

DRAFT 07/07/2021, rev. 9/13/2021

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF HAZARDOUS WASTE)
RULES AND REGULATIONS, CHAPTER 1, IBR Update 2)
WYOMING HAZARDOUS WASTE)
MANAGEMENT STANDARDS)

STATEMENT OF PRINCIPAL REASONS

Background

The State of Wyoming (State) Department of Environmental Quality, Solid and Hazardous Waste Division (WDEQ/SHWD), pursuant to the authority vested in it by Wyoming Statute (W.S.) § 35-11-503(a)(v) and (d), proposes that the Environmental Quality Council (Council) revise Chapter 1, General Provisions of the Wyoming Hazardous Waste Rules and Regulations (HWRR) to incorporate changes since the last HWRR adopted by the State on May 3, 2019. The existing HWRR use Incorporation by Reference (IBR) of the Code of Federal Regulations, Title 40, Parts 124, 260-268, 270, 273, and 279. The following is a statement of WDEQ/SHWD’s principal reasons for adopting these rules, as required by *Tri-State Generation & Transmission Ass’n v. Env’tl. Quality Council*, 590 P.2d 1324, 1330-32 (Wyo. 1979).

Purpose and Intent of Proposed Revisions

The proposed revisions to the Wyoming HWRR, Chapter 1 include the addition of new rules or revisions as defined in Checklists 233, 240, 241, 242, and 243 from the U.S. Environmental Protection Agency (EPA) which have been promulgated and finalized by EPA since May 3, 2019, the last date of adoption of the HWRR, IBR Update 1. The WDEQ/SHWD intends to adopt the rules to ensure that the HWRR are up-to-date with the federal rules as of July 7, 2020. The proposed revisions to Chapter 1 incorporate both mandatory and optional EPA revisions to the rules to be adopted by the State of Wyoming using incorporation by reference (IBR) and address revisions to the Code of Federal Regulations, Title 40, “Protection of the Environment” (40 CFR), Parts 124, 260-268, 270, 273, and 279 that were promulgated between January 31, 2018 and July 7, 2020. The exception is the adoption of the Definition of a Solid Waste (DSW) rule which was originally promulgated in 2015, was under litigation which has been resolved, and is now being adopted. The remaining rules include the Safe Management of Airbag Waste; Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine; Increasing Recycling by Adding Aerosol Cans to the Universal Waste Regulation; and Modernizing Ignitable Liquids Determinations. Chapter 1 details which

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Checklist	Category*	Published	Promulgation and Effective Dates	Title
233 ¹	M, some sections O	80 FR 1694 and 80 FR 24644	Promulgated 1/13/15, effective 7/13/15, and May 30, 2018, WY must adopt Checklists A, B, and C, Checklist D2 and E are optional (see below)	Revisions to the Definition of Solid Waste
(233A)	M	80 FR 1694 and 83 FR 24664	Promulgated 1/13/15, effective 7/13/15, and May 30, 2018,	Standards and criteria for variance classification of a solid waste
(233B)	M	80 FR 1694 and 80 FR 24644	Promulgated 1/13/15, effective 7/13/15 and May 30, 2018,	Legitimacy, related provisions, including prohibition of sham recycling, definitions of legitimacy, definition of contained
(233C)	M	80 FR 1694 and 80 FR 24644	Promulgated 1/13/15, effective 7/13/15, and May 30, 2018,	Defines speculative accumulation
(233D2)	O	80 FR 1694 and 83 FR 24664	Promulgated 1/13/15, effective 7/13/15, and May 30, 2018,	DSW exclusions and non-waste determination
(233E)	O	80 FR 1694 and 80 FR 24644	Promulgated 1/13/15, effective 7/13/15, and May 30, 2018,	Remanufacturing exclusion. Less stringent for all states. Adds definition of remanufacturing, revised definition of reclaimed

87 ¹The Definition of a Solid Waste, Checklist 233, was not adopted in the previous set of rules (May 3, 2019) due to the
88 contentious nature of the rule. However, litigation regarding this matter has been resolved, and the State is now adopting this
89 rule.
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91 *M = Mandatory rule revision, O = Optional rule revision

92 Promulgation = Date the rule formally became a law

93 Effective Date = Date the rule takes effect

118 2. The State of Wyoming will be up-to-date with the current provisions of 40 CFR, Parts 124,
119 260-268, 270, 273, and 279 as of July 7, 2020.

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121 **Conclusion**

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123 The Council has determined that the adoption of these Wyoming HWRR revisions is necessary
124 to update the State of Wyoming hazardous waste management standards to comply with federal
125 regulations and carry out the responsibilities of the Department of Environmental Quality.

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128 EXECUTED THIS 16 DAY OF November, 2021

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FOR THE ENVIRONMENTAL QUALITY COUNCIL

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Chairperson