

DRAFT PROPOSED RULES

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY

SOLID AND HAZARDOUS WASTE DIVISION

HAZARDOUS WASTE MANAGEMENT

CHAPTER 1
GENERAL PROVISIONS

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DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE DIVISION

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Bold = State added language ^ = Federal Language deleted

DEPARTMENT OF ENVIRONMENTAL QUALITY
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CHAPTER 1
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Section 1. IN GENERAL.

(a) **AUTHORITY.** The authority for the rules and regulations contained in this Chapter is the Wyoming Environmental Quality Act, W.S. 35-11-101 et seq. This Chapter is a joint rule of the Solid Waste Management Program, the Water Quality Division and the Air Quality Division.

(b) **APPLICABILITY.** The rules and regulations 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 regulations are effective immediately upon filing with the Secretary of State.

(c) **OBJECTIVE.** The objective of these rules and regulations 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 regulations, 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 regulations 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 regulations without the invalid part, and to this end the provisions of these regulations are declared to be severable.

(e) ~~CITATION OF FEDERAL REGULATIONS AND STATUTES INCORPORATED BY REFERENCE.~~ Within these rules and regulations, all citations of federal law refer to United States statutes as they exist on January 1, 2002 and do not include any later amendments or editions of the incorporated matter September 30, 1994. All citations of federal regulations refer to rules listed in the Code of Federal Regulations (CFR) as they exist on July 1, 2002 (with the exception of changes made to CFR Section 266.100 and 270.42 as part of 67 Federal Register 6968 published on February 14, 2002) and do not include any later amendments or editions of the incorporated matter. Department of Defense forms discussed in Chapter 12, Section 19(d)(iii) are excluded as they are effective on November 8, 1995. December 9, 1997 except for the February 12, 1997 and May 12, 1997, Military Munitions and Land Disposal Restriction (LDR) Phase IV final rules.

(i) Copies of the United States statutes can be purchased at cost from the publisher: the U.S. Government Printing Office, 732 N. Capitol St. NW, Washington, DC 20401 or copies are available for public inspection and copies can be obtained at cost from the Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division, 122 West 25th St., Cheyenne, WY 82001; and

(ii) Volumes of the CFR are available for public inspection

and copies can be obtained at cost from the Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division, 122 West 25th St., Cheyenne, WY 82001. Printed copies of the July 1, 2002, versions of the CFR are not available from the U.S. Government Printing Office, but can be viewed at the Government Printing Office web page at <http://www.gpoaccess.gov/cfr/index.html>.

(f) DEFINITIONS.

(i) When used in these rules and regulations and applicable portions of Sections 1(a) through 1(e) of this Chapter, the following terms shall have the meanings set out below. Terms not otherwise defined in Section 1(f)(i) of this Chapter will have the meaning given by RCRA.

264.18(b)(2)(i) "100-year floodplain" means any land area which is subject to a one percent or greater chance of flooding in any given year from any source.

264.18(b)(2)(iii) "100-year flood" means a flood that has a one percent chance of being equaled or exceeded in any given year.

260.10/279.1 "Above-ground tank" means a device meeting the definition of "tank" in Section 1(f)(i) of this Chapter and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected. With respect to Chapter 12, Sections 9 through 17 of these rules and regulations, "aboveground tank" means a tank used to store or process used oil that is not an underground storage tank as defined in 40 CFR § 280.12.

264.141/265.141 "Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

"Act" means the Wyoming Environmental Quality Act, W.S. 35-11-101 et seq.

261.1(c)(8) "Accumulated speculatively" means a material that is accumulated before being recycled. A material is not accumulated speculatively, however, if the person accumulating it can show that the material is potentially recyclable and has a feasible means of being recycled; and that-during the calendar year (commencing on January 1)-the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., Slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under Chapter 2, Section 1(d)(iii) of these rules and regulations are not to be included in making the calculation. (Materials that are already defined as waste materials also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however.

260.10 "Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Director receives certification of final closure.

- 260.10 "Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after November 19, 1980 and which is not a closed portion. (See also "closed portion" and "inactive portion.")
- 266.201 "Active range" means a military range that is currently in service and is being regularly used for range activities.
- "Administrator" means the administrator of the respective divisions responsible for administrating air, land or water quality regulations within the Wyoming Department of Environmental Quality.**
- 266.210 "Agreement state" means a state that has entered into an agreement with the NRC under subsection 274b of the Atomic Energy Act of 1954, as amended (68 Stat. 919), to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.
- "Air contaminant" means 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.**
- "Air pollution" means 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.**
- 264.1031 "Air stripping operation" is a desorption operation employed to transfer one or more volatile components from a liquid mixture into a gas (air) either with or without the application of heat to the liquid. Packed towers, spray towers, and bubble-cap, sieve, or valve-type plate towers are among the process configurations used for contacting the air and a liquid.
- 260.10 "Ancillary equipment" means any device including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal on-site, or to a point of shipment for disposal off-site.
- 270.2 "Application" means the department's standard forms for applying for a permit, including any additions, revisions or modifications to the forms and including the information required under Chapter 3, Sections 2(e) through 2(t) of these rules and regulations (contents of Part B of the State HWMF permit).
- 270.2/260.10 "Aquifer" means a geological formation, group of formations, or part of a formation that is capable of yielding a significant amount of ground water to well(s) or spring(s).
- 264.141(f)/265.141(f) "Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.
- "Assumed target intakes" means the standard EPA exposure assumptions and factors as defined in the "OSWER Directive 9285.6-03," and the EPA "exposure factors handbook," as specified in Chapter 10, Section 2(i)(v)(G)(V) of these rules and regulations.**

- 260.10 "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.
- 265.1081 "Average volatile organic concentration" or "average VO concentration" means the mass-weighted average volatile organic concentration of a hazardous waste as determined in accordance with the requirements of Chapter 11, Section 30(e) of these rules and regulations.
- 273.9 "Battery" means a device consisting of one or more electrically connected electrochemical cells which is designed to receive, store, and deliver electric energy. An electrochemical cell is a system consisting of an anode, cathode, and an electrolyte, plus such connections (electrical and mechanical) as may be needed to allow the cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.
- "Board" means one or more of the advisory boards in each division of air, land or water quality.**
- 264.141(g)/265.141(g) "Bodily injury" shall have the meaning given this term by applicable State law. However, this term does not include those liabilities which, consistent with standard industry practices, are excluded from coverage in liability policies for bodily injury.
- 260.10 "Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:
- (A) **Either:**
- (I) The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and
- (II) The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and
- (III) While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and
- (IV) The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

(B) The unit is one which the Director has determined, on a case-by-case basis, to be a boiler, after considering the standards in Section 3(f) of this Chapter.

264.1031 "Bottoms receiver" means a container or tank used to receive and collect the heavier bottoms fractions of the distillation feed stream that remain in the liquid phase.

261.1(c)(3) "By-product" means a material that is not one of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a co-product that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

260.10 "Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

260.10 "Certification" means a statement of professional opinion based upon knowledge and belief.

266.210 "Certified delivery" means certified mail with return receipt requested, or equivalent courier service, or other means, that provides the sender with a receipt confirming delivery.

266.201 "Chemical agents and munitions" are defined as in 50 U.S.C. Section 1521(j)(1).

"Chronic" means that point in time from seven years to a lifetime.

"Class I facilities" are:

(A) Any non-commercial or non-profit treatment or storage facility, not engaged specifically in incineration, used solely to manage hazardous wastes which are generated by the owner of the facility at the site of the facility, or any existing, but closed treatment, storage, or disposal facility.

"Class II facilities" are:

(A) Any non-commercial or non-profit treatment facility engaged specifically in incineration or any non-commercial or non-profit facility engaged in the disposal of hazardous waste which is used solely to manage hazardous wastes which are generated by the owner of the facility at the site of the facility;

"Class III facilities" are:

(A) Any commercial treatment, storage, or disposal facility;

(B) Any other facility used to manage hazardous wastes which is not classified as either a Class I or Class II facilities.

260.10 "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion.")

264.1031 "Closed-vent system" means a system that is not open to the

atmosphere and that is composed of piping, connections, and, if necessary, flow-inducing devices that transport gas or vapor from a piece or pieces of equipment to a control device.

- 270.2 "Closure" means the act of securing a Hazardous Waste Management (HWM) facility pursuant to the requirements in Chapter 5 and Chapter 10 of these rules and regulations.
- 265.1081 "Closure device" means a cap, hatch, lid, plug, seal, valve, or other type of fitting that blocks an opening in a cover such that when the device is secured in the closed position it prevents or reduces air pollutant emissions to the atmosphere. Closure devices include devices that are detachable from the cover (e.g., a sampling port cap), manually operated (e.g., a hinged access lid or hatch), or automatically operated (e.g., a spring-loaded pressure relief valve).
- 264.141(a)/265.141(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of Chapter 10, Section 7(c) for permitted facilities or Chapter 11, Section 9(c) of these rules and regulations for interim status facilities.
- ~~262.81(a) "Competent authorities" means the regulatory authorities of concerned countries having jurisdiction over transfrontier movements of wastes destined for recovery operations.~~
- 270.2/260.10 "Component" means any constituent part of a unit or any group of constituent parts of a unit which are assembled to perform a specific function (e.g., a tank, tank system, pump seal, pump, kiln liner, kiln thermocouple). For a tank, "component" means either the tank or ancillary equipment of a tank system.
- ~~262.81(b) "Concerned countries" means the exporting and importing OECD member countries and any OECD member countries of transit.~~
- 264.1031 "Condenser" means a heat-transfer device that reduces a thermodynamic fluid from its vapor phase to its liquid phase.
- ~~261.5(a)/264.1031~~ "Conditionally exempt small quantity generator" means a generator who generates less than 100 kg of hazardous waste in a calendar month and who complies with all applicable requirements of Chapter 2, Section 1(e) of these rules and regulations.
- 260.10 "Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined ground water.
- 264.1031 "Connector" means flanged, screwed, welded, or other joined fittings used to connect two pipelines or a pipeline and a piece of equipment. For the purposes of reporting and recordkeeping, connector means flanged fittings that are not covered by insulation or other materials that prevent location of the fittings.
- 262.51 /~~262.81~~(e) "Consignee" means the person to whom possession or other form of legal control of the waste is assigned at the time the waste is received in the importing country.
- 260.10/279.1 "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
- 260.10 "Containment building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of

Chapter 10, Section 28 or Chapter 11, Section 31 of these rules and regulations.

- 260.10 "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.
- 264.1031 "Continuous recorder" means a data-recording device recording an instantaneous data value at least once every 15 minutes.
- 265.1081 "Continuous seal" means a seal that forms a continuous closure that completely covers the space between the edge of the floating roof and the wall of a tank. A continuous seal may be a vapor-mounted seal, liquid-mounted seal, or metallic shoe seal. A continuous seal may be constructed of fastened segments so as to form a continuous seal.
- 264.1031 "Control device" means an enclosed combustion device, vapor recovery system, or flare. Any device the primary function of which is the recovery or capture of solvents or other organics for use, reuse, or sale (e.g., a primary condenser on a solvent recovery unit) is not a control device.
- 264.1031 "Control device shutdown" means the cessation of operation of a control device for any purpose.
- ~~260.10/270.2 "Corrective action management unit "or "(CAMU)" means an area within a facility that is designated by the Director under Chapter 10, Section 18 of these rules and regulations, for the purpose of implementing corrective action requirements under Chapter 10, Section 6(1) of these rules and regulations, Chapter 11, Section 8(f) of these rules and regulations, W.S. 35-11-503(d), and RCRA Section 3008(h). A CAMU shall only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.~~
- 260.10 "Corrosion expert" means a person who, by reason of his or her knowledge of the physical sciences and the principles of engineering and mathematics, acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.
- "Council" means the Environmental Quality Council established by the Act.**
- ~~262.81(d) "Country of transit" means any designated OECD country in Section 1(f)(i) of this Chapter other than the exporting or importing country across which a transfrontier movement of wastes is planned or takes place.~~
- 265.1081 "Cover" means a device that provides a continuous barrier over the hazardous waste managed in a unit to prevent or reduce air pollutant emissions to the atmosphere. A cover may have openings (such as access hatches, sampling ports, gauge wells) that are necessary for operation, inspection, maintenance, and repair of the unit on which the cover is used. A cover may be a separate piece of equipment which can be detached and removed from the unit or a cover may be formed by structural features

permanently integrated into the design of the unit.

- 264.141(f)/265.141(f) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.
- 264.141(b)/265.141(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with Chapter 5, Sections 1(c)(i), 1(c)(ii), and 1(c)(iii) of these rules and regulations.
- 264.141(f)/265.141(f) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.
- 264.141(f)/265.141(f) "Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 40 CFR §144.62(a), (b), and (c).
- 264.141(c)/265.141(c) "Current post-closure cost estimate" means the most recent of the estimates prepared in accordance with Chapter 5, Sections 1(c)(i), 1(c)(ii), and 1(c)(iii) of these rules and regulations.
- 270.2 "CWA" means the Clean Water Act (formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act amendments of 1972) Pub. L. 92-500, as amended by Pub. L. 92-217 and Pub. L. 95-576; 33 U.S.C. 1251 et seq.
- 268.2(g) "Debris" means waste material exceeding a 60 mm particle size that is intended for disposal and that is: a manufactured object; or plant or animal matter; or natural geologic material. However, the following materials are not debris: any material for which a specific treatment standard is provided in Chapter 13, Section 4 of these rules and regulations; namely lead acid batteries, cadmium batteries, and radioactive lead solids; process residuals such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; and intact containers of hazardous waste that are not ruptured and that retain at least 75% of their original volume. A mixture of debris that has not been treated to the standards provided by Chapter 13, Section 4(f) of these rules and regulations and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection.
- "Department" or "DEQ" means the Wyoming Department of Environmental Quality.**
- 260.10 "Designated facility" means a hazardous waste treatment, storage, or disposal facility which (I) has received a permit (or interim status) in accordance with the requirements of Sections 1(h) and 1(j) of this Chapter; Chapter 3; Chapter 4; Chapter 6,; Chapter 7; Chapter 11, Section 2 of these rules and regulations, ^ (II) is regulated under Chapter 2, Section 1(f)(iii)(B) or Chapter 12, Section 6 of these rules and regulations, and (III) that has been designated on the manifest by the generator pursuant to Chapter 8, Section 2(a) of these rules and regulations. If a waste is destined to a facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility must be a facility allowed by the receiving State to accept such waste.

- 273.69 "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except those management activities described in Chapter 14, Sections 2(d)(i), 2(d)(iii) and Sections 3(d)(i) and 3(d)(iii) of these rules and regulations. A facility at which a particular category of universal waste is only accumulated is not a destination facility for purposes of managing that category of universal waste.
- 260.10 "Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.
- "Director" means the director of the Wyoming Department of Environmental Quality or his or her designee. (In some circumstances however, the EPA retains authority to take certain actions even though Wyoming has an approved program. In these cases, reference is made to the EPA Administrator instead of the Director.)**
- 260.10 "Discharge or hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.
- 264.18(a)(2)(ii) "Displacement" means the relative movement of any two sides of a fault measured in any direction.
- 260.10 "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste material or hazardous waste into or on any land or water so that such waste material or hazardous waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water.
- 260.10/270.2 "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which hazardous waste will remain after closure. The term disposal facility does not include a corrective action management unit into which remediation wastes are placed.
- 264.1031 "Distillate receiver" means a container or tank used to receive and collect liquid material (condensed) from the overhead condenser of a distillation unit and from which the condensed liquid is pumped to larger storage tanks or other process units.
- 264.1031 "Distillation operation" means an operation, either batch or continuous, separating one or more feed stream(s) into two or more exit streams, each exit stream having component concentrations different from those in the feed stream(s). The separation is achieved by the redistribution of the components between the liquid and vapor phase as they approach equilibrium within the distillation unit.
- 279.1 "Do-it-yourselfer used oil collection center" means any site or facility that accepts/aggregates and stores used oil collected only from household do-it-yourselfers.
- "Double block and bleed system" means two block valves connected in series with a bleed valve or line that can vent the line between the two block valves.
- 270.2 "Draft permit" means a document prepared under Chapter 3, Section 1(c) of these rules and regulations, indicating the Director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a "permit." A notice of intent to terminate a

permit and a notice of intent to deny a permit, as discussed in Chapter 6, Section 1(a) of these rules and regulations, are types of "draft permits." A denial of a request for modification, revocation and reissuance or termination as discussed in Chapter 6, Section 1(a) is not a "draft permit." A proposed permit is not a draft permit.

260.10 "Drip pad" means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

~~"Electric lamp" or "lamp" is defined as the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet (UV), visible, and infra red (IR) regions of the electromagnetic spectrum. Examples of common electric lamps include, but are not limited to, incandescent, fluorescent, high intensity discharge, and neon lamps.~~

260.10/270.2 "Elementary neutralization unit" means a device which:

(A) Is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in Chapter 2, Section 3(c) of these rules and regulations, or they are listed in Chapter 2, Section 4 of these rules and regulations only for this reason; and

(B) Meets the definition of tank, tank system, container, transport vehicle or vessel in Section 1(f)(i) of this Chapter.

266.210 "Eligible naturally occurring and/or accelerator-produced radioactive material (NARM)" is NARM that is eligible for the Transportation and Disposal Conditional Exemption. It is a NARM waste that contains hazardous waste, meets the waste acceptance criteria of, and is allowed by State NARM regulations to be disposed of at a low-level radioactive waste disposal facility (LLRWDF) licensed in accordance with 10 CFR part 61 or NRC Agreement State equivalent regulations.

270.2 "Emergency permit" means a State Hazardous Waste Management Facility (HWMF) Permit issued under Chapter 7, Section 1(b) of these rules and regulations.

"Emission" means a release into the outdoor atmosphere of air contaminants.

265.1081 "Enclosure" means a structure that surrounds a tank or container, captures organic vapors emitted from the tank or container, and vents the captured vapors through a closed-vent system to a control device.

~~269.2(k)- "End of pipe" refers to the point where effluent is discharged to the environment.~~

270.1(c)(7) "Enforceable document" means an order, a plan, or other document issued by EPA or the State of Wyoming including, but not limited to, a corrective action order ^, a CERCLA remedial action, or a closure or post-closure plan.

270.2 "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

- 262.51 "EPA acknowledgement of consent" means the cable sent to EPA from the U.S. Embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.
- 260.10 "EPA Administrator" means the Administrator of the Environmental Protection Agency, or his or her designee.
- 260.10 "EPA hazardous waste number" means the number assigned by EPA to each hazardous waste listed in Chapter 2, Section 4 of these rules and regulations, and to each characteristic identified in Chapter 2, Section 3 of these rules and regulations.
- 260.10 "EPA identification number" means the number assigned by EPA to each generator, transporter, and treatment, storage, or disposal facility.
- 260.10 "EPA region" means standard Federal Region VIII comprising the states of Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. Address is EPA Region VIII, 999 18th Street, Denver, CO 80202-2405.
- 264.1031 "Equipment" means each valve, pump, compressor, pressure relief device, sampling connection system, open-ended valve or line, or flange or other connector, and any control devices or systems required by Chapter 10, Section 26(b) of these rules and regulations.
- 260.10 "Equivalent method" means any testing or analytical method approved by the Director under Sections 3(a) and 3(b) of this Chapter.
- 261.1(c)(9) "Excluded scrap metal" is processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.
- 266.210 "Exempted waste" means a waste that meets the eligibility criteria in 12, Section 20(c) and meets all of the conditions in Chapter 12, Section 20(d) of these rules and regulations or meets the eligibility criteria in Chapter 12, Section 20(l) and complies with all the conditions in Chapter 12, Section 20(m) of these rules and regulations. Such waste is conditionally exempted from the regulatory definition of hazardous waste described in Chapter 2, Section 1(c) of these rules and regulations.
- 260.10/270.2 "Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19, 1980. A facility has commenced construction if the owner or operator has obtained the **permits and approvals required under federal, state or local statutes, regulations or ordinances** necessary to begin physical construction; and either:
- (A) A continuous on-site, physical construction program has begun; or
- (B) The owner or operator has entered into contractual obligations - which cannot be cancelled or modified without substantial loss - for physical construction of the facility to be completed within a reasonable time.
- 260.10 "Existing portion" means that land surface area of an existing waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.
- 279.1 "Existing tank" means a tank that is used for the storage or

processing of used oil and that is in operation, or for which installation has commenced on or prior to the effective date of the authorized used oil program for the state in which the tank is located. Installation will be considered to have commenced if the owner or operator has obtained all **permits and approvals required under federal, state or local statutes, regulations or ordinances** necessary to begin installation of the tank and if either (I) a continuous on-site installation program has begun, or (II) the owner or operator has entered into contractual obligations - which cannot be cancelled or modified without substantial loss - for installation of the tank to be completed within a reasonable time.

260.10 "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all **permits and approvals required under federal, state or local hazardous waste control statutes, regulations or ordinances** necessary to begin physical construction of the site or installation of the tank system and if either:

(A) A continuous on-site physical construction or installation program has begun, or

(B) The owner or operator has entered into contractual obligations - which cannot be canceled or modified without substantial loss - for physical construction of the site or installation of the tank system to be completed within a reasonable time.

260.10 "Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance (UXO), damaged or deteriorated explosives or munitions, an improvised explosive device (IED), other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Such situations may require immediate and expeditious action by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the threat.

260.10 "Explosives or munitions emergency response" means all immediate response activities by an explosives and munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions and/or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance will not terminate the explosives or munitions emergency. Explosives and munitions emergency responses can occur on either public or private lands and are not limited to responses at hazardous waste management facilities.

260.10 "Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include Department of Defense (DOD) emergency explosive ordnance disposal (EOD), technical escort unit (TEU), and DOD-certified civilian or contractor personnel; and other Federal, State, or local government, or civilian personnel similarly trained in explosives or munitions emergency

responses.

~~262.81(e) "Exporting country" means any designated OECD member country in Section 1(f)(i) of this Chapter from which a transfrontier movement of wastes is planned or has commenced.~~

"Exposure" means contact with a chemical or physical agent.

265.1081 "External floating roof" means a pontoon-type or double-deck type cover that rests on the surface of the material managed in a tank with no fixed roof.

273.69 "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136-136y).

260.10/270.2 "Facility" means:

(A) All contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing or disposing of hazardous waste. A facility may consist of several treatment, storage or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

(B) For the purpose of implementing corrective action under Chapter 10, Section 6(1) of these rules and regulations, all contiguous property under the control of the owner or operator seeking a permit under W.S. 35-11-503(d). This definition also applies to facilities implementing corrective action under Chapter 11, Section 8(f) of these rules and regulations, W.S. 35-11-503(d), and RCRA Section 3008(h).

270.2 "Facility mailing list" means the mailing list for a facility maintained by the Department in accordance with Chapter 3, Section 1(g)(iii)(A)(IX) of these rules and regulations.

264.18(a)(2)(i) "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side.

260.10 "Federal agency" means any department, agency, or other instrumentality of the Federal Government, any independent agency or establishment of the Federal Government including any Government corporation, and the Government Printing Office.

260.10 "Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under Chapters 5 and 10 and Chapter 11, Section 1 and Sections 4 through 4~~2~~ of these rules and regulations are no longer conducted at the facility unless subject to the provisions in Chapter 8, Section 3(e) of these rules and regulations.

264.1031 "First attempt at repair" means to take rapid action for the purpose of stopping or reducing leakage of organic material to the atmosphere using best practices.

265.1081 "Fixed roof" means a cover that is mounted on a unit in a stationary position and does not move with fluctuations in the level of the material managed in the unit.

264.1031 "Flame zone" means the portion of the combustion chamber in a

- boiler occupied by the flame envelope.
- 265.1081 "Floating membrane cover" means a cover consisting of a synthetic flexible membrane material that rests upon and is supported by the hazardous waste being managed in a surface impoundment.
- 265.1081 "Floating roof" means a cover consisting of a double deck, pontoon single deck, or internal floating cover which rests upon and is supported by the material being contained, and is equipped with a continuous seal.
- 264.1031 "Flow indicator" means a device that indicates whether gas flow is present in a vent stream.
- 260.10 "Food-chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.
- 264.1031 "Fractionation operation" means a distillation operation or method used to separate a mixture of several volatile components of different boiling points in successive stages, each stage removing from the mixture some proportion of one of the components.
- 260.10 "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.
- 260.10 "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.
- 270.2 "Functionally equivalent component" means a component which performs the same function or measurement and which meets or exceeds the performance specifications of another component.
- 260.10/270.2 "Generator" means any person, by site, whose act or process produces hazardous waste identified in Chapter 2 of these rules and regulations or whose act first causes a hazardous waste to become subject to regulation.
- 260.10/270.2 "Ground water" means water below the land surface in a zone of saturation.
- 268.2(a) "Halogenated organic compounds" or "HOCS" means those compounds having a carbon-halogen bond which are listed under Chapter 13, Appendix C of these rules and regulations.
- 265.1081 "Hard-piping" means pipe or tubing that is manufactured and properly installed in accordance with relevant standards and good engineering practices.
- 268.2(b) "Hazardous constituent or constituents" means those constituents listed in Chapter 2, Appendix H of these rules and regulations.
- 268.2(h) "Hazardous debris" means debris that contains a hazardous waste listed in Chapter 2, Section 4 of these rules and regulations, or that exhibits a characteristic of hazardous waste identified in Chapter 2, Section 3 of these rules and regulations. Any deliberate mixing of prohibited hazardous waste with debris that changes its treatment classification (i.e., from waste to hazardous debris) is not allowed under the dilution prohibition in Chapter 13, Section 1(c) of these rules and

regulations.

- 260.10/266.210/270.2 "Hazardous waste" means a hazardous waste as defined in Chapter 2, Section 1(c) of these rules and regulations.
- 260.10 "Hazardous waste constituent" means a constituent that caused the Director to list the hazardous waste in Chapter 2, Section 4 of these rules and regulations or a constituent listed in Table 1 of Chapter 2, Section 3(e) of these rules and regulations.
- 270.2 "Hazardous waste management (HWM) facility" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste. A facility may consist of several treatment, storage, or disposal operational units (for example, one or more landfills, surface impoundments or combinations of them).
- 260.10 "Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.
- 264.1031 "Hazardous waste management unit shutdown" means a work practice or operational procedure that stops operation of a hazardous waste management unit or part of a hazardous waste management unit. An unscheduled work practice or operational procedure that stops operation of a hazardous waste management unit or part of a hazardous waste management unit for less than 24 hours is not a hazardous waste management unit shutdown. The use of spare equipment and technically feasible bypassing of equipment without stopping operation are not hazardous waste management unit shutdowns.
- 264.18(a)(2)(iii) "Holocene" means the most recent epoch of the Quaternary Period, extending from the end of the Pleistocene to the present.
- 261.1(c)(11) "Home scrap metal" is scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.
- 264.1031 "Hot well" means a container for collecting condensate as in a steam condenser serving a vacuum-jet or steam-jet ejector.
- 279.1 "Household 'do-it-yourselfer' used oil" means oil that is derived from households, such as used oil generated by individuals who generate used oil through the maintenance of their personal vehicles.
- 279.1 "Household 'do-it-yourselfer' used oil generator" means an individual who generates household "do-it-yourselfer" used oil.
- 261.4(b)(1) "Household waste" means any material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas).
- 262.81(f) ~~"Importing country" means any designated OECD country in~~

~~Section 1(f)(i) of this Chapter to which a transfrontier movement of wastes is planned or takes place for the purpose of submitting the wastes to recovery operations therein.~~

264.1031 "In gas/vapor service" means that the piece of equipment contains or contacts a hazardous waste stream that is in the gaseous state at operating conditions.

264.1031 "In heavy liquid service" means that the piece of equipment is not in gas/vapor service or in light liquid service.

264.1031 "In light liquid service" means that the piece of equipment contains or contacts a waste stream where the vapor pressure of one or more of the organic components in the stream is greater than 0.3 kilopascals (kPa) at 20 EC, the total concentration of the pure organic components having a vapor pressure greater than 0.3 kPa at 20 EC is equal to or greater than 20 percent by weight, and the fluid is a liquid at operating conditions.

265.1081 "In light material service" means the container is used to manage a material for which both of the following conditions apply: The vapor pressure of one or more of the organic constituents in the material is greater than 0.3 kilopascals (kPa) at 20 °C; and the total concentration of the pure organic constituents having a vapor pressure greater than 0.3 kPa at 20 °C is equal to or greater than 20 percent by weight.

260.10/270.2 "In operation" means a facility which is treating, storing or disposing of hazardous waste.

264.1031 "In situ sampling systems" means nonextractive samplers or in-line samplers.

264.1031 "In vacuum service" means that equipment is operating at an internal pressure that is at least 5 kPa below ambient pressure.

260.10 "Inactive portion" means that portion of a facility which is not operated after November 19, 1980. (See also "active portion" and "closed portion.")

266.201 "Inactive range" means a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

260.10 "Incinerator" means any enclosed device that:

(A) Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

(B) Meets the definition of infrared incinerator or plasma arc incinerator.

260.10 "Incompatible waste" means a hazardous waste which is unsuitable for:

(A) Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

(B) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases. (See also Chapter 11, Appendix E of these rules and regulations for examples).

264.141(f)/265.141(f) "Independently audited" refer to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

260.10 "Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

260.10 "Industrial furnaces" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy:

- (A) Cement kilns
- (B) Lime kilns
- (C) Aggregate kilns
- (D) Phosphate kilns
- (E) Coke ovens
- (F) Blast furnaces
- (G) Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machine, roasters, and foundry furnaces)
- (H) Titanium dioxide chloride process oxidation reactors
- (I) Methane reforming furnaces
- (J) Pulping liquor recovery furnace
- (K) Combustion devices used in the recovery of sulfur values from spent sulfuric acid
- (L) Halogen acid furnaces (HAFs) for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process, and, except for hazardous waste burned as fuel, hazardous waste fed to the furnace has a minimum halogen content of 20% as-generated.

(M) Such other devices as the Director may, after notice and comment, add to this list on the basis of one or more of the following factors:

- (I) The design and use of the device primarily to accomplish recovery of material products;

(II) The use of the device to burn or reduce raw materials to make a material product;

(III) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;

(IV) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

(V) The use of the device in common industrial practice to produce a material product; and

(VI) Other factors, as appropriate.

260.10 "Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

260.10 "Inground tank" means a device meeting the definition of "tank" in Section 1(f)(i) of this Chapter whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

260.10/270.2 "Injection well" means a well into which fluids are injected. (See also "Underground injection").

260.10 "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

268.2(j) "Inorganic metal-bearing waste" is one for which EPA has established treatment standards for metal hazardous constituents, and which does not otherwise contain significant organic or cyanide content as described in Chapter 13, Section 1(c)(iii)(A) of these rules and regulations, and is specifically listed in Chapter 13, Appendix K of these rules and regulations.

260.10 "Installation inspector" means a person who, by reason of his or her knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems.

265.1081 "Internal floating roof" means a cover that rests or floats on the material surface (but not necessarily in complete contact with it) inside a tank that has a fixed roof.

260.10 "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

260.10/273.9 "Lamp", also referred to as "universal waste lamp", means the bulb or tube portion of an electric lighting device. A lamp is specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infra-red regions of the electromagnetic spectrum. Examples of common universal waste electric lamps include, but are not limited to, fluorescent, high intensity discharge, neon, mercury vapor, high pressure sodium, and metal halide lamps.

- 268.2(c) "Land disposal" means placement in or on the land, except in a corrective action management unit or staging pile, and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, or placement in a concrete vault, or bunker intended for disposal purposes.
- 266.210 "Land disposal restriction (LDR) treatment standards" means treatment standards, under Chapter 13 of these rules and regulations that a hazardous waste must meet before it can be disposed of in a hazardous waste land disposal unit.
- 260.10 "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.
- 260.10 "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.
- 260.10 "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.
- 273.69 "Large quantity handler of universal waste" means a universal waste handler (as defined below) who accumulates 5,000 kilograms or more total of universal waste (batteries, pesticides, ~~or thermostats, or lamps,~~ calculated collectively), ~~or 35,000 or more mercury containing lamps~~ at any time. This designation as a large quantity handler of universal waste is retained through the end of the calendar year in which 5,000 kilograms or more total of universal waste, ~~or 35,000 mercury containing lamps,~~ is accumulated.
- 260.10 "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.
- 260.10 "Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.
- 264.141(g)/265.141(g) "Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.
- 264.141(f)/265.141(f) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.
- 266.210 "License" means a license issued by the Nuclear Regulatory

Commission, or NRC Agreement State, to users that manage radionuclides regulated by NRC, or NRC Agreement States, under authority of the Atomic Energy Act of 1954, as amended.

- 260.10 "Liner" means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.
- 265.1081 "Liquid-mounted seal" means a foam or liquid-filled primary seal mounted in contact with the hazardous waste between the tank wall and the floating roof continuously around the circumference of the tank.
- 266.210 "Low-level mixed waste (LLMW)" is a waste that contains both low-level radioactive waste and hazardous waste.
- 266.210 "Low-level radioactive waste (LLW)" is a radioactive waste which contains source, special nuclear, or byproduct material, and which is not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct material as defined in Section 11e.(2) of the Atomic Energy Act. (See also NRC definition of "waste" at 10 CFR 61.2)
- 270.2 "Major facility" means any hazardous waste management "facility or activity" classified as such by the Regional Administrator in conjunction with the Director.
- 264.1031/265.1081 "Malfunction" **for purposes of Chapter 10, Section 26 of these rules and regulations shall** means any sudden failure of a control device or a hazardous waste management unit or failure of a hazardous waste management unit to operate in a normal or usual manner, so that organic emissions are increased. "Malfunction" **for purposes of Chapter 11, Section 30 of these rules and regulations shall** mean any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.
- 260.10 "Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.
- 260.10/270.2 "Manifest" means the shipping document EPA form 8700-22 and, if necessary, EPA form 8700-22A, originated and signed by the generator in accordance with the instructions included in Chapter 8, Appendix A of these rules and regulations.
- 260.10 "Manifest document number" means the U.S. EPA twelve digit identification number assigned to the generator plus a unique five digit document number assigned to the manifest by the generator for recording and reporting purposes.
- 265.1081 "Maximum organic vapor pressure" means the sum of the individual organic constituent partial pressures exerted by the material contained in a tank, at the maximum vapor pressure-causing conditions (i.e., temperature, agitation, pH effects of combining wastes, etc.) reasonably expected to occur in the tank. For the purpose of this subpart Chapter 11, Section 30 of these rules and regulations, maximum organic vapor pressure is determined using the procedures specified in Chapter 11, Section 30(e)(iii) of these rules and regulations ~~is 265.1084(c) of this~~

subpart].

~~"Mercury containing lamp" or "lamp" means an electric lamp in which mercury is purposely introduced by the manufacturer for the operation of the lamp."~~

265.1081 "Metallic shoe seal" means a continuous seal that is constructed of metal sheets which are held vertically against the wall of the tank by springs, weighted levers, or other mechanisms and is connected to the floating roof by braces or other means. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

266.201 "Military" means the Department of Defense (DOD), the Armed Services, Coast Guard, National Guard, Department of Energy (DOE), or other parties under contract or acting as an agent for the foregoing, who handle military munitions.

260.10/266.201 "Military munitions" means all ammunition products and components produced or used by or for the U.S. Department of Defense or the U.S. Armed Services for national defense and security, including military munitions under the control of the Department of Defense, the U.S. Coast Guard, the U.S. Department of Energy (DOE), and National Guard personnel. The term military munitions includes: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunition, small arms ammunition, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolition charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term does include non-nuclear components of nuclear devices, managed under DOE's nuclear weapons program after all required sanitization operations under the Atomic Energy Act of 1954, as amended, have been completed.

266.201 "Military range" means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

260.10 "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

260.10 "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under 40 CFR 146, containment building, corrective action management unit, or unit eligible for a research, development, and demonstration permit under Chapter 7, Section 1(f) of these rules and regulations, or staging pile.

266.210 "Mixed Waste" means a waste that contains both hazardous waste and source, special nuclear, or byproduct material subject to the Atomic

Energy Act of 1954, as amended.

260.10 "Movement" means that hazardous waste transported to a facility in an individual vehicle.

"Municipality" means a city, town, county, district, association or other public body.

270.2 "National Pollutant Discharge Elimination System (NPDES)" means the national program and approved state program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318 and 405 of the Clean Water Act.

266.210 "Naturally occurring and/or accelerator-produced radioactive material (NARM)" means radioactive materials that:

(A) Are naturally occurring and are not source, special nuclear, or byproduct materials (as defined by the AEA) or

(B) Are produced by an accelerator. NARM is regulated by the States under State law, or by DOE (as authorized by the AEA) under DOE orders.

264.141(f)/265.141(f) "Net working capital" means current assets minus current liabilities.

264.141(f)/265.141(f) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

270.2/260.10 "New hazardous waste management (HWM) facility" or "new facility" means a facility which began operation, or for which construction commenced after November 19, 1980. (See also "Existing hazardous waste management facility").

279.1 "New tank" means a tank that will be used to store or process used oil and for which installation has commenced after the effective date of the authorized used oil program for the state in which the tank is located.

260.10 "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986; except, however, for purposes of Chapter 10, Section 9(d)(vii)(B) and Chapter 11, Section 11(d)(vii)(B) of these rules and regulations, a new tank system is one for which construction commences after July 14, 1986. (See also "existing tank system").

265.1081 "No detectable organic emissions" means no escape of organics to the atmosphere as determined using the procedure specified in Chapter 11, Section 30(e)(iv) of these rules and regulations ~~is 265.1081(d) of this subpart~~.

264.141(g)/265.141(g) "Nonsudden accidental occurrence" means an occurrence which takes place over time and involves continuous or repeated exposure.

268.2(d) "Nonwastewaters" are wastes that do not meet the criteria for wastewaters in Section 1(f)(i) of this Chapter.

~~262.81(g) "Notifier" means the person under the jurisdiction of the exporting country who has, or will have at the time the planned~~

~~transfrontier movement commences, possession or other forms of legal control of the wastes and who proposes their transfrontier movement for the ultimate purpose of submitting them to recovery operations. When the United States (U.S.) is the exporting country, notifier is interpreted to mean a person domiciled in the U.S.~~

266.210 "NRC" means the U. S. Nuclear Regulatory Commission.

262.81(h) ~~"OECD area" means all land or marine areas under the national jurisdiction of any designated OECD member country in Section 1(f)(i) of this Chapter and Chapter 8, Section 5(i) of these rules and regulations. When the regulations refer to shipments to or from an OECD country, this means OECD area.~~

270.2 "Off-site" means any site which is not on-site.

260.10 "On ground tank" means a device meeting the definition of "tank" in Chapter 1, Section 1(f)(i) of these rules and regulations and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

270.2/260.10 "On-site" means on the same or geographically contiguous property which may be divided by public or private right(s)-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing, as opposed to going along, the right(s)-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which the person controls and to which the public does not have access, is also considered on-site property.

"One excess cancer per million people" means a probability of one chance in one million of an individual developing cancer.

260.10 "Open burning" means the combustion of any material without the following characteristics:

(A) Control of combustion air to maintain adequate temperature for efficient combustion,

(B) Containment of the combustion-reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion, and

(C) Control of emission of the gaseous combustion products. (See also "incineration" and "thermal treatment").

264.1031 "Open-ended valve or line" means any valve, except pressure relief valves, having one side of the valve seat in contact with ~~process fluid hazardous waste~~ and one side open to the atmosphere, either directly or through open piping.

260.10 "Operator" means the person responsible for the overall operation of a facility.

262.58(a)(1)/(a)(2) ~~"Organization for Economic Cooperation and Development" (OECD) countries consist of Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States. For the purposes of this definition, Canada and Mexico are considered OECD member countries only for the purpose of transit.~~

- 260.10 "Owner" means the person who owns a facility or part of a facility.
- 270.2 "Owner or operator" means the owner or operator of any "facility or activity" subject to regulation under W.S. 35-11-503(d).
- 264.141(d)/265.141(d) "Parent corporation" means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.
- 260.10 "Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of Chapter 5; Chapter 10; and Chapter 11, Section 1 and Sections 4 through 312 of these rules and regulations at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.
- 270.2 "Permit" means an authorization, license, or equivalent control document issued by the Department to implement the requirements of Sections 1(h) and 1(j) of this Chapter; Chapter 3; Chapter 4; Chapter 6; Chapter 7; and Chapter 11, Section 2 of these rules and regulations. "Permit" includes permits by rule (Chapter 7, Section 1(a) of these rules and regulations), and emergency permit (Chapter 7, Section 1(b) of these rules and regulations) but does not include any permit which has not yet been the subject of final department action, such as a "draft permit", or "interim status" under Chapter 11 of these rules and regulations, or a "proposed permit".
- 270.2 "Permit-by-rule" means a provision of these regulations stating that a "facility or activity" is deemed to have a State hazardous waste facility permit if it meets the requirements of the provision.
- 260.10/270.2 "Person" means an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, Federal Agency or corporation, state, municipality or any other political subdivision of a state or any interstate body or any other legal entity.
- 260.10 "Personnel" or "facility personnel" means all persons who work at, or oversee the operations of, a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements in Chapter 5 and either Chapter 10 or Chapter 11, Section 1 and Sections 4 through 312 of these rules and regulations.
- 273.69 "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that:
- (A) Is a new animal drug under FFDCa Section 201(w),
- or
- (B) Is an animal drug that has been determined by regulation of the Secretary of Health and Human Services not to be a new animal drug, or

- (C) Is an animal feed under FFDCFA Section 201(x) that bears or contains any substances described by paragraph (A) or (B) of this definition.
- 279.1 "Petroleum refining facility" means an establishment primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking or other processes (i.e. facilities classified as SIC 2911).
- 270.2 "Physical construction" means excavation, movement of earth, erection of forms or structures, or similar activity to prepare an HWM facility to accept hazardous waste.
- 260.10 "Pile" means any non-containerized accumulation of solid, non-flowing hazardous waste that is used for treatment or storage and that is not a containment building.
- 260.10 "Plasma arc incinerator" means any enclosed device using a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.
- 265.1081 "Point of waste origination" means as follows:
- (A) When the facility owner or operator is the generator of the hazardous waste, the point of waste origination means the point where a ~~solid~~ waste material produced by a system, process, or waste management unit is determined to be a hazardous waste as defined in Chapter 2 of these rules and regulations [~~40 CFR part 261~~].
- [Note: In this case, this term is being used in a manner similar to the use of the term "point of generation" in air standards established for waste management operations under authority of the Clean Air Act in 40 CFR parts 60, 61, and 63.]
- (B) When the facility owner and operator are not the generator of the hazardous waste, point of waste origination means the point where the owner or operator accepts delivery or takes possession of the hazardous waste.
- 265.1081 "Point of waste treatment" means the point where a hazardous waste to be treated in accordance with Chapter 11, Section 30(d)(iii)(B) of these rules and regulations [~~§ 265.1083(c)(2) of this subpart~~] exits the treatment process. Any waste determination shall be made before the waste is conveyed, handled, or otherwise managed in a manner that allows the waste to volatilize to the atmosphere.
- 260.10 "Point source" means any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.
- 268.2(e) "Polychlorinated biphenyls" or "pcbs" are halogenated organic compounds defined in accordance with 40 CFR 761.3.
- 264.141(e)/265.141(e) "Post-closure plan" means the plan for post-closure care prepared in accordance with the requirements of Chapter 10, Sections 7(h) through 7(k) for permitted facilities or Chapter 11, Sections 9(h) through

9(k) of these rules and regulations for interim status facilities.

"Potentially exposed populations" means 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.

264.1031 "Pressure release" means the emission of materials resulting from the system pressure being greater than the set pressure of the pressure relief device.

262.51 "Primary exporter" means any person who is required to originate the manifest for a shipment of hazardous waste in accordance with Chapter 8, Section 2 of these rules and regulations, which specifies a treatment, storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.

264.1031 "Process heater" means a device that transfers heat liberated by burning fuel to fluids contained in tubes, including all fluids except water that are heated to produce steam.

261.1(c)(10) "Processed scrap metal" is scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type (i.e., sorted), and, fines, drosses and related materials which have been agglomerated.

(A) Shredded circuit boards being sent for recycling are not considered processed scrap metal. They are covered under the exclusion from the definition of waste material for shredded circuit boards being recycled (Chapter 2, Section 1(d)(i)(M) of these rules and regulations).

279.1 "Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived product. Processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining.

264.1031 "Process vent" means any open-ended pipe or stack that is vented to the atmosphere either directly, through a vacuum-producing system, or through a tank (e.g., distillate receiver, condenser, bottoms receiver, surge control tank, separator tank, or hot well) associated with hazardous waste distillation, fractionation, thin-film evaporation, solvent extraction, or air or steam stripping operations.

261.1(c)(12) "Prompt scrap metal" is scrap metal as generated by the metal working/fabrication industries and includes such scrap metal as turnings, cuttings, punchings, and borings. Prompt scrap is also known as industrial or new scrap metal.

264.141(g)/265.141(g) "Property damage" shall have the meaning given this term by applicable state law. However, this term does not include those liabilities which, consistent with standard industry practices, are excluded from coverage in liability policies for property damage.

260.10 "Publicly owned treatment works (POTW)" means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a "State" or "municipality" (as defined by Section 502(4) of the CWA). This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

260.10 "Qualified ground water scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in ground water hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university courses that enable that individual to make sound professional judgements regarding ground water monitoring and contaminant fate and transport.

260.10/270.2 "RCRA" means the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580, as amended by Pub. L. 95-609 and Pub. L. 96-482, 42 U.S.C. 6901 et seq).

262.51 "Receiving country" means a foreign country to which a hazardous waste is sent for the purpose of treatment, storage or disposal (except short-term storage incidental to transportation).

261.1(c)(4) "Reclaimed" refers to a material if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.

~~262.81(i) "Recognized trader" means a person who, with appropriate authorization of concerned countries, acts in the role of principal to purchase and subsequently sell wastes; this person has legal control of such wastes from time of purchase to time of sale; such a person may act to arrange and facilitate transfrontier movements of wastes destined for recovery operations.~~

~~262.81(j) "Recovery facility" means an entity which, under applicable domestic law, is operating or is authorized to operate in the importing country to receive wastes and to perform recovery operations on them.~~

~~262.81(k) "Recovery operations" means activities leading to resource recovery, recycling, reclamation, direct re use or alternative uses as listed in Table 2.B of the Annex of OECD Council Decision C(88)90(Final) of 27 May 1988, (available from the Environmental Protection Agency, RCRA Information Center (RIC), 1235 Jefferson Davis Highway, first floor, Arlington, VA 22203 (Docket # F 94 IEHF FFFFF) and the Organisation for Economic Co operation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France) which include:~~

- ~~R1 Use as a fuel (other than in direct incineration) or other means to generate energy~~
- ~~R2 Solvent reclamation/regeneration~~
- ~~R3 Recycling/reclamation of organic substances which are not used as solvents~~
- ~~R4 Recycling/reclamation of metals and metal compounds~~
- ~~R5 Recycling/reclamation of other inorganic materials~~
- ~~R6 Regeneration of acids or bases~~
- ~~R7 Recovery of components used for pollution control~~
- ~~R8 Recovery of components from catalysts~~
- ~~R9 Used oil re refining or other reuses of previously used oil~~
- ~~R10 Land treatment resulting in benefit to agriculture or ecological~~

- improvement
- ~~R11 Uses of residual materials obtained from any of the operations numbered R1-R10~~
- ~~R12 Exchange of wastes for submission to any of the operations numbered R1-R11~~
- ~~R13 Accumulation of material intended for any operation in Table 2.B~~
- 261.1(c)(7) "Recycled" refers to a material if it is used, reused, or reclaimed.
- 260.10/270.2 "Regional Administrator" means the Regional Administrator of Region VIII of the Environmental Protection Agency (EPA) or the authorized representative of the Regional Administrator.
- 260.10 "Remediation waste" means all waste materials and hazardous wastes, and all media (including groundwater, surface water, soils and sediments) and debris, ~~which contain listed hazardous wastes or which themselves exhibit a hazardous waste characteristic, that are managed for implementing cleanup the purpose of implementing corrective action requirements under Chapter 10, Section 6(1) of these rules and regulations, Chapter 11, Section 8(f), W.S. 35-11-503(d), and RCRA Section 3008(h). For a given facility, remediation wastes may originate only from within the facility boundary, but may include waste managed in implementing Chapter 10, Section 6(1)(iii) of these rules and regulations, or Chapter 11, Section 8(f), W.S. 35-11-503(d) and RCRA Section 3008(h) for releases beyond the facility boundary.~~
- 264.1031 "Repaired" means that equipment is adjusted, or otherwise altered, to eliminate a leak.
- 260.10 "Replacement unit" means a landfill surface impoundment, or waste pile unit (I) from which all or substantially all of the waste is removed, and (II) that is subsequently reused to treat, store or dispose of hazardous waste. "Replacement unit" does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with an approved closure plan or EPA or State of Wyoming approved corrective action.
- 260.10 "Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, ground water) which can be expected to exhibit the average properties of the universe or whole.
- 279.1 "Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.
- "Risk" means the probability of adverse human health or environmental effects from exposure to toxic substances or materials released into the environment.**
- 260.10 "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.
- 260.10 "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.
- 265.1081 "Safety device" means a closure device such as a pressure relief valve, frangible disc, fusible plug, or any other type of device which functions exclusively to prevent physical damage or permanent deformation to a unit or its air emission control equipment by venting

gases or vapors directly to the atmosphere during unsafe conditions resulting from an unplanned, accidental, or emergency event. For the purpose of ~~this subpart~~ Chapter 11, Section 30 of these rules and regulations, a safety device is not used for routine venting of gases or vapors from the vapor headspace underneath a cover such as during filling of the unit or to adjust the pressure in this vapor headspace in response to normal daily diurnal ambient temperature fluctuations. A safety device is designed to remain in a closed position during normal operations and open only when the internal pressure, or another relevant parameter, exceeds the device threshold setting applicable to the air emission control equipment as determined by the owner or operator based on manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials.

264.1031 "Sampling connection system" means an assembly of equipment within a process or waste management unit used during periods of representative operation to take samples of the process or waste fluid. Equipment used to take non-routine grab samples is not considered a sampling connection system.

260.10 "Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

270.2 "Schedule of compliance" means a schedule of remedial measures included in a "permit," including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the Act and corresponding regulations.

261.1(c)(6) "Scrap metal" means bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad box cars), which when worn or superfluous can be recycled.

270.2 "SDWA" means the Safe Drinking Water Act (Pub. L. 95-523, as amended by Pub. L. 95-1900; 42 U.S.C. 3001 et seq.).

264.1031 "Sensor" means a device that measures a physical quantity or the change in a physical quantity, such as temperature, pressure, flow rate, pH, or liquid level.

264.1031 "Separator tank" means a device used for separation of two immiscible liquids.

"Sewer system" means 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.

265.1081 "Single-seal system" means a floating roof having one continuous seal. This seal may be vapor-mounted, liquid-mounted, or a metallic shoe seal.

270.2 "Site" means the land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity.

260.10 "Sludge" means any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility

exclusive of the treated effluent from a wastewater treatment plant.

- 260.10 "Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 btu/lb of sludge treated on a wet-weight basis.
- 260.10 "Small quantity generator" means a generator who generates less than 1000 kg of hazardous waste in a calendar month.
- 273.69 "Small quantity handler of universal waste" means a universal waste handler (as defined below) who does not accumulate ~~more than~~ 5,000 kilograms or more total of universal waste (batteries, pesticides, ~~or~~ thermostats, or lamps, calculated collectively), ~~or more than 35,000 universal waste mercury containing lamps~~, at any time.
- 268.2(k) "Soil" means unconsolidated earth material composing the superficial geologic strata (material overlying bedrock), consisting of clay, silt, sand, or gravel size particles as classified by the U.S. Natural Resources Conservation Service, or a mixture of such materials with liquids, sludges or solids which is inseparable by simple mechanical removal processes and is made up primarily of soil by volume based on visual inspection. Any deliberate mixing of prohibited hazardous waste with soil that changes its treatment classification (i.e., from waste to contaminated soil) is not allowed under the dilution prohibition in Chapter 13, Section 1(c) of these rules and regulations.
- 261.2 "Solid Waste" ^ (see "waste material").
- 264.1031 "Solvent extraction operation" means an operation or method of separation in which a solid or solution is contacted with a liquid solvent (the two being mutually insoluble) to preferentially dissolve and transfer one or more components into the solvent.
- 260.10 "Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. Sorb means to either adsorb or absorb, or both.
- 261.1(c)(1) "Spent material" means any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.
- 264.554(a) "Staging pile" means an accumulation of solid, non-flowing remediation waste (as defined in this Section) that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the Director according to the requirements of Chapter 10, Section 18(c) of these rules and regulations.
- 264.1031 "Startup" means the setting in operation of a hazardous waste management unit or control device for any purpose.
- 260.10 "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.
- 270.2 "State/EPA Agreement" means an agreement between the Regional Administrator and the State which coordinates EPA and State activities, responsibilities and programs.

"State hazardous waste management facility (HWMF) permit"

means an authorization, license, or equivalent control document issued by the Department to implement the requirements of W.S. 35-11-503(d).

- 264.1031 "Steam stripping operation" means a distillation operation in which vaporization of the volatile constituents of a liquid mixture takes place by the introduction of steam directly into the charge.
- 260.10/270.2 "Storage" means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
- ~~268.2(1)- "Stormwater impoundments" are surface impoundments which receive wet weather flow, and only receive process waste during wet weather events.~~
- "Subchronic" means that point in time between two weeks to seven years.**
- 264.141(h)/265.141(h) "Substantial business relationship" means the extent of a business relationship necessary under applicable state law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the owner or operator is demonstrated to the satisfaction of the Director.
- 264.141(g)/265.141(g) "Sudden accidental occurrence" means an occurrence which is not continuous or repeated in nature.
- 260.10 "Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serves to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities; except that as used in the landfill, surface impoundment, and waste pile rules, "sump" means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for subsequent removal from the system.
- 260.10 "Surface impoundment" or "impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.
- 264.1031 "Surge control tank" means a large-sized pipe or storage reservoir sufficient to contain the surging liquid discharge of the process tank to which it is connected.
- 264.141(f)/265.141(f) "Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.
- 260.10/279.1 "Tank" means a stationary device, designed to contain an accumulation of hazardous waste, or used oil, which is constructed primarily of non-earthen materials (e.g. wood, concrete, steel, plastic) which provides structural support.
- 260.10 "Tank system" means a hazardous waste storage or treatment

tank and its associated ancillary equipment and containment system.

- 260.10 "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also "incinerator" and "open burning").
- 273.9 "Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element, and mercury-containing ampules that have been removed from these temperature control devices in compliance with the requirements of Chapter 14, Section 2(d)(iii)(B) or Chapter 14, Section 3(d)(iii)(B) of these rules and regulations.
- 264.1031 "Thin-film evaporation operation" means a distillation operation that employs a heating surface consisting of a large diameter tube that may be either straight or tapered, horizontal or vertical. Liquid is spread on the tube wall by a rotating assembly of blades that maintain a close clearance from the wall or actually ride on the film of liquid on the wall.
- 260.10 "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.
- 260.10/270.2 "Transfer facility" means any transportation-related facility including loading docks, parking areas, storage areas and other similar areas where shipments of hazardous waste are held during the normal course of transportation.
- ~~262.01(1) "Transfrontier movement" means any shipment of wastes destined for recovery operations from an area under the national jurisdiction of one OECD member country to an area under the national jurisdiction of another OECD member country.~~
- 262.51 "Transit country" means any foreign country, other than a receiving country, through which a hazardous waste is transported.
- 260.10 "Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.
- 260.10 "Transportation" means the movement of hazardous waste by air, rail, highway, or water.
- 260.10/270.2 "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.
- 260.10 "Treatability study" means a study in which a hazardous waste is subjected to a treatment process to determine: (I) whether the waste is amenable to the treatment process, (II) what pretreatment (if any) is required, (III) the optimal process conditions needed to achieve the desired treatment, (IV) the efficiency of a treatment process for a specific waste or wastes, or (V) the characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purpose of the Chapter 2, Sections 1(d)(v) and 1(d)(vi)

of these rules and regulations exemptions are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A "treatability study" is not a means to commercially treat or dispose of hazardous waste.

- 260.10/270.2 "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.
- 260.10 "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.
- 270.2 "UIC" means the Underground Injection Control Program under Part C of the Safe Drinking Water Act.
- 260.10 "Underground injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "injection well").
- 270.2 "Underground source of drinking water (USDW)" means an aquifer or its portion:
- (A) Which supplies any public water system; or which contains a sufficient quantity of ground water to supply a public water system and currently supplies drinking water for human consumption or contains fewer than 10,000 mg/l total dissolved solids; and
 - (B) Which is not an exempted aquifer.
- 260.10 "Underground tank" means a device meeting the definition of "tank" listed in Section 1(f)(i) of this Chapter and whose entire surface area is totally below the surface of and covered by the ground.
- 268.2(i) "Underlying hazardous constituent" means any constituent listed in Chapter 13, Section 4(h)4(i) of these rules and regulations, Table UTS--Universal Treatment Standards, except fluoride, selenium, sulfides, vanadium and zinc, which can reasonably be expected to be present at the point of generation of the hazardous waste, at a concentration above the constituent-specific UTS treatment standards.
- 266.201 "Unexploded ordnance (UXO)" means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner as to constitute a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.
- 260.10 "Unfit for use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.
- 260.10 "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

273.69 "Universal waste" means any of the following hazardous wastes that are managed under the universal waste requirements of Chapter 14 of these rules and regulations:

(A) Batteries as described in Chapter 14, Section 1(b) of these rules and regulations.

(B) Pesticides as described in Chapter 14, Section 1(c) of these rules and regulations. ~~;~~ ~~and~~

(C) Thermostats as described in Chapter 14, Section 1(d) of these rules and regulations. ~~;~~ ~~and~~

(D) ~~Mercury-Containing Lamps~~ as described in Chapter 14, Section 1(e) in these rules and regulations.

273.69 "Universal waste handler":

(A) Means:

(I) A generator (as defined in Section 1(f)(i) of this Chapter) of universal waste; or

(II) The owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, to a destination facility, or to a foreign destination.

(B) Does not mean:

(I) A person who treats (except under the provisions of Chapter 14, Section 2(d)(i) or (iii) or Chapter 14, Section 3(d)(i) or (iii) of these rules and regulations), disposes of, or recycles universal waste; or

(II) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

273.69 "Universal waste transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less.

273.69 "Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

260.10 "Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

260.10 "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

261.1(c)(5) "Used or reused material" means material that is either:

(A) Employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example,

distillation bottoms from one process used as a feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal containing secondary materials); or

(B) Employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

260.10/279.1 "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

279.1 "Used oil aggregation point" means any site or facility that accepts, aggregates, and/or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than 55 gallons. Used oil aggregation points may also accept used oil from household do-it-yourselfers.

279.1 "Used oil burner" means a facility where used oil not meeting the specification requirements in Chapter 12, Section 10(b) of these rules and regulations is burned for energy recovery in devices identified in Chapter 12, Section 15(b)(i) of these rules and regulations.

279.1 "Used oil collection center" means any site or facility that is registered/licensed/permitted/ recognized by a state/county/municipal government to manage used oil and accepts/aggregates and stores used oil collected from used oil generators regulated under Chapter 12, Section 11 of these rules and regulations who bring used oil to the collection center in shipments of no more than 55 gallons under the provisions of Chapter 12, Section 11(e) of these rules and regulations. Used oil collection centers may also accept used oil from household do-it-yourselfers.

279.1 "Used oil fuel marketer" means any person who conducts either of the following activities:

(A) Directs a shipment of off-specification used oil from their facility to a used oil burner; or

(B) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications set forth in Chapter 12, Section 10(b) of these rules and regulations.

279.1 "Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation.

279.1 "Used oil processor/re-refiner" means a facility that processes used oil.

279.1 "Used oil transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than 24 hours and not longer than 35 days during the normal course of transportation or prior to an activity performed pursuant to Chapter 12, Section 11(a)(ii)(B). Transfer facilities that store used oil for more than 35 days are subject to regulation under Chapter 12, Section 14 of these rules and regulations.

279.1 "Used oil transporter" means any person who transports used

oil, any person who collects used oil from more than one generator and transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation but, with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (e.g., settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products or used oil fuel.

- 264.1031 "Vapor incinerator" means any enclosed combustion device that is used for destroying organic compounds and does not extract energy in the form of steam or process heat.
- 265.1081 "Vapor-mounted seal" means a continuous seal that is mounted such that there is a vapor space between the hazardous waste in the unit and the bottom of the seal.
- 264.1031 "Vented" means discharged through an opening, typically an open-ended pipe or stack, allowing the passage of a stream of liquids, gases, or fumes into the atmosphere. The passage of liquids, gases, or fumes is caused by mechanical means such as compressors or vacuum-producing systems or by process-related means such as evaporation produced by heating and not caused by tank loading and unloading (working losses) or by natural means such as diurnal temperature changes.
- 260.10 "Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.
- 265.1081 "Volatile organic concentration" or "VO concentration" means the fraction by weight of the volatile organic compounds contained in a hazardous waste expressed in terms of parts per million (ppmw) as determined by direct measurement or by knowledge of the waste in accordance with the requirements of Chapter 11, Section 30(e) of these rules and regulations. For the purpose of determining the VO concentration of a hazardous waste, organic compounds with a Henry's law constant value of at least 0.1 mole-fraction-in-the-gas-phase/mole-fraction-in the liquid-phase (0.1 Y/X) (which can also be expressed as 1.8×10^{-6} atmospheres/gram-mole/m³) at 25 degrees Celsius must be included. ~~Appendix VI of this subpart~~ Chapter 11, Appendix F of these rules and regulations presents a list of compounds known to have a Henry's law constant value less than the cutoff level.
- 264.18(b)(2)(ii) "Washout" means the movement of hazardous waste from the active portion of the facility as a result of flooding.
- 265.1081 "Waste determination" means performing all applicable procedures in accordance with the requirements of Chapter 11, Section 30(e) of these rules and regulations to determine whether a hazardous waste meets standards specified in ~~this subpart~~ Chapter 11, Section 30 of these rules and regulations. Examples of a waste determination include performing the procedures in accordance with the requirements of Chapter 11, Section 30(e) of these rules and regulations to determine the average VO concentration of a hazardous waste at the point of waste origination; the average VO concentration of a hazardous waste at the point of waste treatment and comparing the results to the exit concentration limit specified for the process used to treat the hazardous waste; the organic reduction efficiency and the organic biodegradation efficiency for a biological process used to treat a hazardous waste and comparing the results to the applicable standards; or the maximum volatile organic vapor pressure for a hazardous waste in a tank and comparing the results to the

applicable standards.

- 261.2(a)(1) "Waste material" is any discarded material that is not excluded by Chapter 2, Section 1(d)(i) of these rules and regulations, or that is not excluded by variance granted **by the Director** under Chapter 1, Sections 3(d) and 3(e) of these rules and regulations.
- 261.2(a)(2) (A) A discarded material is any material which is:
- ...(i) (I) Abandoned, as explained in paragraph (B) of this definition; or
 - ...(ii) (II) Recycled, as explained in paragraph (C) of this definition; or
 - ...(iii) (III) Considered inherently waste-like, as explained in paragraph (D) of this definition; or
 - ...(iv) (IV) A military munition identified as a waste material in Chapter 12, Section 19(c) of these rules and regulations.
- 261.2(b) (B) Materials are waste materials if they are abandoned by being:
- 261.2(b)(1) (I) Disposed of; or
 - 261.2(b)(2) (II) Burned or incinerated; or
 - 261.2(b)(3) (III) Accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.
- 261.2(c) (C) Materials are waste materials if they are recycled - or accumulated, stored, or treated before recycling - as specified in paragraphs (C)(I) through (IV) of this definition.
- 261.2(c)(1) (I) Used in a manner constituting disposal.
- ...(i) (1.) Materials noted with a "*" in Column 1 of Table I are waste materials when they are:
 - ...(i)(A) a. Applied to or placed on the land in a manner that constitutes disposal; or
 - ...(i)(B) b. Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land (in which cases the product itself remains a waste material).
 - ...(ii) (2.) However, commercial chemical products listed in Chapter 2, Section 4(d) of these rules and regulations are not waste materials if they are applied to the land and that is their ordinary manner of use.
- 261.2(c)(2) (II) Burning for energy recovery.
- ...(i) (1.) Materials noted with a "*" in column 2 of Table 1 are waste materials when they are:
 - ...(i)(A) a. Burned to recover energy;

- ... (i)(B) b. Used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself remains a waste material).
- ... (ii) (2.) However, commercial chemical products listed in Chapter 2, Section 4(d) of these rules and regulations are not waste materials if they are themselves fuels.
- 261.2(c)(3) (III) Reclaimed. Materials noted with a "*" in column 3 of Table 1 are waste materials when reclaimed (except as provided under Chapter 2, Section 1(d)(i)(R)). Materials noted with a "-" in column 3 of Table 1 are not waste materials when reclaimed.
- 261.2(c)(4) (IV) Accumulated speculatively. Materials noted with a "*" in column 4 of Table 1 are waste materials when accumulated speculatively.
- 261.2(d) (D) Inherently waste-like materials. The following materials are waste materials when they are recycled in any manner:
- 261.2(d)(1) (I) Hazardous Waste Nos. F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028.
- 261.2(d)(2) (II) Secondary materials fed to a halogen acid furnace that exhibit a characteristic of a hazardous waste or are listed as a hazardous waste as defined in Chapter 2, Section 3 or Section 4 of these rules and regulations, except for brominated material that meets the following criteria:
- ... (i) (1.) The material must contain a bromine concentration of at least 45%; and
- ... (ii) (2.) The material must contain less than a total of 1% of toxic organic compounds listed in Chapter 2, Appendix H of these rules and regulations; and
- ... (iii) (3.) The material is processed continually on-site in the halogen acid furnace via direct conveyance (hard piping).
- 261.2(d)(3) (III) The Director will use the following criteria to add wastes to that list:
- ... (i)(A) (1.) The materials:
- ... (i)(A) a. Are ordinarily disposed of, burned, or incinerated; or
- ... (i)(B) b. Contain toxic constituents listed in Chapter 2, Appendix H of these rules and regulations and these constituents are not ordinarily found in raw materials or products for which the materials substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and
- ... (ii) (2.) The material may pose a substantial hazard to human health and the environment when recycled.

TABLE 1				
	USE CONSTITUTING DISPOSAL §1(f)(i) of this Chapter definition of "waste material" ¶(C)(I)	ENERGY RECOVERY FUEL §1(f)(i) of this Chapter definition of "waste material" ¶(C)(II)	RECLAMATION §1(f)(i) of this Chapter definition of "waste material" ¶(C)(III) (except as provided in Chapter 2, Section 1(d)(i)(R) for "mineral processing spent materials").	SPECULATIVE ACCUMULATION §1(f)(i) of this Chapter definition of "waste material" ¶(C)(IV)
	(1)	(2)	(3)	(4)
-Spent Materials	(*)	(*)	(*)	(*)
-Sludges (listed in Chapter 2, Section 4(b) or 4(c))	(*)	(*)	(*)	(*)
-Sludges exhibiting a characteristic of hazardous waste	(*)	(*)	(--)	(*)
-By-products (listed in Chapter 2, Section 4(b) or 4(c))	(*)	(*)	(*)	(*)
-By-products exhibiting a characteristic of hazardous waste	(*)	(*)	(--)	(*)
-Commercial chemical products listed in Chapter 2, Section 4(d)	(*)	(*)	(--)	(--)
Scrap Metal <u>other than</u> <u>excluded scrap</u> <u>metal (see</u> <u>Section 1(f)(i) of</u> <u>this Chapter)</u>	(*)	(*)	(*)	(*)

Note: The terms "spent materials", "sludges", "by-products," ~~and~~ "scrap metal" and "processed scrap metal" are defined in Chapter 1, Section 1(f)(i) of these rules and regulations.

- 261.2(e) (E) Materials that are not waste materials when recycled.
- 261.2(e)(1) (I) Materials are not waste materials when they can be shown to be recycled by being:
- ... (i) (1.) Used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed; or
 - ... (ii) (2.) Used or reused as effective substitutes for commercial products; or
 - ... (iii) (3.) Returned to the original process from which they are generated, without first being reclaimed or land disposed. The material must be returned as a substitute for feedstock materials. In cases where the original process to which the material is returned is a secondary process, the materials must be managed such that there is no placement on the land. In cases where the materials are generated and reclaimed within the primary mineral processing industry, the conditions of the exclusion found at Chapter 2, Section 1(d)(i)(R) apply rather than paragraph(E)(I) of this definition.
- 261.2(e)(2) (II) The following materials are waste materials, even if the recycling involves use, reuse, or return to the original process (described in paragraphs (E)(I)(1.) through (3.) of this definition:
- ... (i) (1.) Materials used in a manner constituting disposal, or used to produce products that are applied to the land; or
 - ... (ii) (2.) Materials burned for energy recovery, used to produce a fuel, or contained in fuels; or
 - ... (iii) (3.) Materials accumulated speculatively; or
 - ... (iv) (4.) Materials listed in paragraphs (D)(I) and (D)(II) of this definition.
- 261.2(f) (F) Documentation of claims that materials are not waste materials or are conditionally exempt from regulation. Respondents in actions to enforce these rules and regulations who raise a claim that a certain material is not a waste material, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.
- 265.1081 "Waste stabilization process" means any physical or chemical process used to either reduce the mobility of hazardous constituents in a hazardous waste or eliminate free liquids as determined by Test Method 9095 (Paint Filter Liquids Test) in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication No. SW-846, Third

Edition, September 1986, as amended by Update I, November 15, 1992 (incorporated by reference-refer to Section 1(g) of this Chapter). A waste stabilization process includes mixing the hazardous waste with binders or other materials, and curing the resulting hazardous waste and binder mixture. Other synonymous terms used to refer to this process are "waste fixation" or "waste solidification." This does not include the adding of absorbent materials to the surface of a waste, without mixing, agitation, or subsequent curing, to absorb free liquid.

268.2(f) "Wastewaters" are wastes that contain less than 1% by weight total organic carbon (TOC) and less than 1% by weight total suspended solids (TSS).

260.10/270.2 "Wastewater treatment unit" means a device which:

(A) Is part of a wastewater treatment facility that is subject to regulation under either Section 402 or 307(b) of the Clean Water Act; and

(B) Receives and treats or stores an influent wastewater that is a hazardous waste as defined in Chapter 2, Section 1(c) of these rules and regulations, or that generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in Chapter 2, Section 1(c) of these rules and regulations, or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in Chapter 2, Section 1(c); and

(C) Meets the definition of "tank" or "tank system" listed in Section 1(f)(i) of this Chapter.

260.10 "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

"Waters of the state" means all surface and groundwater within Wyoming.

266.210 "We or us" means the Director as defined in this Chapter.

260.10 "Well" means any shaft or pit dug or bored into the earth, generally of a cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

260.10 "Well injection" (See "underground injection").

266.210 "You" means for purposes of Chapter 12, Section 20 of these rules and regulations a generator, treater, or other handler of low-level mixed waste or eligible NARM, otherwise "you" refers to any generator, treater, or handler of hazardous waste under these rules and regulations.

260.10 "Zone of engineering control" means an area under the control of the owner/operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to ground water or surface water.

260.3 (ii) When used in these rules and regulations and, when consistent with the intent of the Act and necessary to effect its purpose, words in the singular include the plural, words in the plural include the singular, and words in the masculine include the feminine and neuter.

260.11 (g) REFERENCES.

260.11(a)

(i) When used in Chapter 1, Sections 1(a) through 1(j), and Section 3; Chapter 2; Chapter 3, Section 2; Chapter 4; Chapter 5; Chapter 6, Section 2; Chapters 7 through 11; Chapter 12, Sections 1 through 8, 19 and 20; and Chapter 13, of these rules and regulations, the following publications are incorporated by reference:

(A) "ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," ASTM Standard D-3278-78, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(B) "ASTM Standard Test Methods for Flash Point by Pensky-Martens Closed Tester," ASTM Standard D-93-79 or D-93-80. D-93-80 is available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(C) "ASTM Standard Method for Analysis of Reformed Gas by Gas Chromatography," ASTM Standard D 1946-82, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(D) "ASTM Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method)," ASTM Standard D 2382-83, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(E) "ASTM Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," ASTM Standard E 169-87, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(F) "ASTM Standard Practices for General Techniques of Infrared Quantitative Analysis," ASTM Standard E 168-88, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(G) "ASTM Standard Practice for Packed Column Gas Chromatography," ASTM Standard E 260-85, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(H) "ASTM Standard Test Method for Aromatics In Light Naphthas and Aviation Gasolines by Gas Chromatography," ASTM Standard D 2267-88, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(I) "ASTM Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteriscope," ASTM Standard D 2879-86, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(J) "APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA-450/2-81-005, December 1981, available from National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161.

(K) "Flammable and Combustible Liquids Code" (1977 or 1981), available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, MA 02210.

(L) "Test Methods for Evaluating Solid Waste,

Physical/Chemical Methods", EPA Publication SW-846 [Third Edition (November, 1986), as amended by Updates I (July, 1992) II (September, 1994), IIA (August, 1993), and IIB (January, 1995), and III (December 1996) and IIIA (dated April 1998)]. The Third Edition of SW-846 and Updates I, II, IIA, IIB, and III (Document number 955-001-00000-1) are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512-1800. Update IIIA is available through EPA's Methods Information Communication Exchange (MICE) Service. MICE can be contacted by phone at (703) 821-4690. Update IIIA can also be obtained by contacting the U.S. Environmental Protection Agency, Office of Solid Waste (5307W), OSW Methods Team, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Copies of the Third Edition and all of its updates are also available from the National Technical Information Service (NTIS), 5255 5285 Port Royal Road, Springfield, VA 22161, (703)487-4650 605-6000 or (800) 553-6847. Copies may be inspected at the library, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460 or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC, or the Wyoming Department of Environmental Quality, 122 West 25th Street, Cheyenne, WY 82002.

(M) "Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA Publication No. EPA-450/R-92-019, Environmental Protection Agency, Research Triangle Park, NC.

(N) "ASTM Standard Test Methods for Preparing Refuse-Derived Fuel (RDF) Samples for Analyses of Metals," ASTM Standard E926-88, Test Method C-Bomb, Acid Digestion Method, available from American Society for Testing Materials, 1916 Race Street, Philadelphia, PA 19103.

(O) API Publication 2517, Third Edition, February 1989, "Evaporative Loss from External Floating-Roof Tanks," available from the American Petroleum Institute, 1220 L Street, Northwest, Washington, D.C. 20005.

(P) ~~"ASTM Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isoteniscope," ASTM Standard D 2879-92, available from American Society for Testing and Materials (ASTM), 1916 Race Street, Philadelphia, Pennsylvania 19103; Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Non-polar Material) by Extraction and Gravimetry. Available at NTIS, PB99-121949, U.S. Department of Commerce, 5285 Port Royal, Springfield, Virginia 22161.~~

260.11(b)/270.6(b) (ii) **^ The references listed in Section 1(g)(i) of this Chapter are available for inspection at the Department of Environmental Quality, 122 West 25th Street, Cheyenne, Wyoming 82002.**

270.1 (h) PURPOSE AND SCOPE OF THESE RULES AND REGULATIONS.

270.1(a) (i) Coverage.

270.1(a)(1) (A) **These permit regulations establish provisions for the Hazardous Waste Rules and Permit Program under the Wyoming Environmental Quality Act.^**

270.1(a)(2) (B) The regulations in Chapter 1, Sections 1(h) through 1(j); Chapter 3, Section 2; Chapter 4; Chapter 6, Section 2; Chapter 7; and Chapter 11, Section 2 of these rules and regulations cover basic DEQ permitting requirements, such as application requirements,

standard permit conditions, and monitoring and reporting requirements. These rules and regulations are part of a regulatory scheme implementing the State of Wyoming hazardous waste program which has been authorized W.S. 35-11-503(d) set forth in different Chapters of these rules and regulations [^]. The following chart indicates where the regulations implementing RCRA appear within the Wyoming Hazardous Waste Rules and Regulations.

SECTION OF RCRA	COVERAGE	FINAL REGULATIONS
Subtitle C	Overview and Definitions	Chapter 1, Sections 1(a) through 1(g) and Section 3
3001	Identification and Listing of Hazardous Waste	Chapter 2
3002	Generators of Hazardous Waste	Chapter 8
3003	Transporters of Hazardous Waste	Chapter 9
3004	Standards for HWM Facilities	Chapters 5 and 10; Chapter 11, Section 1 and Sections 4 through 34 2 ; and Chapter 12, Sections 1 through 8, <u>19 and 20</u> ;
3005	Permit Requirements for HWM Facilities	Chapter 1, Sections 1(h)-1(j) and Section 2; Chapter 3; Chapter 4; Chapter 6; Chapter 7; and Chapter 11, Section 2
3006	Guidelines for State Programs	Not applicable
3010	Preliminary Notification of HWM Activity	Chapter 1, Section 1(h)

270.1(a)(3) (C) Technical regulations. The Wyoming hazardous waste management facility (HWMF) permit program has separate additional regulations that contain technical requirements. These separate regulations are used by the Department to determine what requirements must be placed in permits if they are issued. These separate regulations are located in Chapter 5; Chapter 10; and Chapter 12, Sections 1 through 8, 19 and 20 of these rules and regulations.

270.1(b) (ii) Overview of the Wyoming hazardous waste management facility permit program. Not later than 90 days after the promulgation or revision of regulations in 40 CFR part 261 (identifying and listing hazardous wastes) generators and transporters of hazardous waste, and owners and operators of hazardous waste treatment, storage, or disposal facilities shall file a notification of that activity as required by Section 1(h) of this Chapter, regardless of whether the new characteristic or listing has been incorporated in Chapter 2 of these rules and regulations. **The notification shall state the location and general description of the type of activity and the identified or listed wastes being handled.** Six months after the initial promulgation of the part 261 regulations, treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a Wyoming hazardous waste management facility permit is prohibited, regardless of whether the new characteristic or listing has been incorporated in Chapter 2 of these rules and regulations. A Wyoming hazardous waste management facility permit application consists of two parts, Part A (see Chapter 3, Section

2(d) of these rules and regulations) and Part B (see Chapter 3, Section 2(e) of these rules and regulations and applicable Sections in Chapter 3, Sections 2(f) through 2(t) of these rules and regulations). For "existing hazardous waste management facilities," the requirement to submit an application is satisfied by submitting only Part A of the permit application until the date the Director sets for submitting Part B of the application. (Part A consists of forms 1 and 3 of the consolidated permit application forms.) Timely submission of both notification under Section 1(h) of this Chapter and Part A qualifies owners and operators of existing hazardous waste management facilities (who are required to have a permit) for interim status under Chapter 11, Section 2(a) of these rules and regulations. Facility owners and operators with interim status are treated as having been issued a permit until the Department makes a final determination on the permit application. Facility owners and operators with interim status must comply with interim status standards set forth at Chapter 11, Section 1 and Sections 4 through 31 of these rules and regulations and Chapter 12, Sections 1 through 8, 19 and 20 ^ . Facility owners and operators with interim status are not relieved from complying with other state requirements. For existing hazardous waste management facilities, the Director shall set a date, giving at least six months notice, for submission of Part B of the application. There is no form for Part B of the application; rather, Part B must be submitted in narrative form and contain the information set forth in the applicable Sections of Chapter 3, Sections 2(e) through 2(q) of these rules and regulations. Owners or operators of new hazardous waste management facilities must submit Parts A and B of the permit application at least 180 days before physical construction is expected to commence.

270.1(c) (iii) Scope of the Wyoming hazardous waste management facility permit requirement. The Wyoming Environmental Quality Act requires a permit for the "treatment," "storage," and "disposal" of any "hazardous waste" as identified or listed in Chapter 2 of these rules and regulations. The terms "treatment," "storage," "disposal," and "hazardous waste" are defined in Section 1(f)(i) of this Chapter. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit. Owners or operators of surface impoundments, landfills, land treatment units, and waste pile units that received wastes after July 26, 1982, or that certified closure (according to Chapter 11, Section 9(f) of these rules and regulations) after January 26, 1983, must have post-closure permits, unless they demonstrate closure by removal or decontamination as provided under Sections 1(h)(iii)(E) and (F) of this Chapter or obtain an enforceable document in lieu of a post-closure permit, as provided under Section 1(h)(iii)(G) of this Chapter. If a post-closure permit is required, the permit must address applicable Chapter 5 and Chapter 10 groundwater monitoring, unsaturated zone monitoring, corrective action, and post-closure care requirements of these rules and regulations. The denial of a permit for the active life of a hazardous waste management facility or unit does not affect the requirement to obtain a post closure permit under Section 1(h) of this Chapter.

270.1(c)(1) (A) Specific inclusions. Owners and operators of certain facilities require State hazardous waste management facility (HWMF) permits as well as permits under other programs for certain aspects of the facility operation. State HWMF permits are required for:

...(i) (I) Injection wells that dispose of hazardous waste, and associated surface facilities that treat, store or dispose of hazardous waste, (see 40 CFR §270.64). However, the owner and operator with a UIC permit in the State of Wyoming, will be deemed to have a State hazardous waste management facility permit for the injection well itself

if they comply with the requirements of Chapter 7, Section 1(a)(ii) of these rules and regulations (permit-by-rule for injection wells).

...(ii) (II) Treatment, storage, or disposal of hazardous waste at facilities requiring a NPDES permit. However, the owner and operator of a publicly owned treatment works receiving hazardous waste will be deemed to have a state HWMF permit for that waste if they comply with the requirements of Chapter 7, Section 1(a)(iii) of these rules and regulations (permit-by-rule for POTWS).

...(iii) (III) **Reserved.** ^

270.1(c)(2) (B) Specific exclusions. The following persons are among those who are not required to obtain a state HWMF permit:

...(i) (I) Generators who accumulate hazardous waste on-site for less than the time periods provided in Chapter 8, Section 3(e) of these rules and regulations.

...(ii) (II) Farmers who dispose of hazardous waste pesticides from their own use as provided in Chapter 8, Section 7(a) of these rules and regulations;

...(iii) (III) Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulation under Chapter 1, Sections 1(h)-1(j); Chapter 3, Section 2; Chapter 4; Chapter 6, Section 2; Chapter 7; and Chapter 11, Section 2 by Chapter 2, Section 1(d) or 1(e) of these rules and regulations (small generator exemption).

...(iv) (IV) Owners or operators of totally enclosed treatment facilities as defined in Section 1(f)(i) of this Chapter.

...(v) (V) Owners and operators of elementary neutralization units or wastewater treatment units as defined in Section 1(f)(i) of this Chapter.

...(vi) (VI) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of Chapter 8, Section 3(a) of these rules and regulations at a transfer facility for a period of ten days or less.

...(vii) (VII) Persons adding absorbent material to waste in a container (as defined in Section 1(f)(i) of this Chapter) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and Chapter 10, Sections 2(h)(ii), 8(b), and 8(c) of these rules and regulations are complied with.

...(viii) (VIII) Universal waste handlers and universal waste transporters (as defined in Chapter 1, Section 1(f)(i) of these rules and regulations) managing the wastes listed below. These handlers are subject to regulation under Chapter 14 of these rules and regulations.

...~~(i)~~(A) (1.) Batteries as described in Chapter 14, Section 1(b) of these rules and regulations;

...~~(i)~~(B) (2.) Pesticides as described in Chapter 14, Section 1(c) of these rules and regulations; ~~and~~

...~~(i)~~(C) (3.) Thermostats as described in Chapter

14, Section 1(d) of these rules and regulations; and

- ...(D) (4.) ~~Mercury Containing~~ Lamps as described in Chapter 14, Section 1(e) of these rules and regulations.
- 270.1(c)(3) (C) Further exclusions.
- ...(i) (I) A person is not required to obtain a state HWMF permit for treatment or containment activities taken during immediate response to any of the following situations:
- ...(i)(A) (1.) A discharge of a hazardous waste;
- ...(i)(B) (2.) An imminent and substantial threat of a discharge of hazardous waste;
- ...(i)(C) (3.) A discharge of a material which, when discharged, becomes a hazardous waste.
- ...(i)(D) (4.) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in Section 1(f)(i) of this Chapter.
- ...(ii) (II) Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of Chapter 1, Sections 1(h) through 1(j); Chapter 3, Section 2; Chapter 4; Chapter 6, Section 2; Chapter 7; and Chapter 11, Section 2 of these rules and regulations for those activities.
- ...(iii) (III) In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit must retain records for three years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.
- 270.1(c)(4) (D) Permits for less than an entire facility. The Department may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.
- 270.1(c)(5) (E) Closure by removal. Owners/operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under Chapter 5 and Chapter 11, Section 1 and Sections 4 through 342 standards of these rules and regulations must obtain a post-closure permit unless they can demonstrate to the Director that the closure met the standards for closure by removal or decontamination in Chapter 10, Sections 10(i), 12(k)(v), or 11(i) of these rules and regulations, respectively. The demonstration may be made in the following ways:
- ...(i) (I) If the owner/operator has submitted a Part B application for a post-closure permit, the owner/operator may request a determination, based on information contained in the application, that Chapter 5 and Chapter 10 of these rules and regulations closure by removal standards were met. If the Director believes that Chapter 5 and Chapter 10 of these rules and regulations standards were met, he or she will

notify the public of this proposed decision, allow for public comment, and reach a final determination according to the procedures in Section 1(h)(iii)(F) of this Chapter.

...(ii) (II) If the owner/operator has not submitted a Part B application for a post-closure permit, the owner/operator may petition the Director for a determination that a post-closure permit is not required because the closure met the applicable Chapter 5 and Chapter 10 of these rules and regulations closure standards.

...(ii)(A) (1.) The petition must include data demonstrating that closure by removal or decontamination standards were met, or it must demonstrate that the unit closed under state requirements that met or exceeded the applicable Chapter 5 and Chapter 10 of these rules and regulations closure-by-removal standard.

...(ii)(B) (2.) The Director shall approve or deny the petition according to the procedures outlined in Section 1(h)(iii)(F) of this Chapter.

270.1(c)(6) (F) Procedures for closure equivalency determination.

...(i) (I) If a facility owner/operator seeks an equivalency demonstration under Section 1(h)(iii)(E) of this Chapter, the Director will provide the public, through a newspaper notice, the opportunity to submit written comments on the information submitted by the owner/operator within 30 days from the date of the notice. The Director will also, in response to a request or at his/her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the equivalence of the Chapter 5 and Chapter 11 closure to a Chapter 5 and Chapter 10 closure. The Director will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.)

...(ii) (II) The Director will determine whether the Chapter 5 and Chapter 11 closure met Chapter 5 and Chapter 10 closure by removal or decontamination requirements within 90 days of its receipt. If the Director finds that the closure did not meet the applicable Chapter 5 and Chapter 10 standards of these rules and regulations, he or she will provide the owner/operator with a written statement of the reasons why the closure failed to meet Chapter 5 and Chapter 10 standards. The owner/operator may submit additional information in support of an equivalency demonstration within 30 days after receiving such written statement. The Director will review any additional information submitted and make a final determination within 60 days.

...(iii) (III) If the Director determines that the facility did not close in accordance with Chapter 5 and Chapter 10 closure by removal standards, the facility is subject to post-closure permitting requirements.

270.1(c)(7) (G) Enforceable documents for post-closure care. At the discretion of the Director, an owner or operator may obtain, in lieu of a post-closure permit, an enforceable document, as defined at Section 1(f)(i) of this Chapter, imposing the requirements of Chapter 11, Section 9(1) of these rules and regulations.

270.2 (i) DEFINITIONS. The following terms, defined in Section 1(f)(i) of this Chapter, apply to Sections 1(h) and 1(j) of this Chapter; Chapter 3; Chapter 4; Chapter 6; Chapter 7; and Chapter 11, Section 2 of these

rules and regulations: "administrator," "application," "aquifer," "closure," "component," "corrective action management unit," "cwa," "director," "disposal," "disposal facility," "draft permit," "elementary neutralization unit," "emergency permit," "EPA," "existing hazardous waste management facility" or "existing facility," "facility or activity," "facility mailing list," "functionally equivalent component," "generator," "ground water," "hazardous waste management facility or hwm facility," "in operation," "major facility," "manifest," "national pollutant discharge elimination system or npdes," "new hazardous waste management (HWM) facility," "off-site," "on-site," "owner or operator," "permit," "permit-by-rule," "person," "phase I," "phase II," "physical construction," "publicly owned treatment works or POTW," "RCRA," "regional administrator," "schedule of compliance," "SDWA," "site," "state," "state/EPA agreement," "storage," "transfer facility," "transporter," "treatment," "UIC," "underground injection," "underground source of drinking water," and "wastewater treatment unit."

- 270.3 (j) CONSIDERATIONS UNDER FEDERAL LAW. The following is a list of federal laws that may apply to the issuance of permits under these rules and regulations. When any of these laws is applicable, its procedures must be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also must be followed.
- 270.3(a) (i) The Wild and Scenic Rivers Act. 16 U.S.C. 1273 et seq. ^ The Director shall be prohibited from assisting by license or otherwise the construction of any water resources project that would have a direct, adverse effect on the values for which a national wild and scenic river was established.
- 270.3(b) (ii) The National Historic Preservation Act of 1966. 16 U.S.C. 470 et seq. ^ The Director shall be required, before issuing a license, to adopt measures when feasible to mitigate potential adverse effects of the licensed activity and properties listed or eligible for listing in the national register of historic places. The act's requirements are to be implemented in cooperation with state historic preservation officers and upon notice to, and when appropriate, in consultation with the advisory council on historic preservation.
- 270.3(c) (iii) The Endangered Species Act. 16 U.S.C. 1531 ET SEQ. ^ The Director shall ensure, in consultation with the secretary of the interior or commerce, that any action authorized by the Department is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat.
- 270.3(d) (iv) The Coastal Zone Management Act. 16 U.S.C. 1451 et seq. ^ The Director shall be prohibited from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the proposed activity complies with the state coastal zone management program, and the state or its designated agency concurs with the certification (or the secretary of commerce overrides the state's nonconcurrence).
- 270.3(e) (v) The Fish and Wildlife Coordination Act. 16 U.S.C. 661 et seq. ^ The Director must, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion, or other control or modification of any body of water, consult with the appropriate state agency exercising jurisdiction over wildlife resources to conserve those resources.
- 270.3(f) (vi) Executive orders. [Reserved]

(k) IMMEDIATE HAZARD.

RCRA §7003(a) (i) Notwithstanding any other provision of the Act, upon receipt of evidence that the past or present handling, storage, treatment, transportation or disposal of any waste material or hazardous waste may present an immediate and substantial endangerment to health or the environment, the Attorney General may bring suit on behalf of the people of the State of Wyoming against any person (including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage or disposal facility) who has contributed or who is contributing to such handling, storage, treatment, transportation or disposal to restrain such person from such handling, storage, treatment, transportation, or disposal, to order such person to take such other action as may be necessary, or both. A transporter shall not be deemed to have contributed or to be contributing to such handling, storage, treatment, or disposal taking place after such waste material or hazardous waste has left the possession or control of such transporter if the transportation of such waste was under a sole contractual arrangement arising from a published tariff and acceptance for carriage by common carrier by rail and such transporter has exercised due care in the past or present handling, storage, treatment, transportation and disposal of such waste. The Director may also take other action under Section 1(k) of this Chapter including, but not limited to, issuing such orders as may be necessary to protect public health and the environment.

RCRA §3013 (1) MONITORING, ANALYSIS AND TESTING.

RCRA §3013(a) (i) Authority of the Director. If the Director determines, upon receipt of any information, that:

RCRA §3013(a)(1) (A) The presence of any hazardous waste at a facility or site at which hazardous waste is, or has been, stored, treated, or disposed of, or

RCRA §3013(a)(2) (B) The release of any such waste from such facility or site may present a substantial hazard to human health or the environment, he or she may issue an order requiring the owner or operator of such facility or site to conduct such monitoring, testing, analysis, and reporting with respect to such facility or site, as the Director deems reasonable to ascertain the nature and extent of such hazard.

RCRA §3013(b) (ii) Previous Owners and Operators. In the case of any facility or site not in operation at the time a determination is made under Section 1(1)(i) of this Chapter with respect to facility or site if the Director finds that the owner of such facilities could not reasonably be expected to have actual knowledge of the presence of hazardous waste at such facility or site and of its potential for release, he or she may issue an order requiring the most recent previous owner or operator of such facility or site who could reasonably be expected to have such actual knowledge to carry out the actions referred to in Section 1(1)(i) of this Chapter.

RCRA §3013(c) (iii) Proposal. An order under Section 1(1)(i) or Section 1(1)(ii) of this Chapter shall require the person to whom such order is issued to submit to the Director within 30 days from the issuance of such order a proposal for carrying out the required monitoring, testing, analysis, and reporting. The Director may, after providing such person with an opportunity to confer with the Director respecting such proposal, require such person to carry out such monitoring, testing, analysis, and reporting in accordance with such proposal, and such modifications in such

proposal as the Director deems reasonable to ascertain the nature and extent of the hazard.

RCRA §3013(d) (iv) Monitoring, Etc., Carried Out by the Director.

RCRA §3013(d)(1) (A) If the Director determines that no owner or operator referred to in Section 1(1)(i) or Section 1(1)(ii) of this Chapter is able to conduct monitoring, testing, analysis, or reporting satisfactory to the Director, if the Director deems any such action carried out by an owner or operator to be unsatisfactory, or if the Director cannot initially determine that there is an owner or operator referred to in Section 1(1)(i) or Section 1(1)(ii) of this Chapter who is able to conduct such monitoring, testing, analysis, or reporting, he or she may:

RCRA §3013(d)(1)(A) (I) Conduct monitoring, testing, or analysis (or any combination thereof) which he or she deems reasonable to ascertain the nature and extent of the hazard associated with the site concerned, or

RCRA §3013(d)(1)(B) (II) Authorize a local authority or other person to carry out any such action ^.

RCRA §3013(d)(2) (B) Reserved. ^

RCRA §3013(d)(3) (C) For purposes of carrying out Section 1(1)(iv) of this Chapter, the Director or any authority or other person authorized under Section 1(1)(i)(A) of this Chapter, may exercise the authorities set forth in W.S. 35-11-109(a) and W.S. 35-11-110(a).

RCRA §3013(e) (v) Enforcement. The Director may commence a civil action against any person who fails or refuses to comply with any order issued under Section 1(1) of this Chapter. Such action shall be brought under Article 9 of the Wyoming Environmental Quality Act.

Section 2. THE HAZARDOUS WASTE PERMIT PROGRAM.

(a) TRANSFER OF EXISTING HAZARDOUS WASTE MANAGEMENT PERMITS.

(i) Facilities with pre-existing federal hazardous waste management permits.

(A) Existing federally-permitted facilities may continue to operate and, notwithstanding other applicable state rules and regulations, may be issued a state hazardous waste management permit, in accord with a schedule to be negotiated between the Department and EPA, allowing for public notice, opportunity for public comment, or a public hearing.

(ii) Facilities with pre-existing state hazardous waste management permits.

(A) Notwithstanding other applicable state rules and regulations, existing state hazardous waste management permits issued to federally-permitted facilities prior to authorization of the state hazardous waste management program shall be modified or revoked and reissued to require compliance with these rules and regulations.

(b) REQUIREMENTS WITH RESPECT TO PERMITS AND PERMIT APPLICATIONS.

(i) Owners and operators of facilities qualifying for interim status under these rules and regulations may continue to operate

until a final decision is made on the permit application, or until interim status terminates pursuant to Chapter 11, Sections 2(d)(ii) through (vii) of these rules and regulations. Notwithstanding other applicable state rules and regulations, such facilities are required to comply with interim status requirements outlined in Chapter 11 of these rules and regulations.

(ii) All new hazardous waste handlers must contact the Department to obtain an EPA identification number prior to commencing treatment, storage, or disposal of hazardous waste.

(iii) For facilities operating under a federal compliance schedule which is expected to lead to issuance of a federal Part B permit, the department shall issue a corresponding state order which will result in the issuance of a state Part B permit. Such facilities must comply with all applicable public notice and comment requirements in these rules and regulations.

260/Subpart C Section 3. RULEMAKING PETITION.

(a) GENERAL.

260.20(a) (i) Any person may petition the Council to modify or revoke any provisions in Chapter 1, Sections 1(a) through 1(g) and Section 3; Chapter 2; Chapter 5; Chapters 8 through 10; Chapter 11, Section 1 and Sections 4 through 3~~4~~2; Chapter 12, Sections 1 through 8, 19 and 20; Chapter 13 and Chapter 14 of these rules and regulations **as allowed under W.S. 16-3-106**. Section 3(b) of this Chapter sets forth additional requirements for petitions to add a testing or analytical method to Chapter 2; Chapter 10; or Chapter 11, Section 1 and Sections 4 through 3~~4~~2 of these rules and regulations. Section 3(c) of this Chapter sets forth additional requirements for petitions to exclude a waste or waste-derived material at a particular facility from Chapter 2, Section 1(c) of these rules and regulations or the lists of hazardous wastes in Chapter 2, Section 4. Section 3(d) of this Chapter sets forth additional requirements for petitions to amend Chapter 14 of these rules and regulations to include additional hazardous wastes or categories of hazardous waste as universal waste.

260.20(b) (ii) **^ Each petition must be submitted in accordance with Chapter 3, Section 2 of the Wyoming Department of Environmental Quality Rules of Practice and Procedure.**

260.20(c) (iii) **^ Rule making petitions will be evaluated in accordance with the requirements of Chapter 3, Sections 2(c) - (e) and Section 4(b) of the Wyoming Department of Environmental Quality Rules of Practice and Procedure.**

260.20(d) (iv) **Reserved. ^**

260.20(e) (v) **Reserved. ^**

260.21 (b) PETITIONS FOR EQUIVALENT TESTING OR ANALYTICAL METHODS.

260.21(a) (i) Any person seeking to add a testing or analytical method to Chapter 2; or Chapter 5 and either Chapter 10 or Chapter 11, Section 1 and Sections 4 through 3~~4~~2 of these rules and regulations may petition for a regulatory amendment under Sections 3(a) and 3(b) of this Chapter. To be successful, the person must demonstrate to the satisfaction of the Director that the proposed method is equal to or superior to the corresponding method prescribed in Chapter 2; Chapter 10; or Chapter 11, Section 1 and Sections 4 through 3~~4~~2 of these rules and regulations, in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

- 260.21(b) (ii) Each petition must include, in addition to the information required by Section 3(a)(ii) of this Chapter:
- 260.21(b)(1) (A) A full description of the proposed method, including all procedural steps and equipment used in the method;
- 260.21(b)(2) (B) A description of the types of wastes or waste matrices for which the proposed method may be used;
- 260.21(b)(3) (C) Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in Chapter 2; or Chapter 5 and either Chapter 10 or Chapter 11, Section 1 and Sections 4 through 312 of these rules and regulations;
- 260.21(b)(4) (D) An assessment of any factors which may interfere with, or limit the use of, the proposed method; and
- 260.21(b)(5) (E) A description of the quality control procedures necessary to ensure the sensitivity, accuracy and precision of the proposed method.
- 260.21(c) (iii) After receiving a petition for an equivalent method, the Director may request any additional information on the proposed method which he or she may reasonably require to evaluate the method.
- 260.21(d) (iv) **Reserved.** ^
- 260.22 (c) PETITIONS TO AMEND CHAPTER 2 OF THESE RULES AND REGULATIONS TO EXCLUDE A WASTE PRODUCED AT A PARTICULAR FACILITY.
- 260.22(a) (i) Any person seeking to exclude a waste at a particular generating facility from the lists in Chapter 2, Section 4 of these rules and regulations may petition for a regulatory amendment under Sections 3(a) and 3(c) of this Chapter. To be successful:
- 260.22(a)(1) (A) The petitioner must demonstrate to the satisfaction of the Director that the waste produced by a particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous or an acutely hazardous waste; and
- 260.22(a)(2) (B) Based on a complete application, the Director must determine, where he or she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A waste which is so excluded, however, still may be a hazardous waste by operation of Chapter 2, Section 3 of these rules and regulations.
- 260.22(b) (ii) The procedures in Sections 3(a) and 3(c) of this Chapter may also be used to petition the Director for a regulatory amendment to exclude from Chapter 2, Section 1(c)(i)(B)(II) or 1(c)(iii) of these rules and regulations, a waste which is described in Chapter 2, Section 1(c)(i)(B)(II) or Section 1(c)(iii) and is either a waste listed in Chapter 2, Section 4, or is derived from a waste listed in Chapter 2, Section 4. This exclusion may only be issued for a particular generating, storage, treatment, or disposal facility. The petitioner must make the same demonstration as required by Section 3(c)(i) of this Chapter. Where the waste is a mixture of waste material and one or more listed hazardous wastes or is derived from one or more hazardous wastes, his or her

demonstration must be made with respect to the waste mixture as a whole; analyses must be conducted for not only those constituents for which the listed waste contained in the mixture was listed as hazardous, but also for factors (including additional constituents) that could cause the waste mixture to be a hazardous waste. A waste which is so excluded may still be a hazardous waste by operation of Chapter 2, Section 3 of these rules and regulations.

260.22(c) (iii) If the waste is listed with codes "I", "C", "R", or "E" in Chapter 2, Section 4 of these rules and regulations,

260.22(c)(1) (A) The petitioner must show that the waste does not exhibit the relevant characteristic for which the waste was listed as defined in Chapter 2, Section 3(b), 3(c), 3(d) or 3(e) of this Chapter using any applicable methods prescribed therein. The petitioner also must show that the waste does not exhibit any of the other characteristics defined in Chapter 2, Section 3(b), 3(c), 3(d) or 3(e) of these rules and regulations using any applicable methods prescribed therein;

260.22(c)(2) (B) Based on a complete application, the Director must determine, where he or she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A waste which is so excluded, however, still may be a hazardous waste by operation of Chapter 2, Section 3 of these rules and regulations.

260.22(d) (iv) If the waste is listed with code "T" in Chapter 2, Section 4 of these rules and regulations,

260.22(d)(1) (A) The petitioner must demonstrate that the waste:

...(i) (I) Does not contain the constituent or constituents (as defined in Chapter 2, Appendix G of these rules and regulations) that caused the Director to list the waste, using the appropriate test methods prescribed in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in Section 1(g) of this Chapter; or

...(ii) (II) Although containing one or more of the hazardous constituents (as defined in Chapter 2, Appendix G of these rules and regulations) that caused the Director to list the waste, does not meet the criterion of Chapter 2, Section 2(b)(i)(C) of these rules and regulations when considering the factors used by the Director in Chapter 2, Sections 2(b)(i)(C)(I) through (XI) under which the waste was listed as hazardous; and

260.22(d)(2) (B) Based on a complete application, the Director must determine, where he or she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste; and

260.22(d)(3) (C) The petitioner must demonstrate that the waste does not exhibit any of the characteristics defined in Chapter 2, Section 3(b), 3(c), 3(d), or 3(e) of these rules and regulations using any applicable methods prescribed therein;

260.22(d)(4) (D) A waste which is so excluded, however, still may be a hazardous waste by operation of Chapter 2, Section 3 of these rules and regulations.

- 260.22(e) (v) If the waste is listed with the code "H" in Chapter 2, Section 4 of these rules and regulations,
- 260.22(e)(1) (A) The petitioner must demonstrate that the waste does not meet the criterion of Chapter 2, Section 2(b)(i)(B) of these rules and regulations; and
- 260.22(e)(2) (B) Based on a complete application, the Director must determine, where he or she has a reasonable basis to believe that additional factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste; and
- 260.22(e)(3) (C) The petitioner must demonstrate that the waste does not exhibit any of the characteristics defined in Chapter 2, Sections 3(b), 3(c), 3(d), and 3(e) of these rules and regulations using any applicable methods prescribed therein;
- 260.22(e)(4) (D) A waste which is so excluded, however, still may be a hazardous waste by operation of Chapter 2, Section 3 of these rules and regulations.
- 260.22(f) (vi) Reserved for listing radioactive wastes.
- 260.22(g) (vii) Reserved for listed infectious wastes.
- 260.22(h) (viii) Demonstration samples must consist of enough representative samples, but in no case less than four samples, taken over a period of time sufficient to represent the variability or the uniformity of the waste.
- 260.22(i) (ix) Each petition must include, in addition to the information required by Section 3(a)(ii) of this Chapter:
- 260.22(i)(1) (A) The name and address of the laboratory facility performing the sampling or tests of the waste;
- 260.22(i)(2) (B) The names and qualifications of the persons sampling and testing the waste;
- 260.22(i)(3) (C) The dates of sampling and testing;
- 260.22(i)(4) (D) The location of the generating facility;
- 260.22(i)(5) (E) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;
- 260.22(i)(6) (F) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;
- 260.22(i)(7) (G) Pertinent data on and discussion of the factors delineated in the respective criterion for listing a hazardous waste, where the demonstration is based on the factors in Chapter 2, Section 2(b)(i)(C) of these rules and regulations;
- 260.22(i)(8) (H) A description of the methodologies and equipment

used to obtain the representative samples;

- 260.22(i)(9) (I) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of the samples;
- 260.22(i)(10) (J) A description of the tests performed (including results);
- 260.22(i)(11) (K) The names and model numbers of the instruments used in performing the tests; and
- 260.22(i)(12) (L) The following statement signed by the generator of the waste or his or her authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

- 260.22(j) (x) After receiving a petition for an exclusion, the Director may request any additional information which he or she may reasonably require to evaluate the petition.
- 260.22(k) (xi) An exclusion will only apply to the waste generated at the individual facility covered by the demonstration and will not apply to waste from any other facility.
- 260.22(l) (xii) The Director may exclude only part of the waste for which the demonstration is submitted where he or she has reason to believe that variability of the waste justifies a partial exclusion.
- 260.23 (d) PETITIONS TO AMEND CHAPTER 14 OF THESE RULES AND REGULATIONS TO INCLUDE ADDITIONAL HAZARDOUS WASTES.
- 260.23(a) (i) Any person seeking to add a hazardous waste or a category of hazardous waste to the universal waste regulations of Chapter 14 of these rules and regulations may petition for a regulatory amendment under Section 3(d) of this Chapter, Section 3(a) of this Chapter, and Chapter 14, Section 7 of these rules and regulations.
- 260.23(b) (ii) To be successful, the petitioner must demonstrate to the satisfaction of the Director that regulation under the universal waste regulations of Chapter 14 of these rules and regulations: Is appropriate for the waste or category of waste; will improve management practices for the waste or category of waste; and will improve implementation of the hazardous waste program. The petition must include the information required by Section 3(a)(ii) of this Chapter. The petition should also address as many of the factors listed in Chapter 14, Section 7(b) of these rules and regulations as are appropriate for the waste or category of waste addressed in the petition.
- 260.23(c) (iii) The Director will grant or deny a petition using the factors listed in Chapter 14, Section 7(b) of these rules and regulations. The decision will be based on the weight of evidence showing that regulation under Chapter 14 of these rules and regulations is appropriate for the waste or category of waste, will improve management practices for the waste or category of waste, and will improve implementation of the

hazardous waste program.

- 260.23(d) (iv) The Director may request additional information needed to evaluate the merits of the petition.
- 260.30 (e) VARIANCES FROM CLASSIFICATION AS A WASTE MATERIAL. In accordance with the standards and criteria in Section 3(e) of this Chapter and the procedures in Section 3(g) of this Chapter, the Director may determine on a case-by-case basis that the following recycled materials are not waste materials:
- 260.30(a) (i) Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in Section 1(f)(i) of this Chapter.);
- 260.30(b) (ii) Materials that are reclaimed and then reused within the original production process in which they were generated; and
- 260.30(c) (iii) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered.
- 260.31 (f) STANDARDS AND CRITERIA FOR VARIANCES FROM CLASSIFICATION AS A WASTE MATERIAL.
- 260.31(a) (i) The Director may grant requests for a variance from classifying as a waste material those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. The Director's decision will be based on the following criteria:
- 260.31(a)(1) (A) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);
- 260.31(a)(2) (B) The reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;
- 260.31(a)(3) (C) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;
- 260.31(a)(4) (D) The extent to which the material is handled to minimize loss;
- 260.31(a)(5) (E) Other relevant factors.
- 260.31(b) (ii) The Director may grant requests for a variance from classifying as a waste material those materials that are reclaimed and then reused as feedstock within the original production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:
- 260.31(b)(1) (A) How economically viable the production process would be if it were to use virgin materials, rather than reclaimed

- materials;
- 260.31(b)(2) (B) The prevalence of the practice on an industry-wide basis;
- 260.31(b)(3) (C) The extent to which the material is handled before reclamation to minimize loss;
- 260.31(b)(4) (D) The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;
- 260.31(b)(5) (E) The location of the reclamation operation in relation to the production process;
- 260.31(b)(6) (F) Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;
- 260.31(b)(7) (G) Whether the person who generates the material also reclaims it;
- 260.31(b)(8) (H) Other relevant factors.
- 260.31(c) (iii) The Director may grant requests for a variance from classifying as a waste material those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:
- 260.31(c)(1) (A) The degree of processing the material has undergone and the degree of further processing that is required;
- 260.31(c)(2) (B) The value of the material after it has been reclaimed;
- 260.31(c)(3) (C) The degree to which the reclaimed material is like an analogous raw material;
- 260.31(c)(4) (D) The extent to which an end market for the reclaimed material is guaranteed;
- 260.31(c)(5) (E) The extent to which the reclaimed material is handled to minimize loss;
- 260.31(c)(6) (F) Other relevant factors.
- 260.32 (g) VARIANCE TO BE CLASSIFIED AS A BOILER. In accordance with the standards and criteria in Section 1(f)(i) of this Chapter (definition of "boiler"), and the procedures in Section 3(g) of this Chapter, the Director may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in Section 1(f)(i) of this Chapter, after considering the following criteria:
- 260.32(a) (i) The extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

- 260.32(b) (ii) The extent to which the combustion chamber and energy recovery equipment are of integral design; and
- 260.32(c) (iii) The efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel; and
- 260.32(d) (iv) The extent to which exported energy is utilized; and
- 260.32(e) (v) The extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and
- 260.32(f) (vi) Other factors, as appropriate.
- 260.33 (h) PROCEDURES FOR VARIANCES FROM CLASSIFICATION AS A WASTE MATERIAL OR TO BE CLASSIFIED AS A BOILER. The Director will use the following procedures in evaluating applications for variances from classification as a waste material or applications to classify particular enclosed controlled flame combustion devices as boilers:
- 260.33(a) (i) The applicant must apply to the Director for the variance. The application must address the relevant criteria contained in Section 3(e) or 3(f) of this Chapter.
- 260.33(b) (ii) The Director will evaluate the application and issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement or radio broadcast in the locality where the recycler is located. The Director will accept comment on the tentative decision for 30 days, and may also hold a public hearing upon request or at his or her discretion. The Director will issue a final decision after receipt of comments and after the hearing (if any).
- 260.40 (i) ADDITIONAL REGULATION OF CERTAIN HAZARDOUS WASTE RECYCLING ACTIVITIES ON A CASE-BY-CASE BASIS.
- 260.40(a) (i) The Director may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in Chapter 2, Section 1(f)(i)(b)(iv) of these rules and regulations should be regulated under Chapter 2, Sections 1(f)(ii) and (iii) of these rules and regulations. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the Director will consider the following factors:
- 260.40(a)(1) (A) The types of materials accumulated or stored and the amounts accumulated or stored;
- 260.40(a)(2) (B) The method of accumulation or storage;
- 260.40(a)(3) (C) The length of time the materials have been accumulated or stored before being reclaimed;
- 260.40(a)(4) (D) Whether any contaminants are being released into the environment, or are likely to be so released; and
- 260.40(a)(5) (E) Other relevant factors.
- (ii) The procedures for this decision are set forth in

Section 3(i) of this Chapter.

260.41 (j) PROCEDURES FOR CASE-BY-CASE REGULATION OF HAZARDOUS WASTE RECYCLING ACTIVITIES. The Director will use the following procedures when determining whether to regulate hazardous waste recycling activities described in Chapter 2, Section 1(f)(i)(b)(iv) of these rules and regulations under the provision of Chapter 2, Sections 1(f)(ii) and (iii) of these rules and regulations, rather than under the provisions of Chapter 12, Section 6 of these rules and regulations.

260.41(a) (i) If a generator is accumulating the waste, the Director will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of Chapter 8, Sections 1, 3, 4, and 5 of these rules and regulations. The notice will become final within 30 days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the Director will hold a public hearing to challenge the decision. The Director will provide notice of the hearing to the public and allow public participation at the hearing. The Director will issue a final order after the hearing stating whether or not compliance with Chapter 8 of these rules and regulations is required. The order becomes effective 30 days after service of the decision unless the Director specifies a later date or unless review by the Council is requested. The order may be appealed to the Council by any person who participated in the public hearing. The Council may choose to grant or to deny the appeal. Final agency action occurs when a final order is issued by the Council and Department review procedures are exhausted.

260.41(b) (ii) If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of Sections 1(h) through 1(j) of this Chapter; Chapter 3; Chapter 4; Chapter 6; Chapter 7; and Chapter 11, Section 2 of these rules and regulations. The owner or operator of the facility must apply for a permit within no less than 60 days and no more than six months of notice, as specified in the notice. If the owner or operator of the facility wishes to challenge the Director's decision, he or she may do so in his or her permit application, in a public hearing held on the draft permit, or in comments filed on the -draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the agency's determination. The question of whether the Director's decision was proper will remain open for consideration during the public comment period discussed under Chapter 3, Section 1(h) of these rules and regulations and in any subsequent hearing.

Section 4. AVAILABILITY OF INFORMATION.

2.112 (a) TIME ALLOWED FOR ISSUANCE OF INITIAL DETERMINATION.

2.112(a) (i) Except as otherwise provided in Section 4(a) of this Chapter, not later than the tenth working day after the date of receipt by a freedom of information office of a request for records, the DEQ shall issue a written determination to the requestor stating which of the requested records will, and which will not, be released and the reason for any denial of a request. If the records are not known to exist or are not in DEQ's possession, the DEQ shall so inform the requestor. To the extent requested records which are in DEQ's possession are published ^, the response may inform the requestor that the records are available for inspection and where copies can be obtained.

2.112(b) (ii) The period of ten (10) working days shall be measured

from the date the request is first received and logged in by the DEQ.

- 2.112(c) (iii) There shall be excluded from the period of ten (10) working days (or any extension thereof) any time which elapses between the date that a requestor is notified by the DEQ under 40 CFR §2.109 that his or her request does not reasonably identify the records sought, and the date that the requestor furnishes a reasonable identification.
- 2.112(d) (iv) There shall be excluded from the period of ten (10) working (or any extension thereof) any time which elapses between the date that a requestor is notified by the DEQ under 40 CFR §2.120 that prepayment of assurance of payment of fees is required, and the date that the requestor pays (or makes suitable arrangement to pay) such charges.
- 2.112(e) (v) The DEQ taking action under 40 CFR §2.111, ^ may extend the basic 10-day period established under Section 4(a)(i) of this Chapter by a period not to exceed ten (10) additional working days, by furnishing written notice to the requestor within the basic ten (10)-day period stating the reasons for such extension and the date by which the office expects to be able to issue a determination. The period may be so extended only when absolutely necessary, only for the period required, and only when one or more of the following unusual circumstances require the extension:
- 2.112(e)(1) (A) There is a need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;
- 2.112(e)(2) (B) There is a need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or
- 2.112(e)(3) (C) There is a need for consultation, which shall be conducted with all practicable speed, with another department having a substantial interest in the determination of the request or among two or more divisions of the DEQ.
- 2.112(f) (vi) Failure of the DEQ to issue a determination within the ten (10)-day period or any authorized extension shall constitute final agency action which authorizes the requestor to commence an action in an appropriate state district court to obtain the records.