report his findings to the Wyoming Department of Environmental Quality (307-777-7781) in addition to the National Response Center (800-424-8802).	262.34(d)(5)(v)(C), 264.56(d)(2), 265.56(d)(2), and 267.56(c)(2)

Table 1-2. GENERAL CORRESPONDENCE BETWEEN PREVIOUS STATE RULES AND FEDERAL RULES

EPA Regulation Code of Federal Regulations (CFR)	Previous DEQ Hazardous Waste Management Rules	Description
PART 124 (except 124.5)	Chapter 3, Section 1	Administrative Procedures
Section 124.5	Chapter 6, Section 1	Modification, Revocation and Reissuance, or Termination of Permits
PART 250	Chapter 1	General Provisions
PART 251	Chapter 2	Identification and Listing of Hazardous Waste
PART 252	Chapter 8	Standards Applicable to the Generators of Hazardous Wastes
PART 253	Chapter 9	Standards Applicable to the Transporters of Hazardous Wastes
PART 254 (except Subpart H)	Chapter 10	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities Who Have a Wyoming Permit.
PART 255 (except Subpart H)	Chapter 11	Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
PARTS 254/255, Subparts H	Chapter 5	Financial Requirements
PART 256	Chapter 12	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities
PART 258	Chapter 13	Land Disposal Restrictions
PART 270, Subpart A	Chapter 1, Section 1(h)-(j)	Permit Program – General Information
PART 270, Subpart B	Chapter 3, Section 2	Permit Application
PART 270, Subpart C	Chapter 4, Section 1	Permit Conditions
PART 270, Subpart D	Chapter 6, Section 2	Changes to Permits
PART 270, Subpart E	Chapter 4, Section 2	Expiration and Continuation of Permits
PART 270, Subpart F	Chapter 7	Special Forms of Permits
PART 270, Subpart G	Chapter 11, Section 2	Interim Status
PART 273	Chapter 14	Standards for Universal Waste Management
PART 279	Chapter 12	Management Standards for Used Oil

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Table 1-3. GENERAL CORRESPONDENCE BETWEEN PREVIOUS STATE RULES AND FEDERAL STATUTES

Section of RCRA	Previous DEQ Hazardous Waste Management Rules	Description
RCRA § 3004(v)	Chapter 10, Section 6(l)(iii)	Corrective Action Beyond Facility Boundary
RCRA § 3005(c)(3)	Chapter 4, Section 2(a)(v)	Permit Issuance
RCRA § 3005(j)(1), (6), and (7)(B)	Chapter 10, Section 10(b)(x)-(xii)	Interim Status Surface Impoundments
RCRA § 3008(h)	Chapter 11, Section 8(f)	Interim Status Corrective Action
RCRA § 3013	Chapter 1, Section 1(l)	Monitoring, Analysis, and Testing
RCRA § 7003(a)	Chapter 1, Section 1(k)	Imminent Hazard

What is New? (Aside from IBR)

- EPA Checklists are summaries of changes to 40 CFR Sections that are published regularly by EPA
- Checklist 210: Standardized Permits for RCRA Hazardous Waste Management Facilities
- Checklist 213: Burden Reduction Initiative
- Checklist 215: Cathode Ray Tube (CRT) Exclusion
- Checklists 220 and 226: Academic Laboratories Generator Standards, 40 CFR 262, Subpart K, Supported by University of Wyoming
- Checklist 229: Conditional Exclusions for Solvent-contaminated Wipes

What Has Been Removed?

- Outdated Boiler and Industrial Furnace language covered under Air Quality Division MACT Standards, due to 40 CFR revisions since the 2008 rule-making
- Obsolete language relative to Water Quality Division rules and regulations, State authorization and primacy, landfill and land treatment language, and language requiring three copies of permit applications
- Onerous State cross-references
- Use of carots and bolded text to indicate differences from the 40 CFR
- Details are in Statement of Principal Reasons

Responses to Comments, WWAB Public Notice Dated 6/10/14

Date	Organization	Comment	DEQ Response
6/10/14	Idaho DEQ	Congratulations and support of IBR via email.	Thank you via e-mail.
6/13/14	INDA, Assoc. of the Nonwoven Fabrics Industry	Provided support letter via email, supports Solvent Wipes Rule adoption, Checklist 229.	Noted via e-mail, sent follow-up email indicating that exclusion for 40 CFR 261.4(b)(18) will be removed from IBR, as it pertains to solvent wipes.
6/16/14	Sinclair Oil Company	Via e-mail, found error in SOPR on Page 1, Paragraph 1 re. Idaho not in Region 8, but Region 10 EPA.	Error has been corrected in SOPR.
6/18/14	SMART (Secondary Materials and Recycled Textiles Association)	Provided support letter via e-mail for Solvent Wipes Rule adoption in entirety, Checklist 229	Noted via e-mail, sent follow-up email.

Response to EPA Re-review Comments Dated 6/9/14

EPA Comment	Relevant HWRR Section or 40 CFR reference	DEQ Response
Add clarifying language as subparagraphs under “a” subsections to point reader to appropriate Sections in HWRR	HWRR Sections 124, etc.	The DEQ did not believe the clarifying recommendations by EPA would dramatically improve the usability of the IBR rules. We received no comments concerning the ease of use of the rules. The additional language would have added 2 pages to the rules.
Separate definitions for <i>existing tank system or existing component</i> and <i>new tank system or new component</i> ; also add definitions for <i>HSWA tank</i> and <i>Non-HWSA tank</i>	HWRR Sections 4, 260, 264, and 265	The definitions were separated into the appropriate sections, and the HSWA tank and non-HSWA tank definitions were added to Section 4. Pages 1-4, 1-5, 1-10, 1-14, 1-19.
Update internet web link for ordering hard copies of 40 CFR	HWRR Section 2(d)(ii)	The internet web link was updated, Page 1-2.

Response to EPA Re-review Comments Dated 6/9/14

EPA Comment	Relevant HWRR Section or 40 CFR reference	DEQ Response/Recommendation
The exclusion for 261.4(b)(18) for solvent wipes should be removed	HWRR Section 261(a), Checklist 229	The exclusion was removed, as it was a relic of former rules language excluding solvent wipes, which is now included in the new IBR rules, Page 1-11.
Typo. “generation” needs corrected to “regeneration”	HWRR Section 261(a)(iv)	Typo was corrected. Page 1-11.
Exclusion for 40 CFR 270.60 should be updated to 270.60(a)	HWRR Section 270(a)	The exclusion was updated, Page 1-24.
Addition of “FITNESS OF THE APPLICANT” and “TRAINING REQUIREMENTS” to Table 1-1, Appendix A, also add “BROADER-IN-SCOPE” language for consistency throughout text and Appendix A	Table of Contents and HWRR Table 1-1, Appendix A, also Section 2(c)	The two new topical categories, state HWRR cross-references, and federal cross-references were added to the Table, Pages 1-A-2 and 1-A-8. Table of Contents and Section 2(c) now have “BROADER-IN-SCOPE” language added to them as well.

Other DEQ Recommendations After WWAB Public Notice Period

Topic	Relevant HWRR Section or 40 CFR reference	DEQ Recommendation (Page numbers refer to the strike/underline version of the IBR draft)
Heading “EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM”	HWRR Section 270	While the heading was identical to the language for 40 CFR 270, the DEQ shortened the language to “THE HAZARDOUS WASTE PERMIT PROGRAM”. Pages: Table of Contents, Page iii, also Page 1-24
Definition of “HWRR”	HWRR Section 4	The definition “HWRR. Wyoming Hazardous Waste Rules and Regulations” was added to the State-specific list of definitions in Section 4 to be consistent with use of the acronym in portions of the IBR Rules (Table 1-1, Appendix A). Please see Page 1-4.
Landfills/Corrective Action Management Units	HWRR Section 264(a)(xi), Table 1-1, Page 1-A-2, “Landfills”, see 40 CFR 264.552(a)(3)(iii)	This additional existing (2008) more stringent provision was added in text and Table 1-1, Appendix A after the WWAB meeting. The State prohibits the demonstration found in 40 CFR 264.314(e) for placement of liquid hazardous waste in a landfill. This was added to be consistent with previous rules.

Wyoming Water and Waste Advisory Board (WWAB) Recommendations During 7/25/14 Public Meeting

Topic	Relevant HWRR Section or 40 CFR reference	WWAB Recommendation
Daily tank inspections	HWRR Sections 264, 265	Remove requirement for daily versus weekly inspections of tanks.
Monitoring technologies	HWRR Section 270	Remove requirement for permittees to use monitoring technologies required by Director.
Carots (“^”)	All HWRR Sections	WWAB approved removal of carots after the WWAB meeting. The text already shows differences from the Federal language, so the use of carots was confusing and complicated.
Landfills	Appendix A, Table 1-1, Page 1-A-2	Remove confusing language at two places in the table relative to placement of liquids in landfills.
Definition of “Chronic”	Section 4(a)(v)	Changed to “That time period from seven years to a lifetime” from “That point in time from seven years to a lifetime”.

Comments from EQC Public Notice 10/10/14 – 12/10/14

- No written comments were received by the Wyoming Department of Environmental Quality (DEQ) via mail during the public notice period from 10/10/14 to 12/10/14. A total of two public notices were published in the *Casper Star Tribune* on 10/10/14 and 10/24/14.
- Twelve requests/comments were received by the DEQ via e-mail and phone for the following:
 - Copies of the HWRR/Statement of Principal Reasons (SOPR);
 - Clarifications of the rules changes, including:
 - A question regarding which new provisions relate to CRTs and Mercury-containing equipment (Checklists 209/Mercury Containing Equipment and 215/Cathode Ray Tube Exclusions); and
 - A request for an update on the status of rule-making with respect to solvent wipes rule (Checklist 229).
 - Difficulties accessing the EQC website documents on 10/30/14 during website maintenance;
 - Address/interested party contact updates relative to the public notice mailings; and
 - WYDOT indicated that they would not be providing formal written comments since the new rules did not include any new or more restrictive items that would adversely affect WYDOT.
 - These email/phone requests were answered by DEQ via e-mail and phone.
- DEQ found one typo. on Page 1-9, Section 124(e)(ii)-need to remove underline at comma.

Rule-making Process for HWRR, Chapter 1, IBR

- IBR Draft has been reviewed by EPA twice to avoid delays/discrepancies with EPA during authorization process.
- State review, ca. 1 year, including presentation before WWAB, EQC, approval by Governor, etc.
- EPA review, ca. 1 year historically, expect faster review times, EPA authorization follows State adoption.
- Future review of new 40 CFR rules each year, IBR HWRR will be easier to update relative to the existing rules. We will not automatically adopt 40 CFR new rules due to date-certain provision in the IBR rules.
- The SHWD requests that the EQC approve the rules for adoption by the State.

Thank you!

