

Wyoming Department of Environmental Quality
Solid and Hazardous Waste Division

Chapter 1 General Provisions
Hazardous Waste Management Rules and Regulations

2007 Rule Revision Explanation

Introduction:

The proposed revisions within Chapter 1 are being initiated by changes to federal rules that have been promulgated by the Environmental Protection Agency (EPA) through the Federal Register Notices listed below. Revisions being proposed in this package are comparable to the federal Resource Conservation and Recovery Act (RCRA) regulations. Other revisions are proposed to correct editorial errors.

The authority to adopt, revise or delete the rules contained within Chapter 1 is provided by W.S. 35-11-503(d)(i).

Applicable Federal Register Notices:

These proposed rules incorporate the final adopted EPA rule changes addressed in the following Federal Register (FR) notices:

- 1) April 12, 1996, in 61 FR 16290, *Imports and Exports of Hazardous Waste: Implementation of OECD Council Decision*;
- 2) February 12, 1997, in 62 FR 6622, *Military Munitions Rule: Hazardous Waste Identification and Management, Explosives Emergencies, Manifest Exemption for Transport of Hazardous Waste on Right-of-ways on Contiguous Properties* (hereafter referred to as Military munitions rule);
- 3) May 12, 1997, in 62 FR 25998, *Land Disposal Restriction (LDR) Phase IV, Treatment Standards for Wood Preserving Wastes, Paperwork Reduction and Streamlining, Exemption from RCRA for Certain Processed Materials and Miscellaneous Hazardous Waste Provisions* (hereafter referred to as LDR Phase IV: Treatment Standards for Wood Preserving Wastes);
- 4) May 26, 1998, in 63 FR 28558, *Land Disposal Restrictions Phase IV Final Rule Promulgating Treatment Standards for Metal Wastes and Mineral Processing Secondary Materials and Bevill Exclusion Issues, Treatment Standards for Hazardous Soils, and Exclusion of Recycled Wood Preserving Wastewaters* (hereafter referred to as LDR Phase IV(a));

- 5) October 22, 1998, in 63 FR 56710, *Standards Applicable to Owners and Operators of Closed and Closing Hazardous Waste Management Facilities, Post-Closure Permit Requirement and Closure Process* (hereafter referred to as the Post-closure rule);
- 6) November 30, 1998, in 63 FR 65874, *Hazardous Remediation Waste Management Requirements* (hereafter referred to as HWIR-Media);
- 7) January 21, 1999, in 64 FR 3381, *Hazardous Waste Treatment, Storage and Disposal Facilities and Hazardous Waste Generators, Organic Air Emissions Standards for Tanks, Surface Impoundments and Containers* (hereafter referred to as Organic air emissions standards);
- 8) May 11, 1999, in 64 FR 25408, *Land Disposal Restrictions Phase IV, Treatment Standards for Wood Preserving Wastes, Treatment Standards for Metal Wastes, Zinc Micronutrient Fertilizers, Carbamate Treatment Standards and K088 Treatment Standards* (hereafter referred to as LDR Phase IV(b));
- 9) May 14, 1999, in 64 FR 26315, *Guidelines Establishing Test Procedures for the Analysis of Oil and Grease and Non-Polar Material Under the Clean Water Act and Resource Conservation and Recovery Act* (hereafter referred to as Test procedures for the analysis of oil and grease);
- 10) July 6, 1999, in 64 FR 36466, *Hazardous Waste Management System, Modification of the Hazardous Waste Program, Hazardous Waste Lamps* (hereafter referred to as Universal lamps);
- 11) May 16, 2001, in 66 FR 27218, *Storage, Treatment, Transportation and Disposal of Mixed Wastes* (hereafter referred to as Storage, treatment, transportation and disposal of mixed wastes);
- 12) June 28, 2001, in 66 FR 34374, *Change of Official Environmental Protection Agency (EPA) Address, Additional Technical Amendments and Corrections*;
- 13) January 22, 2002, in 67 FR 2961, *Amendments to the Corrective Action Management (CAMU) Rule* (hereafter referred to as the CAMU amendment); and
- 14) March 13, 2002, in 67 FR 11251, *Hazardous Waste Management System; Definition of Solid Waste; Toxicity Characteristic*.

EXPLANATION FOR PROPOSED REVISIONS, ADOPTIONS AND DELETIONS

Universal editing guides pertaining to the attached rules:

Text in the margins indicates the federal citation for the rule.

Boldface type indicates that the state has added language for which there is no federal equivalent language.

A caret symbol (^) indicates that federal language has not been adopted.

Editing guides pertaining to proposed changes:

Underline means language proposed to be added.

~~Strikethrough~~ means language proposed for removal.

The numbers in the left margin coincide with the page numbers on the attached pages from Chapter 1.

Changes proposed to Section 1(e) CITATION OF FEDERAL REGULATIONS AND STATUTES.

1-1

Section 1(e) is proposed for revision to cite the federal laws effective as of January 1, 2002, and the Code of Federal Regulations containing the rule changes promulgated by the EPA up through July 1, 2002. This rule has also been revised to include the language required by W.S. 16-3-104(h) regarding where copies of the United States statutes or rules can be obtained.

Changes proposed to Section 1(f) DEFINITIONS.

1-3

“Active range” is proposed for adoption in accordance with Military munitions rules adopted by the EPA in 62 FR 6622 (February 12, 1997 Military munitions rule).

1-3

“Agreement State” is proposed for adoption in accordance with rules regarding the storage, treatment, transportation and disposal of mixed wastes adopted by the EPA in 66 FR 27218 (May 16, 2001- Storage, treatment, transportation and disposal of mixed wastes).

1-5

“Certified delivery” is proposed for adoption in accordance with rules regarding the storage, treatment, transportation and disposal of mixed wastes adopted by the EPA in 66 FR 27218 (May 16, 2001- Storage, treatment, transportation and disposal of mixed wastes).

1-5

“Chemical agents and munitions” is proposed for adoption in accordance with Military munitions rules adopted by the EPA in 62 FR 6622 (February 12, 1997 Military munitions rule).

1-6

“Competent authorities” and “Concerned countries” are proposed for repeal because these definitions no longer apply to Wyoming with the adoption of the federal policy that States cannot regulate international trade. This policy was adopted by the EPA on April 12,

1996 in 61 FR 16290 as part of the implementation of the Organization for Economic Cooperation and Development (OECD) decision. The OECD governs import and export of waste between participating countries. Control of the import and export of hazardous waste to the United States will continue to be regulated by the EPA.

1-7 “Conditionally exempt small quantity generator” and “Consignee.” The federal citation in the left hand margin has been revised in both cases to cite the correct federal regulation.

1-7 “Corrective action management unit” is proposed for repeal because it was repealed from the federal regulations on January 22, 2002 (67 FR 2961) as part of the CAMU amendment.

1-8 “Country of transit” is proposed for repeal because it no longer applies to Wyoming with the adoption of the federal policy that States cannot regulate international trade. This policy was adopted by the EPA on April 12, 1996 in 61 FR 16290 as part of the implementation of the OECD decision. The OECD governs import and export of waste between participating countries. Control of the import and export of hazardous waste to the United States will continue to be regulated by the EPA.

1-9 “Director” is proposed for amendment to indicate the Director’s designee may be male or female.

1-10 “Electric lamp” is a State definition which is proposed for deletion because the usage of this term is no longer appropriate with the adoption of a federal definition for “lamp” (new definition presented on page 1-19). This definition was adopted by the EPA in 64 FR 36466 (July 6, 1999 - Universal lamps).

1-11 “Eligible naturally occurring and/or accelerator-produced radioactive material (NARM)” is proposed for adoption to conform to the adoption of this definition as part of 66 FR 27218 (May 16, 2001 - Storage, treatment, transportation and disposal of mixed wastes).

1-11 “End of pipe” is proposed for deletion because this definition was never promulgated in the federal rules and is unnecessary in the state rules. Although this definition was originally proposed for adoption in the federal rules in 61 FR 15566 published on April 8, 1996, the definition was withdrawn on the same day as part of 61 FR 15660.

1-11 “Enforceable document” is proposed for adoption in accordance with the adoption of this definition in 63 FR 56710 (October 22, 1998 - Post-closure rule). However, this definition has been modified to add State language regarding remedy agreements. A remedy agreement is an enforceable document under W.S. 35-11-1607 and can serve as a mechanism to allow closure and post-closure care of a regulated unit that is participating in the Voluntary Remediation Program. In addition, the following phrase “CERCLA remedial action” found in the counterpart federal rule has not been incorporated into this proposed rule because the State cannot take action under the Comprehensive Environmental Response, Compensation and Liability Action (CERCLA) statute.

- 1-11 “Equipment” is proposed for revision by adding the phrase “or other connector.” This phrase was added to the federal definition of *Equipment* in 64 FR 3381 (January 21, 1999 - Organic air emissions standards).
- 1-12 “Excluded scrap metal” is proposed for adoption in accordance with 62 FR 25998 (May 12, 1997 - LDR Phase IV: Treatment Standards for Wood Preserving Wastes).
- 1-12 “Exempted waste” is proposed for adoption in accordance with 66 FR 27218 (May 16, 2001 - Storage, treatment, transportation and disposal of mixed wastes).
- 1-13 “Explosives or munition emergency,” “Explosives or munition emergency response” and “Explosives or munitions emergency response specialist” are proposed for adoption in accordance with 62 FR 6622 (February 12, 1997 - Military munitions rule).
- 1-13 “Exporting country” is proposed for repeal because it no longer applies to Wyoming with the adoption of the federal policy that States cannot regulate international trade. This policy was adopted by OECD decision. The OECD governs import and export of waste between participating countries. Control of the import and export of hazardous waste to the United States will continue to be regulated by the EPA.
- 1-14 “Final closure” is proposed for revision to add Section 32 of Chapter 11 in the sections cross-referenced within this definition. Section 32 within Chapter 11 is being proposed for adoption as part of this rulemaking. This Section pertains to Hazardous Waste Munitions and Explosive Storage.
- 1-15 “Hazardous debris” is proposed for revision to include language added to the definition as part of 64 FR 25408 (May 11, 1999 - LDR Phase IV(b)).
- 1-15 “Hazardous waste” as a definition can be found in the Code of Federal Regulation in three places. The third citation proposed for inclusion in the left hand margin was added by 66 FR 27218 (May 16, 2001 - Storage, treatment, transportation and disposal of mixed wastes).
- 1-16 “Home scrap metal” is proposed for adoption in accordance with this definition being added to the federal rules as part of 62 FR 25998 (May 12, 1997 - LDR Phase IV: Treatment Standards for Wood Preserving Wastes).
- 1-16 “Importing country” is proposed for repeal because it no longer applies to Wyoming with the adoption of the federal policy that States cannot regulate international trade. This policy was adopted by the EPA on April 12, 1996 in 61 FR 16290 as part of the implementation of the OECD decision. The OECD governs import and export of waste between participating countries. Control of the import and export of hazardous waste to the United States will continue to be regulated by the EPA.
- 1-17 “Inactive range” is proposed for adoption in accordance with this definition being added to the federal rules as part of 62 FR 6622 (February 12, 1997 - Military munitions rule).

- 1-19 “Lamp” is proposed for adoption in accordance with this definition being added to the federal rules as part of 64 FR 36466 (July 6, 1999 - Universal lamps).
- 1-20 “Land disposal” is proposed for revision by adding the phrase “or staging pile.” This phrase was added to the federal definition of *Land disposal* in 63 FR 65874 (November 30, 1998 - HWIR-media).
- 1-20 “Land disposal restriction (LDR) treatment standards” is proposed for adoption in accordance with this definition being added to the federal rules as part of 66 FR 27218 (May 16, 2001 - Storage, treatment, transportation and disposal of mixed wastes).
- 1-20 “Large quantity handler of universal waste” is proposed for revision to coincide with language added to the federal definition as part of 64 FR 36466 (July 6, 1999 - Universal lamps). State added language is proposed for removal to reflect the federal definition.
- 1-21 “License” is proposed for adoption in accordance with this definition being added to the federal rules as part of 66 FR 27218 (May 16, 2001- Storage, treatment, transportation and disposal of mixed wastes).
- 1-21 “Low-level mixed waste (LLMW)” and “Low-level radioactive waste (LLW)” are proposed for adoption to conform to the adoption of these definitions as part of 66 FR 27218 (May 16, 2001 - Storage, treatment, transportation and disposal of mixed wastes).
- 1-21 “Maximum organic vapor pressure” is proposed for revision to include references to the Wyoming Hazardous Waste regulations rather than sections within the federal regulations.
- 1-22 “Mercury containing lamp” is a State definition which is proposed for deletion because the usage of this term is no longer appropriate with the adoption of a federal definition for “lamp” (presented on page 1-19). This definition was adopted by the EPA in 64 FR 36466 (July 6, 1999 - Universal Lamps).
- 1-22 “Military,” “Military munitions” and “Military range” are proposed for adoption in accordance with these definitions being added to the federal rules as part of 62 FR 6622 (February 12, 1997 - Military munitions rule).
- 1-22 “Miscellaneous unit” is proposed for revision to add the phrase “or staging pile.” This phrase was added to the federal definition of “miscellaneous unit” in 63 FR 65874 (November 30, 1998 - HWIR-media rule).
- 1-23 “Mixed waste” proposed for adoption in accordance with this definition being added to the federal rules as part of 66 FR 27218 (May 16, 2001 - Storage, treatment, transportation and disposal of mixed wastes).
- 1-23 “Naturally occurring and/or accelerator-produced radioactive material (NARM)” are proposed for adoption to conform to the adoption of these definitions as part of 66 FR 27218 (May 16, 2001 - Storage, treatment, transportation and disposal of mixed wastes).

1-23 “No detectable organic emission” is proposed for revision to remove the citation to the federal regulation at the end of the definition.

1-24 “Notifier” and “OECD area” are proposed for repeal because these terms no longer apply to Wyoming with the adoption of the federal policy that States cannot regulate international trade. This policy was adopted by the EPA on April 12, 1996 in 61 FR 16290 as part of the implementation of the OECD decision. The OECD governs import and export of waste between participating countries. Control of the import and export of hazardous waste to the United States will continue to be regulated by the EPA.

1-24 “NRC” is proposed for adoption to conform to the adoption of this definition as part of 66 FR 27218 (May 16, 2001 - Storage, treatment, transportation and disposal of mixed wastes).

1-25 “Open-ended valve or line” is proposed for revision to coincide with changes made to this definition by 64 FR 3381 (January 21, 1999 - Organic air emissions standards).

1-25 “Organization for Economic Cooperation and Development” is proposed for repeal because it no longer applies to Wyoming with the adoption of the federal policy that States cannot regulate international trade. This policy was adopted by the EPA on April 12, 1996 in 61 FR 16290 as part of the implementation of the OECD decision. The OECD governs import and export of waste between participating countries. Control of the import and export of hazardous waste to the United States will continue to be regulated by the EPA.

1-25 & 26 “Partial closure” and “Personnel or facility personnel” are proposed for revision to add Section 32 of Chapter 11 in the sections cross-referenced within these definitions. Section 32 within Chapter 11 is being proposed for adoption as part of this rulemaking. This Section pertains to Hazardous Waste Munitions and Explosive Storage.

1-26 “Point of waste origination” is proposed for revision to correctly refer to waste material and remove the federal citation.

1-27 “Point of waste treatment” is proposed for revision to delete the reference to the federal citation.

1-27 & 28 “Processed scrap metal” and “Prompt scrap metal” are proposed for adoption in accordance with these definitions being added to the federal rules as part of 62 FR 25998 (May 12, 1997 - LDR Phase IV: Treatment Standards for Wood Preserving Wastes).

1-28 & 29 “Recognized trader,” “Recovery facility” and “Recovery operations” are proposed for repeal because these terms no longer apply to Wyoming with the adoption of the federal policy that States cannot regulate international trade. This policy was adopted by the EPA on April 12, 1996 in 61 FR 16290 as part of the implementation of the OECD decision. The OECD governs import and export of waste between participating countries. Control of the import and export of hazardous waste to the United States will continue to be regulated by the EPA.

1-29 “Remediation waste” is proposed for revision to reflect the changes made to this definition in the federal rules as part of 67 FR 2961 (January 22, 2002 – CAMU amendment).

- 1-30 “Safety Device” is proposed for revision to correctly reference the emissions standards found in Chapter 11, Section 30.
- 1-30 “Sampling connection system” is proposed for adoption in accordance with this definition being added to the federal rules as part of 64 FR 3381 (January 21, 1999 - Organic air emissions standards).
- 1-31 “Small quantity handler of universal waste” is proposed for revision to reflect the modifications made to the federal definition as part of 64 FR 36466 (July 6, 1999 - Universal lamps). State added language is proposed for removal to reflect the federal definition.
- 1-31 “Soil” is proposed for adoption in accordance with this definition being added to the federal rules as part of 63 FR 25998 (May 26, 1998 - LDR Phase IV(a)).
- 1-32 “Staging pile” is proposed for adoption in accordance with this definition being added to the federal rules as part of 63 FR 65874 (November 30, 1998 - HWIR-media rule).
- 1-32 “Stormwater impoundments” is proposed for deletion because this definition was never promulgated in the federal rules and is unnecessary in the state rules. Although this definition was originally proposed for adoption in the federal rules in 61 FR 15566 published on April 8, 1996, the definition was withdrawn on the same day as part of 61 FR 15660.
- 1-34 “Transfrontier movement” is proposed for deletion because this term no longer applies to Wyoming with the adoption of the federal policy that States cannot regulate international trade. This policy was adopted by the EPA on April 12, 1996 in 61 FR 16290 as part of the implementation of the OECD decision. The OECD governs import and export of waste between participating countries. Control of the import and export of hazardous waste to the United States will continue to be regulated by the EPA.
- 1-35 “Underlying hazardous constituent” is proposed for revision to correctly cite the Universal Treatment Standards table and to include additional constituents added by 63 FR 25998 (May 26, 1998 - LDR Phase IV(a)).
- 1-35 “Unexploded ordnance (UXO)” is proposed for adoption in accordance with this definition being added to the federal rules as part of 62 FR 6622 (February 12, 1997 - Military munitions rule).
- 1-35 “Universal waste” is proposed for revision to correctly cite the federal citation in the left hand margin and to address revisions adopted in 64 FR 36466 (July 6, 1999 - Universal Lamps).
- 1-35 “Universal waste handler,” “Universal waste transfer facility” and “Universal waste transporter” are proposed for revision to reference the correct federal citation (273.9) in the left hand margin.
- 1-38 “Volatile organic concentration” and “Waste determination” are proposed for revision to cite the applicable portions of Chapter 11 of the Hazardous Waste Management Rules and Regulations.

“Waste Material” Subsection (A)(IV) [page 1-39] is proposed for adoption to add waste military munitions as a waste material. This provision was added as part of Federal Register notice 62 FR 6622 (February 12, 1997 - Military munitions rule).

1-38

through

1-42

a. Subsections (C)(III) [page 1-40] and (E)(I)(3) [page 1-43] are proposed for revision to provide an exclusion that mineral processing spent materials can be considered waste materials when reclaimed only if the material meets the requirements of Chapter 2, Section 1 which discusses mineral processing wastes. This provision has also been added to Column 3 of Table 1. Both proposed revisions are in response to changes made to the federal regulations as part of 67 FR 11251 (March 13, 2002).

b. Several changes are proposed to Table 1 [page 1-42] to include excluded scrap metal and processed scrap metal. The phrase “other than excluded scrap metal (see Section 1(f)(i) of this Chapter)” is being proposed for inclusion in the last row regarding “Scrap metal.” This phrase was added to the federal rules as part of 63 FR 25998 (May 12, 1997 - LDR Phase IV: Treatment Standards for Wood Preserving Wastes). “Processed scrap metal” has been added to the Note that follows Table 1. This was added to the federal rules as part of 63 FR 28558 (May 26, 1998 - LDR Phase IV(a)).

1-43

“We or us” is proposed for adoption in accordance with this definition being added to the federal rules by 66 FR 27218 (May 16, 2001 - Storage, treatment, transportation and disposal of mixed wastes).

1-43

“You” is proposed for adoption in accordance with this definition being added to the federal rules by 66 FR 27218 (May 16, 2001 - Storage, treatment, transportation and disposal of mixed wastes). This definition is proposed for further revision by the State to address anyone subject to the hazardous waste rules.

Changes proposed to Section 1(g) REFERENCES

1-44

Section 1(g)(i) is proposed for revision to add a cross-reference to Chapter 12, Sections 19 and 20. These are two new sections (Military Munitions and Conditional Exemptions for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal Terms, respectively) being proposed for inclusion within Chapter 12 in accordance with new federal rules adopted as part of 62 FR 6622, (February 12, 1997 - Military munitions rule); and 66 FR 27218 (May 16, 2001- Storage, treatment, transportation and disposal of mixed wastes).

1-45

Chapter 1, Section 1(g)(i)(L) Test Methods for Evaluating Solid Waste, Physical/Chemical Methods was modified by 64 FR 26315, (May 14, 1999 - Test procedures for the analysis of oil and grease) and 66 FR 34374, (June 26, 2001- Change to the Official EPA Address, Additional Technical Amendments and Corrections).

1-45

Chapter 1, Section 1(g)(i)(P) is proposed for deletion because this subparagraph is already presented in subsection (I). New text is proposed for adoption to reflect an additional reference added to the federal rules as finalized in 64 FR 26315, (May 14, 1999 - Test procedures for the analysis of oil and grease).

Changes proposed to Section 1(h) PURPOSE AND SCOPE OF THESE RULES AND REGULATIONS.

1-46

Section 1(h)(i)(B) - Section 3004 is also proposed for revision to add Section 32 of Chapter 11 in the sections cross-referenced within this rule. Section 32 within Chapter 11 is being proposed for adoption as part of this rulemaking. This Section pertains to Hazardous Waste Munitions and Explosive Storage.

1-46
& 47

Sections 1(h)(i)(C) and 1(h)(ii) are proposed for revision to add cross-references to Chapter 12, Sections 19 and 20. These are two new sections (Military Munitions and Conditional Exemptions for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal Terms, respectively) being proposed for inclusion within Chapter 12 in accordance with new federal rules adopted as part of 62 FR 6622, (February 12, 1997 - Military munitions rule); and 66 FR 27218 (May 16, 2001- Storage, treatment, transportation and disposal of mixed wastes).

1-47

Section 1(h)(iii) is proposed for revision to incorporate changes made to the federal rules as finalized in 62 FR 662 (February 12, 1997, Military munitions rule); 63 FR 56710 (October 22, 1998 - the Post-Closure rule); and 64 FR 36466 (July 6, 1999 - Universal lamps). In addition, subsection (f) is proposed for insertion to correctly reference the definitions section of this Chapter.

1-49

Section 1(h)(iii)(B)(VIII)(1.) through (4.) are proposed for revision to change the citation to the correct federal rule, and delete “mercury-containing” in accordance with changes made to the federal rules as finalized in 64 FR 36466 (July 6, 1999 - Universal Lamps).

1-49

Section 1(h)(iii)(C)(I)(4.) and 1(h)(iii)(C)(III) are proposed for adoption in accordance with identical rules being adopted in the federal rules as part of 62 FR 6622 (February 12, 1997 - Military munitions rule).

1-50

Section 1(h)(iii)(E) is proposed for revision to add Section 32 of Chapter 11 in the sections cross-referenced within this rules. Section 32 within Chapter 11 is being proposed for adoption as part of this rulemaking. This Section pertains to Hazardous Waste Munitions and Explosive Storage.

1-51

Section 1(h)(iii)(G) is proposed for adoption to coincide with identical language incorporated into the federal rules as part of 63 FR 56710 (October 22, 1998 - the Post-closure rule).

Changes proposed to Section 3. RULEMAKING PETITION.

1-55

Section 3(a)(i) is proposed for revision to include references to Chapter 12, Sections 19 and 20. These are two new sections (Military Munitions and Conditional Exemptions for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal Terms, respectively) being proposed for inclusion within Chapter 12 in accordance with new federal rules adopted as part of 62 FR 6622, (February 12, 1997 - Military munitions rule) and 66 FR 27218 (May 16, 2001- Storage, treatment, transportation and disposal of mixed wastes).

1-55

Sections 3(a)(i); 3(b)(i) and 3(b)(ii)(C) are each proposed for revision to include Section 32 in the sections within Chapter 11 cross-referenced within this rule. Section 32 is being proposed for adoption as part of this rulemaking. This Section pertains to Hazardous Waste Munitions and Explosive Storage.