



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA-R08-RCRA-2023-0034; FRL 10614-02-R8]

Wyoming: Final Authorization of State Hazardous Waste Management Program Revisions and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The State of Wyoming Department of Environmental Quality has applied to the Environmental Protection Agency (EPA) for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization and is authorizing the State's changes through this direct final action. The EPA uses the regulations entitled "Approved State Hazardous Waste Management Programs" to provide notice of the authorization status of State programs and to incorporate by reference those provisions of State statutes and regulations that will be subject to the EPA's inspection and enforcement. This rule also codifies in the regulations the approval of Wyoming's hazardous waste management program and incorporates by reference authorized provisions of the State's regulations.

DATES: This direct final rule is effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN *FEDERAL REGISTER*]** unless the EPA receives adverse written comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN *FEDERAL REGISTER*]**. If the EPA receives any such comment, we will publish a timely withdrawal of this direct final rule in the *Federal Register* informing the public that the rule will not take effect. The Director of the *Federal Register* approves the incorporation by reference as of **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-RCRA-2023-0034; FRL 10614-02-R8 by one of the following methods:

1. *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the online instructions for submitting comments.

2. *E-mail:* lin.moye@epa.gov.

3. *Fax:* (303) 312-6341 (prior to faxing, please notify the EPA contact listed below).

4. *Mail, Hand Delivery or Courier:* Moye Lin, Resource Conservation and Recovery Branch, EPA Region 8, Mailcode 8LCR-RC, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Courier or hand deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: The EPA must receive your comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Direct your comments to EPA-R08-RCRA-2023-0034; FRL 10614-02-R8. The EPA's policy is that all comments received will be included in the public docket without change and may be available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://regulations.gov>, or e-mail. The Federal <https://www.regulations.gov> website is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to the EPA without going through <https://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment with any CD you submit. If the EPA cannot

read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the <https://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available electronically through <https://www.regulations.gov>. For alternative access to docket materials, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Moye Lin, Resource Conservation and Recovery Branch, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129; phone number (303) 312-6667; E-mail address: lin.moye@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Authorization of Revisions to Wyoming’s Hazardous Waste Program

A. Why are revisions to State programs necessary?

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask the EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to the EPA’s regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279.

B. What authorization decisions has the EPA made in this rule?

On June 17, 2022, Wyoming submitted a program revision application seeking

authorization of changes to its hazardous waste program. The EPA concludes that Wyoming's applications to revise its authorized program meet all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Wyoming final authorization to operate its hazardous waste program with the changes described in the authorization application.

Wyoming has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs), and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA), for all areas within the State, except for (1) lands located within formal Indian Reservations within or abutting the State of Wyoming, including Wind River Indian Reservation, (2) any land held in trust by the United States for an Indian tribe, (3) and any other land, whether on or off a reservation that qualifies as "Indian country" within the meaning of 18 U.S.C. 1151. New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Wyoming, including issuing permits, until Wyoming is authorized to do so.

C. What is the effect of today's authorization decision?

The effect of this decision is that a facility in Wyoming subject to RCRA will have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. The State of Wyoming will continue to have enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Conduct inspections and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements; suspend or revoke permits; and
- Take enforcement actions after notice to and consultation with the State.

This action to approve these provisions would not impose additional requirements on the

regulated community because the regulations for which the State of Wyoming is requesting authorization are already effective under State law and are not changed by the act of authorization.

D. Why is the EPA using a direct final rule?

The EPA is publishing this rule without a prior proposal because we view this as a noncontroversial action and anticipate no adverse comment. However, in the “Proposed Rules” section of this issue of the *Federal Register*, we are publishing a separate document that will serve as the proposed rule allowing the public an opportunity to comment. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the ADDRESSES section of this document.

E. What happens if the EPA receives comments opposing this action?

If the EPA receives comments that oppose this authorization, we will publish a timely withdrawal in the *Federal Register* informing the public that this direct final rule will not take effect. We will address all public comments in a later *Federal Register* document. You will not have another opportunity to comment, therefore, if you want to comment on this action, you must do so at this time.

F. For what has Wyoming previously been authorized?

Wyoming initially received Final authorization on October 4, 1995, effective October 18, 1995 (60 FR 51925) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on: February 25, 1999, effective August 6, 2001 (56 FR 15503); however, this authorization was subsequently withdrawn on April 23, 1999 (64 FR 19925) and re-issued with the initial effective date of August 6, 2001 (66 FR 40911). Most recently, the EPA granted authorization for changes to Wyoming’s program on June 24, 2016, effective August 23, 2016 (81 FR 41229).

G. What changes is the EPA authorizing with this action?

On June 17, 2022, the State of Wyoming submitted a program revision application seeking authorization of their changes in accordance with 40 CFR 271.21. We now make a final decision, subject to receipt of written comments that oppose this action, that Wyoming's hazardous waste program satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Wyoming final authorization for the following changes:

1. Program revision changes for Federal rules

The State of Wyoming revisions consist of regulations which specifically govern Federal hazardous waste revisions promulgated between February 7, 2014, and July 7, 2020, Revision Checklists 231 through 243, (RCRA Clusters XXIII through XXIX). The State requirements from its Hazardous Waste Rules and Regulations, Chapter 1, General Provisions, Sections 1 through 279 are listed in the chart below.

Description of Federal Requirement	Federal Register Date and Page	Analogous State Authority
Hazardous Waste Electronic Manifest Rule (Checklist 231)	79 FR 7518; 02/07/14	HWRR, Chapter 1, Sections 3(a)(vii), 260(a) intro., 262 intro., 263 intro., 263(b), 264(a) intro., 264(a)(vi), and 265(a) intro.
Revisions to the Export Provisions of the Cathode Ray Tube (CRT) Rule (Checklist 232)	79 FR 36220; 6/26/14	HWRR, Chapter 1, Sections 260(a) intro., 261(a) intro., and 261(a)(ii) and (iii). [More stringent provision: 261(a)(iii)]
Revisions to the Definition of Solid Waste (Checklists 233A, B, C, D2, and E)	80 FR 1694-1814; 01/13/15 83 FR 24664-24671; 05/30/18	HWRR, Chapter 1, Sections 260(a) intro., 261(a) intro., 261(b)(i) and (ii), and 270(a) intro. [More stringent provision: 261(b)]
Response to Vacatur of the Comparable Fuels Rule and the Gasification Rule (Checklist 234)	80 FR 18777; 4/8/15	HWRR, Chapter 1, Section 2(b) and 261(a) intro.
Disposal of Coal Combustion Residuals from Electric Utilities (Checklist 235)	80 FR 21302; 4/17/15	HWRR, Chapter 1, Section 261(a) intro.

Description of Federal Requirement	Federal Register Date and Page	Analogous State Authority
Imports and Exports of Hazardous Waste (Checklist 236)	81 FR 85696; 11/28/16 82 FR 41015; 8/29/17 83 FR 38263; 8/6/18	HWRR, Chapter 1, Sections 3(a)(vii), 260(a) intro., 261(a) intro., 261(a)(ii), 262 intro., 263 intro., 263(a), 263(b), 263(a)(iii) in 3/18/15 regs. [Removed], 264(a) intro., 264(a)(ii), 264(a)(vi), 265(a) intro., 265(a)(iii), 265(a)(iv), 266(a) intro., 267 intro., and 273(a) intro. [More stringent provision: 262(d)]
Hazardous Waste Generator Improvements Rule (Checklist 237)	81 FR 85732; 11/28/16	HWRR, Chapter 1, Sections 3(f), 260(a) intro., 261(a) intro., 261(a)(iv) in 3/18/15 regs. [Removed], 262 intro., 262(a)(i) in 3/18/15 regs. [Removed], 262(a)(vi) in 3/18/15 regs. [Removed], 262(b), 262(c), 262(e), 262(f), 263 intro., 264(a) intro., 265(a) intro., 266(a) intro., 267 intro., 268 intro., 270(a) intro., 273(a) intro., and 279 intro. [More stringent provision: 3(f), 262(f), 264(a) intro.]
Confidentiality Determinations for Hazardous Waste Export and Import Documents (Checklist 238)	83 FR 60894; 12/26/17	HWRR, Chapter 1, Sections 3(a)(vii), 260(a) intro. and 261(a) intro., 261(a)(ii)
Hazardous Waste Electronic Manifest User Fee Rule (Checklist 239)	83 FR 420; 01/03/18	HWRR, Chapter 1, Sections 3(a)(vii), 260(a) intro. 262 intro., 262(a)(iii), 263 intro., 263(a), 264(a) intro., and 265(a) intro. [More stringent provision: 262(d)]
Safe Management of Recalled Airbags (Checklist 240)	83 FR 61552; 11/30/18	HWRR, Chapter 1, Sections 260(a) intro., 261(a) intro., and 262 intro.
Management Standards for Hazardous Waste Pharmaceuticals and Amendment to the P075 Listing for Nicotine (Checklist 241)	84 FR 5816; 02/22/19	HWRR, Chapter 1, Sections 261(a) intro., 262 intro., 264(a) intro., 265(a) intro., 266(a) intro., 268 intro., 270(a) intro., and 273(a) intro.

Description of Federal Requirement	Federal Register Date and Page	Analogous State Authority
Universal Waste Regulations; Addition of Aerosol Cans Checklist 242)	84 FR 67202; 12/9/19	HWRR, Chapter 1, Sections 260(a) intro., 261(a) intro., 264(a) intro., 265(a) intro., 268 intro., 270(a) intro., and 273(a) intro.
Modernizing Ignitable Liquids Determinations (Checklist 243)	85 FR 40594; 07/7/20	HWRR, Chapter 1, Sections 260(a) intro. and 261(a) intro.

2. State-Initiated Changes

Wyoming has made amendments to its regulations that are not directly related to any of the Federal rules addressed in Item G.1 above. These State-initiated changes are either conforming changes made to existing authorized provisions, or the adoption of provisions that clarify and make the State’s regulations internally consistent. The State’s regulations, as amended by these provisions, provide authority which remains equivalent to and no less stringent than the Federal laws and regulations. These State-initiated changes are submitted under the requirements of 40 CFR 271.21(a) and include the following provisions from the Hazardous Waste Rules and Regulations (HWRR), Chapter 1, as amended, effective April 7, 2022: HWRR 2(c), 3(b) “Administrator” or “Regional Administrator”, 3(c) “Board” or “Environmental Appeals Board”, 3(g) “Qualified Professional Geologist”, 3(h) “RCRA”, 3(k) “United States” or “U.S.”, 4(a) “Air contaminant”, 4(b) “Air pollution”, 4(u) “One excess cancer per million people”, 4(v) “Potentially exposed populations”, 4(z) “Waste material”, 260(a)(i), 260(a)(ii), 264(a)(iv), 264(d)(iii) introductory paragraph, 264(h)(i) introductory paragraph, (A) and (B), 264(i)(viii), 264(j), 265(b), 266(b)(iv), 267(a), 270(a)(iv), and 270(a)(xviii).

H. Where are the revised State rules different from the Federal rules?

The Wyoming revisions being authorized in this rule include provisions that contain purely Federal functions which are not delegable to States. The non-delegable Federal program areas include import/export requirements reserved as part of the Federal foreign relations function, and manifest registry and electronic manifest functions administered solely by the EPA.

Wyoming has appropriately adopted these provisions by leaving the authority with the EPA for implementation and enforcement.

When revised State rules differ from the Federal rules in the RCRA State authorization process, the EPA determines whether the State rules are equivalent to, more stringent than, or broader in scope than the Federal program. Pursuant to RCRA section 3009, 42 U.S.C. 6929, State programs may contain requirements that are more stringent than the Federal regulations. Such more stringent requirements can be federally authorized and, once authorized, become federally enforceable. Although the statute does not prevent States from adopting regulations that are broader in scope than the Federal program, States cannot receive Federal authorization for such regulations, and they are not federally enforceable.

We consider the following State requirements to be more stringent than the Federal requirements: HWRR, Chapter 1, Sections 3(f), 3(g), 261(a)(iii), 261(b), 262(d), and 262(f), for the following reasons.

At Sections 3(f) and 3(g), Wyoming requires both professional engineers and professional geologists to be registered in the State when referring to activities requiring Professional Engineer or Professional Geologist certification.

At 261(a)(iii), 262(a)(v), 262(d), and 262(f), Wyoming requires copies of necessary notifications and reports be made and submitted to the Director or State agency in addition to the required Federal notification or reporting.

The State did not make any changes that are broader-in-scope than the Federal rules in this rulemaking. In addition, Wyoming did not change any previously more stringent or broader-in-scope provisions to be equivalent to the Federal rules.

I. Who handles permits after the authorization takes effect?

The State of Wyoming will continue to issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date

of this authorization, until Wyoming has equivalent instruments in place. The EPA will implement and issue permits for HSWA requirements for which Wyoming is not yet authorized.

J. How does today's action affect Indian Country (18 U.S.C.1151) in Wyoming?

Wyoming is not authorized to carry out its hazardous waste program in Indian country, as defined in 18 U.S.C. 1151. This includes, but is not limited to:

1. Lands within the exterior boundaries of the following Indian Reservations located within or abutting the State of Wyoming:
 - a. Wind River Indian Reservation
2. Any land held in trust by the U.S. for an Indian tribe; and
3. Any other land, whether on or off a reservation that qualifies as Indian country within the meaning of 18 U.S.C. 1151.

Therefore, this program revision does not extend to Indian country where the EPA will continue to implement and administer the RCRA program.

II. Incorporation by Reference

Codification is the process of including the statutes and regulations that comprise the State's authorized hazardous waste management program into the CFR. Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs. The EPA is incorporating by reference EPA's approval of Wyoming's hazardous waste management program by amending Subpart ZZ to 40 CFR part 272. The action amends §272.2551 and incorporates by reference Wyoming's authorized hazardous waste regulations, as amended effective April 7, 2022. The State regulations authorized by EPA supplant the Federal regulations concerning the same matter with the result that after authorization EPA enforces the authorized regulations as described in paragraphs I. and II in this Supplementary Information. The EPA has made these documents available electronically through <https://www.regulations.gov> and will continue to make these documents available. For alternative access to docket materials, please contact the person identified in the

ADDRESSES section of this preamble.

III. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Therefore, this action is not subject to review by OMB. This action authorizes and codifies State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this action authorizes and codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes and codifies State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA.

This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant, and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take

effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2). This action will be effective **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*].**

List of Subjects

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 272

Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

Authority: This rule is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 31, 2023

KC Becker.

Regional Administrator, Region 8.

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), the EPA is amending 40 CFR part 272 as follows:

PART 272 – APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C.

6912(a), 6926, and 6974(b).

2. Revise § 272.2551 to read as follows:

§ 272.2551 Wyoming State-Administered Program: Final Authorization.

(a) *History of the State of Wyoming authorization.* Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Wyoming has final authorization for the following elements as submitted to the EPA in Wyoming’s base program application for final authorization which was approved by the EPA effective on October 18, 1995. Subsequent program revision applications were approved effective on August 6, 2001, August 23, 2016, and **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

(b) *Enforcement authority.* The State of Wyoming has primary responsibility for enforcing its hazardous waste management program. However, the EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations--(1) Incorporation by reference.* The Wyoming regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 et seq. The Director of the Federal Register approves this incorporation by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For the availability of this information at the National Archives and Records Administration (NARA) and at the EPA, see § 272.2. You may access copies of the Wyoming regulations that are incorporated by reference in this paragraph from the Wyoming Secretary of State’s Office, Herschler Building East, 122 West 25th Street, Suite 100, Cheyenne, WY 82002-0020, (Phone: (307) 777-5847; website: <https://rules.wyo.gov/>).

(i) “EPA-Approved Wyoming Regulatory Requirements Applicable to the Hazardous Waste Management Program,” dated December 2022.

(ii) [Reserved]

(2) *Legal basis.* The following provisions provide the legal basis for the State's implementation of the hazardous waste program, but they are not being incorporated by reference and do not replace Federal authorities:

(i) Wyoming Statutes Annotated (W.S.), as amended, 2021 Edition, Title 16, City, County, State, and Local Powers: Chapter 1, Intergovernmental Cooperation, section 16-1-101; Chapter 3, Administrative Procedure, sections 16-3-101(b)(vi), 16-3-103(h), 16-3-107(k); Chapter 4, Uniform Municipal Fiscal Procedures, Public Records, Documents and Meetings, sections 16-4-201 through 16-4-205.

(ii) W.S., as amended, 2021 Edition, Title 35, Public Health and Safety: Chapter 11, Environmental Quality, Article 1, General Provisions, sections 35-11-102, 35-11-103(a), 35-11-103(d)(i), 35-11-103(d)(ii), 35-103(d)(vii), 35-11-104 through 35-11-106, 35-11-108 through 35-11-115; Article 5, Solid Waste Management, sections 35-11-501 through 35-11-503 (except 35-11-503(b) and (c)), 35-11-504 through 35-11-506, 35-11-508, 35-11-509, 35-11-514, 35-11-516, 35-11-518 through 35-11-520; Article 9, Penalties, sections 35-11-901(a), (j), and (k); Article 11, Miscellaneous Provisions, sections 35-11-1101, 35-11-1105(d), 35-11-1106(a)(iv); Article 16, Voluntary Remediation of Contaminated Sites, section 35-11-1607(e).

(iii) Wyoming Rules of Civil Procedure, as amended, Rule 24.

(iv) Wyoming Hazardous Waste Rules and Regulations, Chapter 1, General Provisions: sections 1(a) through (c); 2(a) (except (a)(1)), (d) and (e); 124 (except 124(g)(v)); 260(b)(ii); and 270(m) through 270(o).

(v) Wyoming Department of Environmental Quality, Rules of Practice and Procedure, as amended February 14, 1994, Chapter III.

(3) *Related legal provisions.* The following statutory and regulatory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference and are not federally enforceable:

(i) W.S., as amended, 2021 Edition, Title 35, Public Health and Safety: Chapter 11, Environmental Quality, Article 5, Solid Waste Management, section 35-11-517; Chapter 12, Industrial Development and Siting, sections 35-12-101, et seq.

(ii) Wyoming Solid and Hazardous Waste Management Rules, Chapter 1, General Provisions: sections 264(d)(i) [with respect to the Wyoming Voluntary Remediation Program only]; 264(d)(ii); and 270(1).

(iii) [Reserved]

(4) *Unauthorized State Amendments.* Wyoming has adopted but is not authorized for the following Federal final rules:

(i) Imports and Exports of Hazardous Waste: Implementation of OECD Council Division (61 FR 16290, April 12, 1996) (HSWA - Not delegable to States); and

(ii) OECD Requirements; Export Shipments of Spent Lead Acid Batteries (75 FR 1236, January 8, 2010) (Non-HSWA – Not delegable to States).

(iii) Those Federal rules written under RCRA provisions that predate HSWA (non-HSWA) which the State has adopted, but for which it is not authorized, are not Federally enforceable. In contrast, the EPA will continue to enforce the Federal HSWA standards for which Wyoming is not authorized until the State receives specific authorization from the EPA.

(5) *Memorandum of Agreement.* The Memorandum of Agreement between the EPA Region 8 and the State of Wyoming, signed by the State of Wyoming Department of Environmental Quality on March 7, 2016, and by the EPA Regional Administrator on July 28, 2016, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq.

(6) *Statement of Legal Authority.* “Independent Legal Counsel Statement”, accompanied by an Attorney General concurrence letter signed by the Attorney General of Wyoming on July 14, 1995, and revisions, supplements and addenda to that Statement accompanied by Attorney General concurrence letters dated December 9, 1997, May 11, 2015, and May 25, 2022, although

not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq.

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 et seq.

3. Appendix A to part 272, State Requirements, is amended by revising the listing for “Wyoming” to read as follows:

Appendix A to Part 272 – State Requirements

* * * * *

Wyoming

The regulatory provisions include:

Wyoming Hazardous Waste Rules and Regulations, as amended effective April 7, 2022, Chapter 1, General Provisions, sections 2(b), 2(c); 3; 4; 124(g)(v); 260 (except 260(b)(ii)); 261; 262; 263; 264(a) through 264(c), 264(d)(i) (except the citation “W.S. 35-11-1607” and the phrase “or a signed remedy agreement pursuant to W.S. 35-11-1607” in the first sentence), 264(d)(iii), 264(e) through 264(j); 265; 266; 267; 268; 270(a) through 270(k); 273; and 279.

Copies of the Wyoming regulations that are incorporated by reference are available from the Wyoming Secretary of State’s Office, Herschler Building East, 122 West 25th Street, Suite 100, Cheyenne, WY 82002-0020, (Phone: (307) 777-5847; website: <https://rules.wyo.gov/>).

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