

August 31, 2021 (Draft)

1 WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
2 SOLID AND HAZARDOUS WASTE DIVISION
3 HAZARDOUS WASTE MANAGEMENT
4

5 **CHAPTER 1**
6 **GENERAL PROVISIONS**
7

8 **Section 1. IN GENERAL.**

9 (a) ~~AUTHORITY. The authority for the rules contained in this~~ This Chapter is
10 promulgated pursuant to the Wyoming Environmental Quality Act, Wyoming Statute, (W.S.) 35-
11 11-101 et seq. specifically Wyoming Statute (W.S.) 35-11-503.

12 (b) ~~APPLICABILITY. The rules contained herein shall apply to any person, government~~
13 ~~or governmental subdivision, corporation, organization, partnership, business trust, association,~~
14 ~~district, or other entity involved in any aspect of the management of hazardous waste. These~~
15 ~~rules are effective immediately upon filing with the Secretary of State.~~

16 (c) ~~OBJECTIVE. The objective of these rules is to provide minimum standards for the~~
17 ~~management of hazardous waste in order to carry out the policy and purpose of the Wyoming~~
18 ~~Environmental Quality Act, W.S. 35-11-102, and to adopt the federal rules as of June 30,~~
19 ~~2018~~ July 7, 2020, with exceptions as noted.

20 ~~(d) SEVERABILITY. If any Section or provision of these rules, or the application of that~~
21 ~~Section or provision to any person, situation, or circumstance is adjudged invalid for any~~
22 ~~reason, the adjudication does not affect any other Section or provision of these rules or the~~
23 ~~application of the adjudicated Section or provision to any other person, situation, or~~
24 ~~circumstance. The Environmental Quality Council declares that it would have adopted the valid~~
25 ~~portions and applications of these rules without the invalid part, and to this end the provisions~~
26 ~~of these rules are declared to be severable.~~

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

28 (a) ~~GENERAL. For any code, standard, rule or regulation incorporated by reference~~
29 ~~in these rules:~~

30 (i) ~~The Wyoming Department of Environmental Quality, Solid and~~
31 ~~Hazardous Waste Division, has determined that incorporation of the full text in these rules~~
32 ~~would be cumbersome or inefficient given the length or nature of the rules;~~

33 (ii) ~~The incorporation by reference (IBR) does not include any later~~
34 ~~amendments or editions of the incorporated matter beyond the applicable date identified in~~
35 ~~subsection (b) of this section.~~

36 (b) RULE IDENTIFICATION. Each rule incorporated by reference in these rules is
37 further identified as follows: ~~(i) Chapter 1 Hazardous Waste Management General~~
38 ~~Provisions, IBR and exceptions. All references are from This Chapter incorporates sections of~~
39 ~~the Code of Federal Regulations (CFR), Title 40, Parts 124, 260-268, 270, 273, and 279 as~~
40 ~~promulgated by the US Environmental Protection Agency (EPA) through July 7, 2020, unless~~
41 ~~otherwise noted. This incorporation does not include later amendments or editions of the~~
42 ~~incorporated material. Chapter 1 can be Title 40, Parts 124, 260-268, 270, 273, and 279, as~~
43 ~~adopted by the Wyoming Department of Environmental Quality, Solid and Hazardous Waste~~
44 ~~Division and effective on June 30, 2018, found at: <https://rules.wyo.gov/Default.aspx>~~

45 (c) EXCEPTIONS. The following 40 CFR portions by date are excluded from these
46 rules: ~~May 15, 2000 (65 FR 30886; Amendments to NPDES Program regulations), April 22,~~
47 ~~2004 (69 FR 21737; Performance Track), October 25, 2004 (69 FR 62217; Performance Track),~~
48 ~~October 30, 2008 (73 FR 64668; Definition of Solid Waste), January 13, 2015 (80 FR 1694-1814)~~
49 ~~and May 30, 2018 (83 FR 24664); Revisions to the Definition of Solid Waste, December 19,~~
50 ~~2008 (73 FR 77954; RCRA Comparable Fuel Exclusion), and the amendments involving~~
51 ~~Performance Track requirements made as part of 71 FR 16862 on April 4, 2006. Nothing in 40~~
52 ~~CFR Parts 260 - 268, 270, 273, 279 or Part 124 as pertains to permits for Underground~~
53 ~~Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under~~
54 ~~Section 404 of the Clean Water Act, or Prevention of Significant Deterioration Program (PSD)~~
55 ~~under the Clean Air Act is adopted or included by reference herein. 40 CFR Part 278 is not~~
56 ~~incorporated by reference, as the part applies to the Tri State Mining District, not Wyoming.~~
57 ~~More specific exceptions to the incorporated sections of 40 CFR, including more stringent~~
58 ~~provisions relative to the incorporated sections of 40 CFR are detailed in the relevant sections~~
59 ~~of these rules.~~

60 (d) MORE STRINGENT AND BROADER-IN-SCOPE PROVISIONS. Those State-specific
61 rules that are more stringent than, or broader-in-scope than, the incorporated sections of 40
62 CFR are described in detail in Appendix A, Table 1-1 of this Chapter.

63 (e) AVAILABILITY OF REFERENCED MATERIAL. The federal rules adopted by
64 reference throughout these rules are maintained at the following locations:

65 (i) Electronic copies of federal rules may be obtained from the U.S.
66 Government Printing Office, <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>; and

67 (ii) Volumes of the incorporated sections of 40 CFR are available for public
68 inspection at the Wyoming Department of Environmental Quality, Solid and Hazardous Waste
69 Division, the physical address of which can be found at <http://deq.wyoming.gov/shwd/>. Printed
70 copies of the incorporated sections of 40 CFR are also available at cost from the U.S.
71 Government Printing Office, 732 N. Capitol St. NW, Washington, DC 20401 or at
72 <http://bookstore.gpo.gov/catalog/laws-regulations/code-federal-regulations-cfrs-print>. Copies
73 of the incorporated sections of 40 CFR may be requested at cost through the DEQ, which will
74 order the materials from the U.S. Government Printing Office.

75 (iii) An electronic copy of these Wyoming rules may be found at
76 <https://rules.wyo.gov/Default.aspx>.

77
78 **Section 3. SUBSTITUTION OF STATE TERMS FOR FEDERAL TERMS.**

79
80 ~~(a) SUBSTITUTION OF TERMS AND INTERNAL REFERENCES. The following Statestate~~
81 ~~terms shall replace the federal terms where they appear in 40 CFR Parts 260 through 268, 270,~~
82 ~~273, 279, and 124, unless otherwise noted in these rules:~~

83
84 ~~(a) Act. Wyoming Environmental Quality Act, W.S. 35-11-101 et seq. [40 CFR~~
85 ~~260.10]~~

86 ~~(b) Administrator, or Regional Administrator. When used in the context of 40 CFR,~~
87 ~~the definition shall be the. The Director of the Wyoming Department of Environmental Quality,~~
88 ~~or their designee, except where noted in these rules. When used in the context of these rules,~~
89 ~~the definition shall be the U.S. Environmental Protection Agency Administrator or Region 8~~
90 ~~Regional Administrator as appropriate. [40 CFR 260.10/270.2].~~

91 ~~(c) (iii) Board, or Environmental Appeals Board. The~~ When used in the
92 ~~context of 40 CFR, the definition shall be the~~ The Wyoming Environmental Quality
93 ~~Council. except where noted in these rules.~~

94
95 ~~(iv) Department, or DEQ. The Wyoming Department of Environmental~~
96 ~~Quality.~~

97 ~~(d) (v) Director, Regional Director, or State Director. The Director of the DEQ or~~
98 ~~his or her designee. (In some circumstances however, the EPA retains authority to take certain~~
99 ~~actions even though Wyoming has an approved program. In these cases, reference is made to~~
100 ~~the EPA Administrator instead of the Director.) [40 CFR 270.2] (vi) DOT. Any~~
101 ~~reference to the "Department of Transportation" or "DOT" shall mean the U.S. Department of~~
102 ~~Transportation.~~

103
104 ~~(e) (vii) EPA, U.S. Environmental Protection Agency, EPA Headquarters.~~
105 ~~The~~ When used in the context of 40 CFR, the definition shall be the The-DEQ, except when used
106 in 40 CFR 262.25 or to refer to an EPA Identification number, EPA hazardous waste number,
107 EPA forms, publications or guidance, or EPA Acknowledgment of Consent, ~~and where noted~~
108 ~~in these rules.. Under the latter circumstances, the definition shall be the U.S. Environmental~~
109 ~~Protection Agency and the Headquarters of the U.S. Environmental Protection Agency as~~
110 ~~appropriate. When used in the context of these rules, the definition shall be the U.S.~~
111 ~~Environmental Protection Agency. [40 CFR 262.12(d) and 40 CFR 270.2]~~

112 ~~(f) Qualified Professional Engineer. A professional engineer registered in the State~~
113 ~~of Wyoming. Professional engineers must be registered in Wyoming when activities require~~

114 ~~Professional Engineer certification. This differs from the EPA phrase "qualified Professional~~
115 ~~Engineer". A professional engineer registered in the State of Wyoming.~~

116

117 (g) ~~Qualified Geologist or Geologist. Geologists. A professional geologist registered~~
118 ~~in the State of Wyoming. Professional geologists must be registered in Wyoming when~~
119 ~~activities require professional geologist certification. This differs from the EPA phrases~~
120 ~~"qualified geologist" or "geologists". A professional geologist registered in the State of~~
121 ~~Wyoming.~~

122

123 (h) RCRA. The comparable sections of the Wyoming Environmental Quality Act.
124 ~~When used in the context of these rules, the definition shall be The Resource Conservation and~~
125 ~~Recovery Act, 42 U.S. Code, Sections 6901 et seq.~~

126

127 (i) ~~(i)~~ RCRA Permit. State hazardous waste management facility
128 (HWMF) permit, which is an authorization, license, or equivalent control
129 document issued by the DEQ to implement the requirements of W.S. 35-11-
130 503(d).

131

132 ~~(j) "Solid Waste. (see "Waste Material").~~

133

(k) State. The State of Wyoming.

134

(l) United States or U.S. ~~The State of Wyoming. When used in the context of 40~~
135 ~~CFR, the definition shall be the State of Wyoming, except where noted in these rules. When~~
136 ~~used in the context of these rules, the definition shall be the United States. [40 CFR 260.10]~~

137

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

140

Section 4. DEFINITIONS.

141

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

144

(a) Air contaminant. Dust, fumes, mist, smoke, other particulate matter, vapor, gas
146 or any combination of the foregoing, but shall not include steam or water vapor. - Chapter 1,
147 Section 3 (Air Quality Rules).

148

(b) Air pollution. The presence in the outdoor atmosphere of one or more air
150 contaminants in such quantities and duration as is materially injurious to human health or
151 welfare, animal or plant life or property, or unreasonably interferes with the enjoyment of life
152 or property. - Chapter 1, Section 3 (Air Quality Rules).

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

156 ~~_____ (ii) _____ Air pollution. The presence in the outdoor atmosphere of one (1) or more~~
157 ~~contaminants in such quantities and duration that may be injurious to human health or welfare,~~
158 ~~animal or plant life, or property, or unreasonably interferes with the enjoyment of life or~~
159 ~~property.~~ (c) Assumed target intakes. The standard EPA exposure assumptions and
160 factors as defined in the "OSWER Directive 9285.6-03," and the EPA "exposure factors
161 handbook," as specified in "Exposure Factors Handbook", 2011, U.S. Environmental Protection
162 Agency, EPA 600/R-09/052F. ~~_____ (iv) _____ CFR. The United States Code of Federal~~
163 ~~Regulations.~~

164
165 (d) Chronic. That time period from seven years to a lifetime.

166
167 (e) Class I facilities. Any non-commercial or non-profit treatment or storage facility,
168 not engaged specifically in incineration, used solely to manage hazardous wastes that are
169 generated by the owner of the facility at the site of the facility, or any existing, but closed
170 treatment, storage, or disposal facility.

171
172 (f) Class II facilities: Any non-commercial or non-profit treatment facility engaged
173 specifically in incineration or any non-commercial or non-profit facility engaged in the disposal
174 of hazardous waste that is used solely to manage hazardous wastes that are generated by the
175 owner of the facility at the site of the facility.

176 (g) Class III facilities. ~~Are:~~

177 (i) Any commercial treatment, storage, or disposal facility;

178 (ii) Any other facility used to manage hazardous wastes that is not classified
179 as either a Class I or Class II facility.

180 (h) Council. The Environmental Quality Council established by the Act.

181 (i) DDESB. Department of Defense Explosives Safety Board.

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

184 (k) Exposure. Contact with a chemical or physical agent.

185 ~~(l)~~ HSWA. Hazardous and Solid Waste Amendment of 1984.

186 ~~(m)~~ HSWA drip pad. A drip pad where F032 wastes are handled.

187 ~~(nm)~~ HSWA tank. A tank owned or operated by a generator of less than one-thousand
188 kilograms of hazardous waste in any single calendar month, new underground systems, and
189 those existing underground tanks that cannot be entered for inspection.

190 ~~(on)~~ HWM. ———Hazardous Waste Management.

191 ~~(pe)~~ HWMF. Hazardous Waste Management Facility.

192 ~~(qp)~~ HWRR. Wyoming Hazardous Waste Rules and Regulations.

193 ~~(re)~~ IBR. Incorporation by Reference. ~~(xix) Municipality. A city, town, county,~~
194 ~~district, association or other public body.~~

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

196
197 ~~(t)——(s)~~ Non-HSWA tank. Inground tank systems, onground tank systems,
198 aboveground tank systems, and existing underground tank systems that can be entered for
199 inspection.

200 ~~(ut)~~ One excess cancer per million people. A probability of one chance in one million
201 of an individual developing cancer in excess beyond their natural background risk.

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

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

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

212 ~~(yx)~~ Subchronic. That point in time between two weeks to seven years. ~~(xxvii)~~
213 ~~———Voluntary Remediation Program, or VRP. Wyoming State cleanup program established~~
214 ~~in the year 2000 per Article 16 of the Act.~~

215 ~~(z)~~ Waste material. Any discarded material that is not excluded under 40 CFR
216 261.4(a), or that is not excluded by a variance granted by the Director under 40 CFR 260.30 and
217 260.31.

218 **Sections 5 - 123. RESERVED.**

219

220 **Section 124. ADMINISTRATIVE PROCEDURES.**

221 (a) IBR AND EXCEPTIONS. 40 CFR Part 124, Subparts A, B, and G are herein
222 incorporated by reference ~~as provided in 40 CFR, except that~~ with the exception of the last
223 sentence of 40 CFR 124.10(b)(1), the fourth sentence of 40 CFR 124.31(a), the third sentence of
224 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a are expressly omitted from the
225 incorporation by reference of each of those subsections). 40 CFR Sections 124.1, 124.4,
226 124.5(c), 124.5(e)-(g), 124.6(c), 124.6(d)(4)(ii)-(v), 124.8(b)(3), 124.8(b)(8), 124.9(b)(6),
227 124.10(a)(1)(iv)-(v), 124.10(c)(1)(iv)-(viii), 124.10(c)(2)(i), 124.10(d)(1)(vii)-(viii), 124.10(d)(2)(iv),
228 124.12(b), 124.15(b)(2), 124.16, 124.18(b)(5), 124.19, 124.21, 124.204(d)(1) and (4), 124.205(a)
229 and (h) are also not incorporated by reference.

230
231 (i) For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii), "EPA"
232 and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental
233 Protection Agency and the U.S. Environmental Protection Agency Region 8 Regional
234 Administrator, respectively.

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

237 ~~(iii) For purposes of 40 CFR 124.19, the "Environmental Appeals Board" shall~~
238 ~~be the Council. Environmental appeals under 40 CFR 124.19 are addressed in Section 124(f) of~~
239 ~~these rules.~~ (ii) (iii) ~~The DEQ may order facility closure following permit termination.~~

240 ~~Closure and post closure activities shall be accomplished in accordance with a plan approved by~~
241 ~~the DEQ. If a closure/post closure plan has not been approved, closure and post closure~~
242 ~~activities shall be accomplished in accordance with the standards specified in 40 CFR 264 and~~
243 ~~265.~~

244 (b) APPLICATIONS FOR A PERMIT.

245 (i) Any person who requires a permit under W.S. 35-11-503(d) shall
246 complete, sign, and provide the Director with one copy of the permit application. The
247 application shall be organized in three-ring binders, and the information set forth in a format
248 that conforms to the order set forth in the applicable Sections of these rules.

249
250 (ii) Each application for a State HWMF permit shall be reviewed for
251 completeness by the Director within sixty days of receipt or an alternate date as agreed upon
252 by the Director and the applicant. Upon completing the review, the Director shall notify the
253 applicant in writing whether the application is complete. If the application is incomplete, the
254 Director shall list the information necessary to make the application complete in a notice of
255 deficiency (NOD), which shall be sent promptly to the applicant. The NOD shall specify a date
256 for submitting the necessary information. Information submitted in response to the NOD shall
257 be reviewed for completeness within sixty days of its submission. The Director shall notify the
258 applicant that the application is complete when the Director determines that all information
259 requirements have been met. After the application is completed, the Director may request
260 additional information from an applicant but only when necessary to clarify, modify, or

261 supplement previously submitted material. Requests for such additional information will not
262 render an application incomplete.

263 (iii) The effective date of an application is the date on which the Director
264 notifies the applicant that the application is complete as provided in Section 124(b)(ii) of this
265 Chapter. Upon receipt of notice that the application is complete, the applicant shall:

266 (A) Provide written notice of the application to landowners with
267 property located within a half mile of the site, using certified, return receipt requested mail.

268 (B) Provide such written notice to each member of the interested
269 parties mailing list maintained by the DEQ, the mayor of each city or town within fifty miles of
270 the proposed facility, and the county commission and any solid waste district for the county in
271 which the potential facility is located.

272 (C) ~~Cause a notice to be published~~ Publish a notice once a week for
273 two consecutive weeks in a newspaper of general circulation within the county where the
274 applicant plans to locate the facility. The notice shall contain information about the permit
275 application including the identity of the applicant, the proposed facility location, facility size,
276 waste types intended for treatment, storage or disposal, method of operation, and operating
277 life. Specific text for the notice shall be provided to the applicant by the DEQ. The DEQ may, at
278 its discretion, conduct a public hearing or receive written public comment on the application.

279 (iv) Once an application is complete, the Director shall conduct a technical
280 review of the application within ninety days of the effective date of the application or an
281 alternate date agreed upon by the Director and the applicant. Before the close of this ninety-
282 day period, the Director shall decide whether to prepare a draft permit or deny the application.

283 (v) All draft permits prepared under 40 CFR 124.6 shall be accompanied by a
284 fact sheet (40 CFR 124.8) or statement of basis (40 CFR 124.7) and shall be based on the
285 administrative record (40 CFR 124.9), publicly noticed (40 CFR 124.10), and made available for
286 public comment (40 CFR 124.11). ~~The Director shall give notice of opportunity for a public~~
287 ~~hearing (40 CFR 124.12), issue a final decision (40 CFR 124.15) and respond to comments (40~~
288 ~~CFR 124.17). Draft permits prepared by the State of Wyoming shall be accompanied by a fact~~
289 ~~sheet if required by 40 CFR 124.8. An appeal may be taken in accordance with Article 10 of the~~
290 ~~Act and the provisions of the Wyoming Administrative Procedures Act. [40 CFR 124.6(e)]~~

291 ~~(c) MODIFICATION, REVOCATION AND REISSUANCE, OR TERMINATION OF PERMITS.~~

292 ~~(i) Permits may be modified, revoked and reissued, or terminated either at~~
293 ~~the request of any interested person (including the permittee) or upon the Director's initiative.~~
294 ~~However, permits may only be modified, revoked and reissued, or terminated for the reasons~~
295 ~~specified in 40 CFR 270.41 or 40 CFR 270.43. All requests shall be in writing and shall contain~~
296 ~~facts or reasons supporting the request. [40 CFR 124.5(a)]~~

297 ~~_____ (ii) If the Director decides the request is not justified, the Director shall send~~
298 ~~the requester a brief written response giving a reason for the decision. Denials of requests for~~
299 ~~modification, revocation and reissuance, or termination are not subject to public notice or~~
300 ~~comment. Denials by the Director may be informally appealed to the Council. An appeal may~~
301 ~~be taken in accordance with W.S. 35-11-112(a)(iii) and the provisions of the Wyoming~~
302 ~~Administrative Procedures Act. [40 CFR 124.5(b)]~~

303 ~~_____ (iii) If the Director tentatively decides to modify or revoke and reissue a~~
304 ~~permit under 40 CFR 270.41 (other than 40 CFR 270.41(b)(3)) or 40 CFR 270.42(c), the Director~~
305 ~~shall prepare a draft permit under 40 CFR 124.6 of these rules incorporating the proposed~~
306 ~~changes. The Director may request additional information and, in the case of a modified~~
307 ~~permit, may require the submission of an updated application. In the case of revoked and~~
308 ~~reissued permits, other than under 40 CFR 270.41(b)(3), the Director shall require the~~
309 ~~submission of a new application. In the case of revoked or reissued permits under 40 CFR~~
310 ~~270.41(b)(3), the Director and the permittee shall comply with the appropriate requirements in~~
311 ~~40 CFR Part 124, Subpart G for standardized permits. In a permit modification under 40 CFR~~
312 ~~124.5, only those conditions to be modified shall be reopened when a new draft permit is~~
313 ~~prepared. All other aspects of the existing permit shall remain in effect for the duration of the~~
314 ~~unmodified permit. When a permit is revoked and reissued under 40 CFR 124.5, the entire~~
315 ~~permit is reopened just as if the permit had expired and was being reissued. During any~~
316 ~~revocation and reissuance proceeding, the permittee shall comply with all conditions of the~~
317 ~~existing permit until a new final permit is reissued. "Classes 1 and 2 modifications" as defined~~
318 ~~in 40 CFR 270.42(a) and (b) are not subject to the requirements of 40 CFR 124.5. [40 CFR~~
319 ~~124.5(c)(1),(2), and (3)]~~

320 ~~_____ (iv) If the Director tentatively decides to terminate a permit under 40 CFR~~
321 ~~270.43, the Director shall issue a notice of intent to terminate. A notice of intent to terminate~~
322 ~~is a type of draft permit that follows the same procedures as any draft permit prepared under~~
323 ~~40 CFR 124.6. [40 CFR 124.5(d)]~~

324 (c) PUBLIC NOTICE REQUIREMENTS.

325
326 (i) ~~The Director shall provide public notice, as required under 40 CFR~~
327 ~~124.10(a), within fifteen days of the preparation of issuing a draft permit or ~~(including a notice~~
328 ~~of intent to deny a permit application and shall allow at least 45 days for public comment.~~~~

329 (ii) ~~The above public notice of activities described in 40 CFR 124.10(a)(1)~~
330 ~~shall be given provided by publication of a notice once a week for two consecutive weeks in a~~
331 ~~daily or weekly major local newspaper of general circulation and broadcast over local radio~~
332 ~~stations.~~

333 (iii) ~~Obligation to raise issues and provide information during the public~~
334 ~~comment period. All persons, including applicants, who believe any condition of a draft permit~~
335 ~~is inappropriate or that the Director's tentative decision to deny an application, terminate a~~

336 permit, or prepare a draft permit is inappropriate, must raise all reasonably ascertainable issues
337 and submit all reasonably available arguments supporting their position by the close of the
338 public comment period under 40 CFR 124.10. Any supporting materials that are submitted shall
339 be included in full and may not be incorporated by reference, unless they are already part of
340 the administrative record in the same proceeding, or consist of state or federal statutes and
341 regulations, EPA documents of general applicability, or other generally available reference
342 materials. Commenters shall make supporting materials not already included in the
343 administrative record available to the DEQ as requested by the Director. (A comment period
344 longer than 45 days may be necessary to give commenters a reasonable opportunity to comply
345 with the requirements of 40 CFR 124.13. Additional time shall be granted under 40 CFR 124.10
346 to the extent that a commenter who requests additional time demonstrates the need for such
347 time.)

348 (d) PERMIT ISSUANCE. Within thirty days after the close of the public comment
349 period under 40 CFR 124.10 on a draft permit, the Director shall issue a final permit decision (or
350 a decision to deny a permit for the active life of a HWMF or unit under 40 CFR 270.29) unless an
351 objection has been filed with the Director in accordance with 40 CFR 124.12(a)(3)(i). If an
352 objection has been filed, and a Council hearing is held, the Council shall issue findings of fact
353 and a decision on the proposed permit within thirty days after the final hearing. The Director
354 shall issue or deny the final permit no later than fifteen days from receipt of any findings of fact
355 and decision of the Council. The Director shall notify the applicant and each person who has
356 submitted written comments or requested notice of the final permit decision. This notice shall
357 include reference to the procedures for appealing a decision on a State HWMF permit or for
358 contesting a decision to terminate a State HWMF permit. For the purposes of 40 CFR 124.15, a
359 final permit decision means a final decision to issue, deny, modify, revoke and reissue, or
360 terminate a permit.

361 (e) PUBLIC HEARINGS.

362 (i) ~~The Director~~Council shall hold a public hearing pursuant to Chapter 2 of
363 the DEQ's Rules of Practice and Procedure whenever the Director finds, on the basis of
364 requests, a significant degree of public interest in a draft permit(s);
365

366 (ii) The Director may also schedule a public hearing before the Council,
367 pursuant to Chapter 2 of the DEQ's Rules of Practice and Procedure, at his or her discretion,
368 whenever, for instance, such a hearing might clarify one or more issues involved in the permit
369 decision;
370

371 (iii) The Director shall also schedule a public hearing under Chapter 2 of the
372 DEQ's Rules of Practice and Procedure whenever written notice of opposition to a draft permit
373 and a request for a hearing has been received within 45 days of public notice under Section
374 124(c)(i) of this Chapter.
375

376 (iv) Whenever possible the Director shall schedule a hearing under this
377 Section at a location convenient to the nearest population center to the proposed facility and
378 within twenty days after the close of the public comment period unless a different schedule is
379 deemed necessary by the Council. In addition to the public notice procedures specified in
380 Section 124(c) of this Chapter, the Director shall publish notice of the time, date, and location
381 of the hearing in a newspaper of general circulation in the county where the applicant plans to
382 locate the facility once a week for two consecutive weeks immediately prior to the hearing.
383

384 (v) The public comment period under Section 124(c)(i) of this Chapter shall
385 be automatically extended to the close of any public hearing under Section 124(e)(i) or
386 124(e)(ii) of this Chapter.
387

388 (vi) The Director may also in the circumstances described above, elect to hold
389 further proceedings as provided in the DEQ's Rules of Practice and Procedures. This decision
390 may be combined with any of the actions enumerated in 40 CFR 124.14(b).

391 (f) APPEAL OF STATE HAZARDOUS WASTE MANAGEMENT FACILITY PERMITS. The
392 applicant or any person adversely affected or aggrieved by any final operating permit or final
393 permit condition may obtain judicial review by filing a petition for review within thirty days
394 after entry of the order or other final action complained of pursuant to the provisions of the
395 Wyoming Administrative Procedure Act.

396 (g) MODIFICATION, REVOCATION AND REISSUANCE, OR TERMINATION OF PERMITS.

397 (i) Permits may be modified, revoked and reissued, or terminated either at
398 the request of any interested person (including the permittee) or upon the Director's initiative.
399 However, permits may only be modified, revoked and reissued, or terminated for the reasons
400 specified in 40 CFR 270.41 or 40 CFR 270.43. All requests shall be in writing and shall contain
401 facts or reasons supporting the request.

402 (ii) If the Director decides the request is not justified, the Director shall send
403 the requester a brief written response giving a reason for the decision. Denials of requests for
404 modification, revocation and reissuance, or termination are not subject to public notice or
405 comment. Denials by the Director may be appealed to the Council in accordance with W.S. 35-
406 11-112(a)(iii) and the provisions of the Wyoming Administrative Procedure Act.

407 (iii) If the Director tentatively decides to modify or revoke and reissue a
408 permit under 40 CFR 270.41 (other than 40 CFR 270.41(b)(3)) or 40 CFR 270.42(c), the Director
409 shall prepare a draft permit under 40 CFR 124.6 of these rules incorporating the proposed
410 changes. The Director may request additional information and, in the case of a modified
411 permit, may require the submission of an updated application. In the case of revoked and
412 reissued permits, other than under 40 CFR 270.41(b)(3), the Director shall require the
413 submission of a new application. In the case of revoked or reissued permits under 40 CFR
414 270.41(b)(3), the Director and the permittee shall comply with the appropriate requirements in

415 40 CFR Part 124, Subpart G for standardized permits. In a permit modification under 40 CFR
416 124.5, only those conditions to be modified shall be reopened when a new draft permit is
417 prepared. All other aspects of the existing permit shall remain in effect for the duration of the
418 unmodified permit. When a permit is revoked and reissued under 40 CFR 124.5, the entire
419 permit is reopened just as if the permit had expired and was being reissued. During any
420 revocation and reissuance proceeding, the permittee shall comply with all conditions of the
421 existing permit until a new final permit is reissued. "Classes 1 and 2 modifications" as defined
422 in 40 CFR 270.42(a) and (b) are not subject to the requirements of 40 CFR 124.5.

423 (iv) If the Director tentatively decides to terminate a permit under 40 CFR
424 270.43, the Director shall issue a notice of intent to terminate. A notice of intent to terminate
425 is a type of draft permit that follows the same procedures as any draft permit prepared under
426 40 CFR 124.6. All permit termination procedures shall be accomplished in accordance with the
427 requirements of the Wyoming Administrative Procedure Act.

428 (v) The DEQ may order facility closure following permit termination. Closure
429 and post-closure activities shall be accomplished in accordance with a plan approved by the
430 DEQ. If a closure/post-closure plan has not been approved, closure and post-closure activities
431 shall be accomplished in accordance with the standards specified in 40 CFR 264 and 265.
432

433 ~~_____ (g) WHAT IS A STANDARDIZED PERMIT? The standardized permit is a special form of~~
434 ~~State HWMF permit that authorizes you to manage hazardous waste and may consist of two~~
435 ~~parts: A uniform portion that the Director issues in all cases, and a supplemental portion that~~
436 ~~the Director issues at his or her discretion. The term "Standardized Permit" is formally defined~~
437 ~~in 40 CFR 124.2.~~

438 ~~_____ (i) What comprises the uniform portion? The uniform portion of a~~
439 ~~standardized permit consists of terms and conditions, relevant to the unit(s) you are operating~~
440 ~~at your facility, that the DEQ has promulgated in 40 CFR 267. If you intend to operate under the~~
441 ~~standardized permit, you must comply with these State-wide applicable terms and conditions.~~
442 ~~{40 CFR 124.200(a)}~~

443 **Sections 125-259. RESERVED.**

444 **Section 260. HAZARDOUS WASTE MANAGEMENT SYSTEM.**

445 (a) **IBR AND EXCEPTIONS.** 40 CFR Part 260 and all Subparts, except 40 CFR 260.2(a),
446 (b), (c)(2), (d)(1) and (d)(2), 260.4(a)(4), 260.5(b)(2), the definitions of "remediation waste
447 management site", "electronic manifest (or e-manifest)", "electronic manifest system (or e-
448 manifest system)", "user of the electronic manifest system," and the third part of the definition
449 for "facility" in 260.10-260.20(d) and (e), 260.4(a)(4) and 260.5(b)(2) and 260.20(d) and (e), are
450 herein incorporated by reference as provided in 40 CFR. For the purposes of Part 260, the State

451 ~~is not adopting the changes to the Definition of Solid Waste (DSW), associated with 73 FR~~
452 ~~64668; October 30, 2008; or January 13, 2015 (80 FR 1694), and May 30, 2018 (83 FR 24664).~~

453 (i) For purposes of 40 CFR 260.10, in the definition of "hazardous waste
454 constituent", "Administrator" shall mean the U.S. Environmental Protection Agency
455 Administrator. ~~"Hazardous waste constituent" shall be a constituent that caused the~~
456 ~~Administrator of the United States Environmental Protection Agency to list the hazardous waste~~
457 ~~in part 261, subpart D, or a constituent listed in table 1 of §261.24.~~

458 (ii) For purposes of 40 CFR 260.10, "existing hazardous waste management
459 (HWM) facility" or "existing facility" shall be a facility that was in operation or for which
460 construction commenced on or before November 19, 1980. ~~A facility has commenced~~
461 ~~construction if the owner or operator has obtained the permits and approvals required under~~
462 ~~federal, state, or local statutes, regulations, or ordinances necessary to begin physical~~
463 ~~construction; and either:~~

464
465 ~~_____ (A) A continuous on-site, physical construction program has begun; or~~

466 ~~_____ (B) The owner or operator has entered into contractual obligations~~
467 ~~that cannot be cancelled or modified without substantial loss for physical construction of the~~
468 ~~facility to be completed within a reasonable time. Installation will be considered to have~~
469 ~~commenced if the owner or operator has obtained all permits and approvals required under~~
470 ~~federal, state or local hazardous waste control statutes, regulations or ordinances necessary to~~
471 ~~begin physical construction of the site or installation of the tank system and if either:~~

472 ~~_____ (A) A continuous on-site physical construction or installation program~~
473 ~~has begun, or~~

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

477
478 (iviii) For purposes of 40 CFR 260.10, the definition of "new tank system" or
479 "new tank component" shall be as follows: A tank system or component that will be used for
480 the storage or treatment of hazardous waste:

481 (A) For which installation has commenced after July 14, 1986 for
482 HSWA tanks, as defined in Section 4(a)(xiv), and October 18, 1995 for non-HSWA tanks, as
483 defined in Section 4(a)(xxi), except,

484 (B) For purposes of 40 CFR 264.193(g)(2) and 265.193(g)(2), for which
485 construction commenced after July 14, 1986 for HSWA tanks, and October 18, 1995 for non-
486 HSWA tanks.

487

488 (b) RULEMAKING PETITION.

489

490 (i) Any person may petition the Council to modify or revoke any provisions
491 in these rules as allowed under W.S. 16-3-106. 40 CFR 260.21 sets forth additional
492 requirements for petitions to add a testing or analytical method to 40 CFR Parts 261, 264, or
493 265. 40 CFR 260.22 sets forth additional requirements for petitions to exclude a waste or
494 waste-derived material at a particular facility from 40 CFR 261.3 or the lists of hazardous wastes
495 in Subpart D of 40 CFR Part 261. 40 CFR 260.23 sets forth additional requirements for petitions
496 to amend 40 CFR Part 273 to include additional hazardous wastes or categories of hazardous
497 waste as universal waste.

498 (ii) Each petition must be submitted in accordance with Chapter 3, Section 3
499 of the DEQ's Rules of Practice and Procedure.

500 (iii) Rulemaking petitions will be evaluated in accordance with the
501 requirements of Chapter 3, Sections 3(c) - (e) and Section 4(b) of the DEQ's Rules of Practice
502 and Procedure.

503

504

Section 261. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

505 (a) IBR AND EXCEPTIONS. 40 CFR Part 261 and all Subparts, except Sections
506 261.4(b)(11), ~~261.4(b)(16), and 261.4(b)(17)~~, 261.400 (a-b), 261.410(e-f), 261.411, 261.420,
507 261.1035(b)(1), 261.1064(b)(2), Subpart H, Appendix IX, and the language "in the Region where
508 the sample is collected" in 40 CFR 261.4(e)(3)(iii), are herein incorporated by reference ~~as~~
509 ~~provided in 40 CFR. For the purposes of Part 261, the State is not adopting the changes~~
510 ~~associated with the Definition of Solid Waste, associated with 73 FR 64668; October 30, 2008;~~
511 ~~or January 13, 2015 (80 FR 1694).~~

512

513 (i) For purposes of 40 CFR 261.10 and 40 CFR 261.11, "Administrator"
514 shall be defined as the U.S. Environmental Protection Agency Administrator.

515

516 (ii) For purposes of 40 CFR 261.39(a)(5), and 261.41, "EPA" shall be defined as
517 the U.S. Environmental Protection Agency.

518

519 (iii) For purposes of 40 CFR 261.41(a), "Regional Administrator" shall be
520 defined as U.S. Environmental Protection Agency Region 8 Regional Administrator. Copies of
521 advance notification required under this section shall also be sent to the Director.

522

523 (b) ADDITIONAL REQUIREMENTS FOR RECYCLABLE MATERIALS.

524 (i) Sham Recycling. The Director may determine that a proposed hazardous
525 waste recycling activity constitutes sham recycling. Hazardous waste treatment or disposal
526 activity determined to be sham recycling shall be subject to the permitting requirements under
527 these rules. The Director shall consider the following criteria in making this determination.

- 528 (A) The secondary material contains a hazardous constituent defined
529 in 40 CFR 261, Appendix VII not found in the analogous raw material or at greater levels than
530 the analogous raw material;
- 531 (B) The secondary material exhibits a hazardous characteristic that
532 the analogous raw material does not;
- 533 (C) The secondary material is being used in excess of the amount of
534 raw material that would otherwise be used;
- 535 (D) The recycling process (including storage) is likely to release
536 hazardous constituents or otherwise pose risks to human health and/or the environment that
537 are different from or greater than the risks posed by the processing of an analogous raw
538 material or product;
- 539 (E) The secondary material to be recycled does not have value as a
540 raw material or product and there is no guaranteed market for the end product;
- 541 (F) The secondary material is not handled in a manner consistent
542 with the raw material or product it replaces;
- 543 (G) The toxic constituent in the secondary material is useful in the
544 production of the product or the product itself;
- 545 (H) Economics of the recycling process; or
- 546 (I) Other factors the Director deems relevant.

547 (ii) No process in which liquids, solids, sludges, or dissolved constituents are
548 collected or separated in process units for recycling, recovery, or reuse including the recovery
549 of energy, within a continuous or batch manufacturing or refining process shall be considered a
550 sham recycling activity under this Section 261(b) of this Chapter.

551
552 **Section 262. STANDARDS APPLICABLE TO THE GENERATORS OF HAZARDOUS WASTE.**

553
554 **IBR AND EXCEPTIONS.** 40 CFR Part 262 and all Subparts, except 262.10(k), and the
555 language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and (b), are
556 herein incorporated by reference ~~as provided in 40 CFR. 40 CFR 262.20(a)(2) is not~~
557 ~~incorporated by reference, as it addresses a federal deadline that has passed.~~

558
559 (a) For purposes of 40 CFR 262.10(g), Section 3008 of "the Act" shall refer to RCRA
560 §3008, not the Act.

561
562 (b) For purposes of 40 CFR 262.12(d), 18(e), the owner or operator shall apply to the
563 DEQ for an EPA identification number.

564
565 (c) A person who generates a hazardous waste as defined by 40 CFR 261 is subject
566 to the compliance requirements and penalties prescribed in ~~W.S. 35-11-503(d)~~; Articles 7 and 9
567 of the Act; Section 270(o) of these rules; and Section 3008 of the Act if he or she does not
568 comply with the requirements of this Chapter.

569 (d) For purposes of 40 CFR 262.10(d), 262.18, 262.21, and Subpart H, the
570 substitution of State terms for Federal terms does not apply because manifest registry
571 functions, oversight, and notifications regarding exports and imports are under EPA, not State,
572 authorization. Copies of all documentation, advance notifications, annual reports, exception
573 reports, or other records submitted to EPA, the Administrator, or the Regional Administrator,
574 required under these sections, shall also be provided to the Director.

575
576 (e) For purposes of 40 CFR 262.17(a), ~~except as provided in 40 CFR 262.17(b) and~~
577 (c), a generator may accumulate hazardous waste on-site for ninety days or less without a
578 permit or without having interim status (see 40 CFR 262.14(a) for provisions regarding very
579 small quantity generators).

580
581 ~~(f) For purposes of 40 CFR 262.16(b)(9)(iv)(C),~~ (f) In addition to the emergency
582 notification required by 40 CFR 262.16(b)(9)(iv)(C), the emergency coordinator must also
583 immediately notify the DEQ by telephone, 307-777-7501, to file an identical report.
584 ~~(vi) For purposes of 40 CFR 262, Appendix A, Item 18a, Paragraph 4, the following~~
585 ~~shall apply: "Owners or operators of facilities located in Wyoming should contact the DEQ for~~
586 ~~information on where to report discrepancies involving "significant differences" to State~~
587 ~~officials."~~

588 **Section 263. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.**

589 IBR AND EXCEPTIONS. 40 CFR Part 263 and all Subparts except 40 CFR 263.20(a)(3) are
590 herein incorporated by reference ~~as provided in 40 CFR.~~

591 (a) For purposes of 40 CFR 263.20(g), ~~263.20(g)(1), 263.20(g)(4)~~, 263.21(a)(4), and
592 263.22(d), "United States" shall be defined as the United States.

593 (b) For purposes of 40 CFR 263.20(a) and (g), "EPA Acknowledgement of Consent"
594 and "US Customs Official" shall remain under EPA authority, as the State of Wyoming is not
595 authorized ~~for the to perform these export functions, of these subparts.~~

596 ~~(iii) For purposes of 40 CFR 263.10(d), the reference to "Federal definition of~~
597 ~~hazardous waste in 40 CFR 261.3" is retained.~~

598 (c) For purposes of 40 CFR 263.30(c), notice shall also be given to the DEQ Director
599 whose address can be found at <http://deq.wyoming.gov/>, or by using their 24-hour telephone
600 number, <http://deq.wyoming.gov/>, 307-777-7501.

601 **Section 264. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE**
602 **TREATMENT, STORAGE, AND DISPOSAL FACILITIES.**

603
604 (a) IBR AND EXCEPTIONS. 40 CFR Part 264 and all Subparts, ~~excluding except~~
605 Subpart FF and 40 CFR 264.1(f), 264.1(g)(12), 264.1(j), 264.15(b)(5), 264.70(b), 264.71,
606 264.73(b)(17), 264.101(d), 264.147(k), 264.149, 264.150, 264.301(l), 264.314(e), 264.554(l)(2),
607 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g) are herein incorporated by
608 reference ~~as provided in 40 CFR.~~

609
610 (i) For purposes of 40 CFR 264.1(g)(1), "a State" shall be replaced by "the
611 State of Wyoming".

612
613 (ii) For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator"
614 shall be defined as the U.S. Environmental Protection Agency Region 8 Regional Administrator.

615
616 (iii) For purposes of 40 CFR 264.13(b)(3)(ii), the equivalent sampling method
617 is one that is approved by rule pursuant to Chapter 3, Section 3 of the DEQ's Rules of Practice
618 and Procedure.

619
620 (iv) For purposes of 40 CFR 264.18(b)(1), new facilities shall not be located
621 within the boundaries of a 100-year floodplain. Facilities shall also meet the location standards
622 of Section 264(i), (j), and (k) of this Chapter. ~~Subparts K, L, and M of these rules.~~

623 (v) For purposes of 40 CFR 264.56(d)(2), the coordinator must immediately
624 notify either the government official designated as the on-scene coordinator for that
625 geographical area, or the National Response Center (using their 24-hour toll free number 800-
626 424-8802). The DEQ must also be notified immediately, using its 24-hour telephone number,
627 307-777-7501.

628 (vi) For purposes of 40 CFR 264.1082(c)(4)(ii), "EPA" shall be defined as the
629 U.S. Environmental Protection Agency.

630
631 (vii) For purposes of 40 CFR 264, Subpart G (Federal closure provision), the
632 owner or operator will continue to take all steps as required by 40 CFR 264.112(d)(2)(i).

633
634 (viii) For purposes of 40 CFR 264.191(a), the tank system's integrity
635 assessment must be completed by January 12, 1988, for HSWA tanks, as defined at Section
636 4(a)(xiv), and by October 18, 1996, for non-HSWA tanks, as defined at Section 4(a)(xxi).

637 (ix) For purposes of 40 CFR 264.191(c), the compliance date for conducting
638 the assessment is within 12 months of July 14, 1986, for HSWA tanks, as defined in Section
639 4(a)(xiv). For non-HSWA tanks, as defined at Section 4(a)(xxi), the compliance date is within 12
640 months of October 18, 1995.

641
642 (x) For purposes of 40 CFR 264.314(e), the placement of any liquid that is
643 not a hazardous waste in a landfill is prohibited.

644
645 (xi) For purposes of 40 CFR 264.552(a)(3)(iii), the State deletes the phrase
646 "or a demonstration is made pursuant to §264.314(e)".

647
648 (xii) For purposes of 40 CFR 264.1030(c), the reference to "40 CFR 124.15"
649 shall be replaced by "40 CFR 124.5", which addresses "Modifications, revocation and
650 reissuance, or termination of permits."

651
652 (xiii) "Malfunction" for purposes of 40 CFR 264, Subpart AA of these rules shall
653 mean any sudden failure of a control device or a hazardous waste management unit or failure
654 of a hazardous waste management unit to operate in a normal or usual manner, so that organic
655 emissions are increased. Failures that are caused in part by poor maintenance or careless
656 operation are not malfunctions.

657 ~~(b) UNDERGROUND INJECTION. Disposal of hazardous waste by means of~~
658 ~~underground injection is regulated under Chapters 8, 9, and 27 of the DEQ's Water Quality~~
659 ~~Rules.~~

660 (eb) AIR QUALITY RULES. Compliance with the permitting requirements of these
661 rules does not obviate any duty to obtain and comply with an air quality construction or
662 modification permit issued pursuant to Chapter 6, Section 2 of the DEQ's Air Quality Rules.

663 (dc) IDENTIFICATION NUMBER. Every facility owner or operator must apply to the
664 DEQ for an EPA identification number in accordance with the EPA notification procedures (45
665 FR 12746). The EPA identification number shall be considered to be the State of Wyoming
666 identification number for purposes of these rules.

667 (ed) CORRECTIVE ACTION MANAGEMENT UNITS (CAMU).

668 (i) To implement remedies under 40 CFR 264.101, ~~W.S. 35-11-1607, 35-~~
669 ~~11-1607, or RCRA §3008(h), or these rules,~~ the Director may designate an area at the facility as
670 a corrective action management unit under the requirements in this Section or a signed remedy
671 agreement pursuant to W.S. 35-11-1607. Corrective action management unit means an area
672 within a facility that is used only for managing CAMU-eligible wastes for implementing
673 corrective action or cleanup at the facility. A CAMU must be located within the contiguous
674 property under the control of the owner/operator where the wastes to be managed in the
675 CAMU originated. One or more CAMUs may be designated at a facility.

676 (ii) For purposes of 40 CFR 264.552(e), the phrase "or remedy agreement"
677 shall be added after "...permit or order..."

678 (iii) Disposal of CAMU-eligible wastes ~~is only allowed~~ in permitted hazardous
679 waste landfills shall be subject to the following requirements:

680 (A) The landfill receiving the CAMU-eligible waste must have a RCRA
681 or State hazardous waste permit, meet the requirements for new landfills in 40 CFR Part 264,
682 Subpart N, and be authorized to accept CAMU-eligible wastes; for the purposes of this
683 requirement, "permit" does not include interim status.

684 (B) For the purposes of 40 CFR 264.555 only, the "design of the
685 CAMU" ~~CAMU~~ in 264.552(e)(4)(v)(E) means design of the permitted Subtitle C or W.S. 35-11-
686 503(d) or a permitted State hazardous waste landfill.

687 (~~fe~~) FINANCIAL MECHANISMS.

688 (i) For purposes of 40 CFR 264.143(c) and 264.145(c), surety bonds
689 guaranteeing performance of closure or post-closure care are not allowed for interim status
690 facilities.

691 (ii) For purposes of 40 CFR 264.143(h) and 264.145(h), if the facilities
692 covered by the mechanism are in more than one state, identical evidence of financial assurance
693 must be submitted to, and maintained with, the state agency regulating hazardous waste or
694 with the appropriate Regional Administrator if the facility is located in an unauthorized state.

695 (iii) Whenever 40 CFR 264.151 requires that owners and operators notify
696 several Regional Administrators of their financial obligations, the owner or operator shall notify
697 both the DEQ and all Regional Administrators of Regions that are affected by the owner or
698 operator's financial assurance mechanisms.

699 (~~gf~~) AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND
700 CONTAINERS.

701 (i) The requirements of 40 CFR 264, Subpart CC do not apply to a waste
702 management unit that is used solely for on-site treatment or storage of hazardous waste that is
703 placed in the unit as the result of implementing remedial activities required under the
704 corrective action authorities of RCRA Sections §§3004(u), 3004(v), or 3008(h), CERCLA
705 authorities, similar federal authorities, or ~~W.S. 35-11-503(d)~~ these rules.

706 (ii) For the owner and operator of a facility subject to Subpart CC who
707 received a final permit under RCRA §3005 or these rules prior to December 6, 1996, the
708 requirements of this subpart shall be incorporated into the permit when the permit is reissued
709 in accordance with the requirements of 40 CFR 124.15 or reviewed in accordance with the
710 requirements of 40 CFR 270.50(d). Until such date when the permit is reissued in accordance
711 with the requirements of 40 CFR 124.15 or reviewed in accordance with the requirements of 40
712 CFR 270.50(d), the owner and operator are subject to the requirements of 40 CFR Part 265,
713 subpart CC.

714 (hg) CORRECTIVE ACTION BEYOND FACILITY BOUNDARY.

715 The requirements of 40 CFR 264.101(c) apply to:

716 (i) All facilities operating under permits issued under these rules, W.S. 35-
717 11-801, 40 CFR 270.50, and RCRA §3005(c).

718
719 (ii) All landfills, surface impoundments, and waste pile units (including any
720 new units, replacements of existing units, or lateral expansions of existing units) that receive
721 hazardous waste after July 26, 1982.

722
723 (ih) LOCATION STANDARDS.

724 (i) Applicability.

725 (A) ~~The location standards in Section 264(k) of this Chapter apply~~
726 ~~apply to a~~Any new or existing facility for the treatment, storage, or disposal of hazardous
727 wastes must meet the location standards of 40 CFR 264.18 and those in Chapter 1, except as
728 provided in that is subject to the permit requirements of this Chapter, except as provided in
729 Section 264(iii)(i)(B) of this Chapter.

730 (B) Any new or existing Class 1 HWMF, as defined in Section 4(e) of
731 these rules, that is required by law to be constructed at the site of a hazardous generator to
732 manage newly-listed hazardous waste that is currently legally produced solely by that
733 generator, does not have to meet the requirements of 264(k) except for a new facility which
734 would have to meet the requirements of Sections 264(i), (j), (k) and 270(d)(iii) of this Chapter.
735 ~~The location standards in Section 264(k) of this Chapter, except the standards in Sections~~
736 ~~264(a)(iv) and 270(d)(iiii) of this Chapter, do not apply to any new or existing Class I HWMF as~~
737 ~~defined in Section 4(e) of these rules that is required by law to be constructed at the site of a~~
738 ~~hazardous waste generator to manage newly-listed hazardous waste currently legally produced~~
739 ~~solely by that generator.~~

740 (ji) ADDITIONAL LOCATION STANDARDS REQUIREMENTS FOR CLASS II FACILITIES. In
741 addition to the location standards of this Chapter, Class II facilities, as defined in Section 4(f) of
742 these rules, shall not be located in violation of the following standards:

743 (i) Local zoning ordinances: Facility locations shall not be in conflict with
744 local zoning ordinances or land use plans that have been adopted by a county commission or
745 municipality.

746 (ii) Wetlands: Facilities shall not be located in wetlands.

747 (iii) Wild and Scenic Rivers Act: Facility locations shall not diminish the
748 scenic, recreational, and fish and wildlife values for any Section of river designated for

749 protection under the Wild and Scenic Rivers Act, 16 USC 1271 et seq., and implementing
750 regulations.

751 (iv) National Historic Preservation Act: Facilities shall not be located in areas
752 where they may pose a threat to an irreplaceable historic or archeological site listed pursuant
753 to the National Historic Preservation Act, 16 USC 470 et seq. and implementing regulations, or
754 to a natural landmark designated by the National Park Service.

755 (v) Endangered Species Act: Facilities shall not be located within a critical
756 habitat of an endangered or threatened species listed pursuant to the Endangered Species Act,
757 16 USC 1531 et seq., and implementing regulations, where the facility may cause destruction or
758 adverse modification of the critical habitat, may jeopardize the continued existence of
759 endangered or threatened species or contribute to the taking of such species.

760 (vi) Big game winter range/grouse breeding grounds: Facilities shall not be
761 located within critical winter ranges for big game or breeding grounds for grouse, unless after
762 consultation with the Wyoming Game and Fish Department, the Director determines that
763 facility development would not conflict with the conservation of Wyoming's wildlife resources.

764 (vii) Avalanche areas: Facilities shall not be located in documented avalanche
765 prone areas.

766 (viii) Hydrogeologic conditions: Facilities shall not be located in an area where
767 the DEQ, after investigation by the applicant, finds that there is a reasonable probability that
768 hazardous waste management activities cause or contribute to a violation of surface water or
769 groundwater quality standards contained in Water Quality Rules, Chapters 1 and 8. ~~will have a~~
770 ~~detrimental effect on surface water or groundwater quality.~~

771 (ix) Facilities larger than one acre, and any facility that is an incinerator,
772 boiler, or industrial furnace, shall not be located within:

773 (A) One mile of a school or an occupied dwelling house;

774 (B) One mile of any public park or recreation area; or

775 (C) One mile of the boundaries of an incorporated city or town.

776 (D*) One thousand feet of any perennial lake or pond that is either
777 naturally occurring, or which contains water used for any purpose not directly related to an
778 industrial process.

779 (xiE) Three hundred feet of any perennial river or stream.

780

781 (kj) ADDITIONAL LOCATION STANDARDS REQUIREMENTS FOR CLASS III FACILITIES.

782 (i) In addition to the location standards of this Chapter, Class III facilities, as
783 defined in Section 4(g) of these rules, shall comply with all location standards applicable to
784 Class II facilities, in Section 264(j) of this Chapter, and shall not be located within:

785 (A) Five miles of a school or an occupied dwelling house;

786 (B) One mile of the center line of the right-of-way of a state or federal
787 highway; or

788 (C) Five miles of the boundaries of an incorporated city or town.

789
790 (ii) The following additional location standards shall apply to Class III facilities
791 if they are more restrictive than the location standards of Sections 264(k)(i)(A) through (C) of
792 this Chapter:

793 (A) No facility shall be located such that it poses a cancer risk to
794 potentially exposed populations including residents, occupants of businesses, schools, or
795 institutions, exceeding one excess cancer per million people. The cancer risk shall be assessed
796 considering projected pollutant release rates and assumed target intakes during normal
797 operation conditions specified in Section 270(j)(ii) of this Chapter.

798 (B) No facility shall be located such that it causes chronic toxic effects
799 to potentially exposed populations including residents, occupants of businesses, schools, or
800 institutions, due to exposures to pollutants higher than chronic oral reference dose or chronic
801 inhalation reference concentration. The chronic toxic effect shall be assessed considering
802 projected pollutant release rates and assumed target intakes during normal operation or failure
803 conditions specified in Section 270(j)(ii) of this Chapter.

804 (C) No facility shall be located such that it causes subchronic or acute
805 toxic effects to people at the facility property boundary due to exposures to pollutants higher
806 than the subchronic oral reference dose or subchronic inhalation reference concentration. The
807 subchronic and acute toxic effect shall be assessed considering projected pollutant release
808 rates and assumed target intakes during failure conditions specified in Section 270(j)(ii) of this
809 Chapter.

810

811 **Section 265. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF**
812 **HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES.**

813

814 (a) IBR AND EXCEPTIONS. 40 CFR Part 265, and all Subparts ~~excluding~~ except
815 Subparts FF and R and Sections 40 CFR 265.1(c)(4) and (c)(15), 265.15(b)(5), 265.1(c)(15),
816 265.70(b), 265.71, 265.147(k), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e),
817 265.1080(f), and 265.1080(g) are herein incorporated by reference ~~as provided in 40 CFR.~~

- 818 (i) For purposes of 40 CFR 265.1(c)(5), "a State" shall be replaced by "the
819 State of Wyoming".
820
- 821 (ii) For purposes of 40 CFR 265.11, ~~the~~The owner or operator shall apply to
822 the DEQ for an EPA identification number.
823
- 824 (iii) For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator"
825 shall be defined as the U.S. Environmental Protection Agency Region 8 Regional Administrator.
826
- 827 (iv) For purposes of 40 CFR ~~265.71(a)(3) and~~ 265.1083(c)(4)(ii), "EPA" shall
828 be defined as the U.S. Environmental Protection Agency.
829
- 830 (v) For purposes of 40 CFR 265.56(d)(2), the emergency coordinator must
831 immediately notify either the government official designated as the on-scene coordinator for
832 that geographical area, or the National Response Center (using their 24-hour toll free number
833 800-424-8802). Notice shall also be given to the Director, DEQ, whose address can be found at
834 <http://deq.wyoming.gov/shwd>, using the DEQ 24-hour telephone number, 307-777-7501.
- 835 (vi) For purposes of 40 CFR 265.90(d)(1) and (3), and 40 CFR 265.93(d)(2),
836 ground-water monitoring plans and reports shall be submitted to the Director.
- 837 (vii) For purposes of 40 CFR 265.93(d)(5), the owner/operator shall submit a
838 written report to the Director fifteen days after the determination of ground-water quality is
839 made.
- 840 (viii) For purposes of 40 CFR 265.191(a), the tank system's integrity
841 assessment must be completed by January 12, 1988 for HSWA tanks, as defined at Section
842 4(a)(xiv), and by October 18, 1996, for non-HSWA tanks, as defined at Section 4(a)(xxi).
- 843 (ix) For purposes of 40 CFR 265.191(c), the compliance date for conducting
844 the assessment is within twelve months of July 14, 1986, for HSWA tanks, as defined in Section
845 4(a)(xiv). For non-HSWA tanks, as defined at Section 4(a)(xxi), the compliance date is within
846 twelve months of October 18, 1995.
847
- 848 (x) For purposes of 40 CFR subparts 265.224(a), 265.259(a), and 265.303(a),
849 all response action plans shall be submitted to the Director.
850
- 851 (xi) For purposes of 40 CFR 265.314(f), the placement of any liquid that is not
852 a hazardous waste in a landfill is prohibited.
- 853 (xii) For purposes of 40 CFR 265.340(b)(2), the language is replaced with, "The
854 following requirements continue to apply even when the owner or operator has demonstrated
855 compliance with the MACT requirements of part 63, Subpart EEE of this Chapter: 40 CFR

856 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this
857 part."

858 (xiii) "Malfunction" for purposes of 40 CFR 265, Subpart CC of these rules shall
859 mean any sudden, infrequent, and not reasonably preventable failure of air pollution control
860 equipment, process equipment, or a process to operate in a normal or usual manner. Failures
861 that are caused in part by poor maintenance or careless operation are not malfunctions.

862 (b) PURPOSE, SCOPE, AND APPLICABILITY. The requirements of 40 CFR Part 265 ~~do~~
863 ~~not apply to a person who treats, stores, or disposes of hazardous waste except that:~~apply to:

864 (i) The disposal ~~(i) Disposal~~ of hazardous waste by means of
865 ~~underground injection is, regulated under Chapter 27 of the Wyoming DEQ's Water Quality~~
866 ~~Rules. and Regulations Water Quality Rules.~~

867 (ii) Any person who treats, stores, or disposes of hazardous waste, if
868 Wyoming has not been authorized to carry out the requirements and prohibitions applicable to
869 the treatment, storage, or disposal of hazardous waste at his or her facility ~~is subject to 40 CFR~~
870 ~~part 265~~. The requirements and prohibitions that are applicable until Wyoming receives
871 authorization to carry them out include all federal program requirements identified in 40 CFR
872 271.1(j).

873 (c) FINANCIAL MECHANISMS. For 40 CFR 265.143(g) and 265.145(g): If the facilities
874 covered by the mechanism are in more than one state, identical evidence of financial assurance
875 must be submitted to, and maintained with, the state agency regulating hazardous waste or
876 with the appropriate Regional Administrator if the facility is located in an unauthorized state.

877 (d) AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND
878 CONTAINERS. For purposes of 40 CFR 265.1080(c), the phrase "or these rules" shall be inserted
879 after "...RCRA Section 3005...".

880 ~~(i) Professional engineers shall be registered in Wyoming ("qualified~~
881 ~~registered Professional Engineer") when referring to activities requiring Professional Engineer~~
882 ~~certification.~~

883 ~~(ii) Relevant sections: 40 CFR 265.115, 265.120, 265.143(h), 265.145(h),~~
884 ~~265.147(e), 265.191(a), 265.191(b)(5)(ii), 265.192(a) and (b), 265.193(i)(2), 265.196(f),~~
885 ~~265.280(e), 265.441(a), (b), and (c), 265.443(a)(4)(ii), 265.443(g), 265.444(a), and~~
886 ~~265.1101(c)(2).~~

887 ~~(f) PROFESSIONAL GEOLOGIST CERTIFICATION:~~

889 ~~(i) For purposes of 40 CFR 265.90(c), 265.90(d)(1), and 265.93(d)(2), the~~
890 ~~certifying geologist shall be a professional geologist registered in the State of Wyoming.~~

892

893 (e) REQUIREMENTS FOR EXISTING AND NEWLY REGULATED SURFACE
894 IMPOUNDMENTS.

895 ~~(i) Existing surface impoundments subject to Subtitle C prior to November 8,~~
896 ~~1984, must comply with new unit requirements by November 8, 1988 or stop hazardous waste~~
897 ~~activity. [RCRA §3005(j)(1)]~~ (i) Surface impoundments regulated for the first time
898 by a listing or characteristic promulgated after November 8, 1984, must comply with new unit
899 requirements or stop hazardous waste activity by four years after the date of promulgation of
900 the new listing or characteristic.

901 (ii) For surface impoundments regulated for the first time by a listing or
902 characteristic promulgated after November 8, 1984, where the Director determines hazardous
903 constituents are likely to migrate into groundwater, the Director is authorized to impose such
904 requirements as may be necessary to protect human health and the environment, including
905 requiring compliance with new unit requirements.

906 **Section 266. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES**
907 **AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES.**

908
909 (a) IBR AND EXCEPTIONS. 40 CFR Part 266 and all Subparts are herein incorporated
910 by reference ~~as provided in 40 CFR.~~

911 For purposes of 40 CFR 266.210, "You" shall be a generator, treater, or other handler of low-
912 level mixed waste or eligible NARM (Naturally Occurring and Accelerator-produced Radioactive
913 Material), otherwise "you" refers to any generator, treater, or handler of hazardous waste
914 under these rules.

915 (b) MILITARY MUNITIONS.

916 (i) For purposes of RCRA §1004(27), a used or fired military munition is a
917 waste material and, therefore, is potentially subject to RCRA corrective action authorities under
918 these rules, 40 CFR 264.101(c), or RCRA §§3004(u) and (v), and 3008(h), or imminent and
919 substantial endangerment authorities under W.S. 35-11-115, these rules, Articles 7 and 9 of the
920 Act, or RCRA §7003, if the munition lands off-range and is not promptly rendered safe ~~and/or~~
921 ~~or~~ retrieved. Any imminent and substantial threats associated with any remaining material
922 must be addressed. If remedial action is infeasible, the operator of the range must notify the
923 Director in writing and maintain a record of the event for as long as any threat remains. The
924 record must include the type of munition and its location (to the extent the location is known).

925 (ii) Reinstatement of exemption. If any waste military munition loses its
926 exemption under 40 CFR 266.203(a)(1), an application may be filed with the Director for
927 reinstatement of the exemption from hazardous waste transportation regulation with respect
928 to such munition as soon as the munition is returned to compliance with the conditions of 40
929 CFR 266.203(a)(1). If the Director finds that reinstatement of the exemption is appropriate

930 based on factors such as the transporter's provision of a satisfactory explanation of the
931 circumstances of the violation, or a demonstration that the violations are not likely to recur, the
932 Director may reinstate the exemption under 40 CFR 266.203(a)(1). If the Director does not act
933 on the reinstatement application within sixty days after receipt of the application and if the
934 military continues to seek reinstatement of the exemption, it is the responsibility of the military
935 to contact the Director to establish a mutually-agreeable timeline for the Director to address
936 the application. In reinstating the exemption under 40 CFR 266.203(a)(1), the Director may
937 specify additional conditions as are necessary to ensure and document proper transportation to
938 protect human health and the environment.

939 (iii) Amendments to ~~DOD~~ Department of Defense shipping controls. The
940 Department of Defense shipping controls applicable to the transport of military munitions
941 referenced in 40 CFR 266.203(a)(1)(ii), and in effect on November 8, 1995, are the Signature
942 and Tally Record (DD Form 1907) and the Motor Vehicle Inspection (Transporting Hazardous
943 Materials) (DD Form 626). For shipment by commercial transport the U.S. Government Bill of
944 Lading (GBL) (GSA Standard Form 1103) is also required. For shipment by military transport,
945 the following additional controls are applicable: DD Single Line Item Release/Receipt Document
946 (DD Form 1348-1A) and the Shipping Paper and Emergency Response Information for
947 Hazardous Materials Transported by Government Vehicles (DD Form 836). Any amendments to
948 the above Department of Defense shipping controls shall not become effective for purposes of
949 40 CFR 266.203(a)(1) until the amended Department of Defense shipping control has been
950 adopted by rule by the DEQ. Adoption of an amended Department of Defense shipping control
951 will be contingent on the Director's affirmative finding that the amended shipping control(s)
952 is/are protective of human health and the environment. Copies of Department of Defense
953 shipping controls can be obtained upon request from the DEQ, the physical address of which
954 can be found at <http://deq.wyoming.gov/shwd>.

955 (iv) The owner or operator may store only waste military munitions
956 generated by the individual facility, unless storing waste military munitions from another
957 facility results from an inability to transport the waste military munitions for treatment or
958 disposal due to inclement weather or other circumstance as approved in writing by the
959 Director.

960 (v) Reinstatement of conditional exemption. If any waste military munition
961 loses its conditional exemption under 40 CFR 266.205(a)(1), an application may be filed with
962 the Director for reinstatement of the conditional exemption from hazardous waste storage
963 regulation with respect to such munition as soon as the munition is returned to compliance
964 with the conditions of 40 CFR 266.205(a)(1). If the Director finds that reinstatement of the
965 conditional exemption is appropriate based on factors such as the owner's or operator's
966 provision of a satisfactory explanation of the circumstances of the violation, or a demonstration
967 that the violations are not likely to recur, the Director may reinstate the conditional exemption
968 under 40 CFR 266.205(a)(1). If the Director does not act on the reinstatement application
969 within sixty days after receipt of the application and if the military continues to seek

970 reinstatement of the exemption, it is the responsibility of the military to contact the Director to
971 establish a mutually-agreeable time line for the Director to address the application. In
972 reinstating the conditional exemption under 40 CFR 266.205(a)(1), the Director may specify
973 additional conditions as are necessary to ensure and document proper storage to protect
974 human health and the environment.

975 (vii) Waste military munitions that are chemical agents or chemical munitions
976 and that exhibit a hazardous waste characteristic or are listed as hazardous waste under 40 CFR
977 Part 261, are listed or identified as a hazardous waste and shall be subject to the applicable
978 regulatory requirements of the Act.

979 (viii) Amendments to DDESB storage standards. The DDESB storage standards
980 applicable to waste military munitions, referenced in 40 CFR 266.205(a)(1)(iii), are DOD 6055.9-
981 STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995,
982 except as provided in the following sentence. Any amendments to the DDESB storage
983 standards shall not become effective for purposes of 40 CFR 266.205(a)(1) until the amended
984 Department of Defense DDESB storage standards have been adopted by rule by the DEQ.
985 Adoption of amended Department of Defense DDESB storage standards will be contingent on
986 the Director's affirmative finding that the DDESB storage standards are protective of human
987 health and the environment.

988

989 **Section 267. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE**
990 **FACILITIES OPERATING UNDER A STANDARDIZED PERMIT.**

991

992 **IBR AND EXCEPTIONS.** 40 CFR Part 267 and all Subparts, except 40 CFR 267.150, are herein
993 incorporated by reference ~~as provided in 40 CFR.~~

994 (a) For purposes of 40 CFR 267.12, an owner or operator must apply to the DEQ for
995 an EPA identification number following the DEQ's notification procedures and using EPA form
996 8700-12. Owners or operators may obtain information and required forms from the DEQ or
997 from the EPA regional office. The EPA identification number shall be considered to be the State
998 of Wyoming identification number for purposes of these rules.

999 (b) For purposes of 40 CFR 267.18(b), new facilities shall not be located within the
1000 boundaries of a 100-year floodplain.

1001 (c) For purposes of 40 CFR 267.56(c)(2), the emergency coordinator must
1002 immediately notify either the government official designated as the on-scene coordinator for
1003 that geographical area, or the National Response Center (using their 24-hour toll-free number
1004 800-424-8802). The DEQ must also be notified immediately, using ~~the~~ its 24-hour telephone
1005 number 307-777-7501.

1006

1007 ~~(b) PROFESSIONAL ENGINEER CERTIFICATION.~~

1008 _____ (i) Professional engineers shall be registered in Wyoming ("qualified
1009 registered Professional Engineer") when referring to activities requiring Professional Engineer
1010 certification.

1011 _____ (ii) Relevant sections: 40 CFR Sections 267.117, 267.147(e), 267.191,
1012 267.192(a), 267.200(f).

1013 **Section 268. LAND DISPOSAL RESTRICTIONS.**

1014 IBR AND EXCEPTIONS. 40 CFR Part 268 and all Subparts are herein incorporated by reference ~~as~~
1015 ~~provided in 40 CFR~~, except for 40 CFR 268.5, 268.6, 268.13, 268.42(b), 268.44(a) through (g),
1016 and 268.44(o).

1017 (a) The authority for implementing the provisions of these excluded sections
1018 remains with the EPA. However, the requirements of Wyoming statutes shall be applied in all
1019 cases where these requirements are more stringent than the federal standards. If the
1020 Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance
1021 will simultaneously create the same case-by-case variance to the equivalent requirement of
1022 these rules.

1023 (b) For purposes of 40 CFR 268.1(e)(3) and 40 CFR 268.2(j) "EPA" shall be defined as
1024 the U.S. Environmental Protection Agency.

1025 (c) For purposes of 40 CFR 268.7(a)(9)(iii), "D009" is excluded from lab packs as
1026 noted in 40 CFR Part 268 Appendix IV.

1027 (d) For purposes of 40 CFR 268.40(b), "Administrator" shall be defined as U.S.
1028 Environmental Protection Agency Administrator.

1029

1030 **Section 269. RESERVED.**

1031 **Section 270. THE HAZARDOUS WASTE PERMIT PROGRAM.**

1032 (a) IBR AND EXCEPTIONS. 40 CFR Part 270 and all Subparts, except 40 CFR
1033 270.1(c)(1)(iii), 270.1(c)(2)(ix), 270.11(d)(2), 270.13(k)(7), 270.14(b), 270.42 (Appendix I, Part A
1034 Entries 9 and 10), 270.51(d), 270.60(a), 270.64, 270.68, 270.73(a), Subpart H (40 CFR 270.79 -
1035 270.230), 270.260(h), and 270.290(r) are herein incorporated by reference ~~as provided in 40~~
1036 ~~CFR~~.

1037 (i) For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.11(a)(3),
1038 270.32(a), 270.32(b)(2), 270.32(c), 270.72(a)(5), 270.72(b)(5), 270.235(a)(1)(iii)(A),
1039 270.235(a)(2)(iii)(A), and 270.235(b)(1)(ii), "EPA" shall be defined as the U.S. Environmental
1040 Protection Agency, and "Administrator" or "Regional Administrator" shall be defined as the U.S.
1041 Environmental Protection Agency Region 8 Regional Administrator.

1042 (ii) For purposes of 40 CFR 270.1(b), the sentence "The notification shall
1043 state the location and general description of the type of activity and the identified or listed
1044 wastes being handled" shall be inserted after the first sentence in the section.

1045 (iii) For purposes of 40 CFR 270.1(c)(7), at the discretion of the Director, an
1046 owner or operator may obtain, in lieu of a post-closure permit, an enforceable document,
1047 imposing the requirements of 40 CFR 265.121.

1048 (iv) ~~For purposes of 40 CFR 270.2, the definitions "Approved program or~~
1049 ~~approved State", "Director", "Final authorization", "Interim authorization", "Major facility",~~
1050 ~~"Permit", "State", and "State/EPA Agreement" shall be defined as in 40 CFR 270.2. The~~
1051 ~~definition "Remedial Action Plan (RAP)" as defined in 40 CFR 270.2 is not adopted by the State.~~

1052 ~~(v) For purposes of 40 CFR 270.2 "existing hazardous waste management~~
1053 ~~(HWM) facility" or "existing facility" shall be a facility that was in operation or for which~~
1054 ~~construction commenced on or before November 19, 1980. A facility has commenced~~
1055 ~~construction if the owner or operator has obtained the permits and approvals required under~~
1056 ~~federal, state or local statutes, regulations or ordinances necessary to begin physical~~
1057 ~~construction; and either:~~

1058 ~~(A) A continuous on site, physical construction program has begun; or~~

1059 ~~(B) The owner or operator has entered into contractual obligations~~
1060 ~~that cannot be cancelled or modified without substantial loss for physical construction of the~~
1061 ~~facility to be completed within a reasonable time.~~

1062 (v) For purposes of 270.10(e)(3), the Administrator or the Director may, by
1063 compliance order issued under these rules, Articles 7 and 9 of the Act, or RCRA §3008, extend
1064 the date by which the owner and operator of an existing HWMF must submit Part A of their
1065 permit application.

1066 (vi) For purposes of 270.10(f)(2), the application for permits shall be
1067 submitted to the Director.

1068 (vii) For purposes of 270.10(f)(3), notwithstanding 40 CFR 270.10(f)(1), a
1069 person may construct a facility for the incineration of polychlorinated biphenyls pursuant to an
1070 approval issued by the Director under Article 2 of the Act and by the EPA Administrator under
1071 Section 6(e) of the Toxic Substances Control Act and any person owning or operating such a
1072 facility may, at any time after construction or operation of such facility has begun, file an
1073 application for a State HWMF permit to incinerate hazardous waste authorizing such facility to
1074 incinerate waste identified or listed under these rules.

1075 (viii) For purposes of 40 CFR 270.10(g)(1)(i) and (ii), if any owner or operator of
1076 a hazardous waste management facility has filed Part A of a permit application and has not yet
1077 filed Part B, the owner or operator shall file an amended Part A application with the Director

1078 and the EPA Regional Administrator, within six months after the promulgation of revised
1079 federal regulations promulgated under HSWA listing or identifying additional hazardous wastes,
1080 if the facility is treating, storing, or disposing of any of those newly listed or identified wastes.

1081 (ix) For purposes of 40 CFR 270.10(j)(1), any Part B permit application
1082 submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous
1083 waste in a surface impoundment, incinerator, burner, or landfill must be accompanied by
1084 information, reasonably ascertainable by the owner or operator, on the potential for the public
1085 to be exposed to hazardous wastes or hazardous constituents through releases related to the
1086 unit. At a minimum, such information must address:

1087 (A) Reasonably foreseeable potential releases from both normal
1088 operations and accidents at the unit, including releases associated with transportation to or
1089 from the unit;

1090 (B) The potential pathways of human exposure to hazardous wastes
1091 or constituents resulting from the releases described under Section 270(a)(x)(A) of this Chapter
1092 above; and

1093 (C) The potential magnitude and nature of the human exposure
1094 resulting from such releases.

1095 (x) For purposes of 40 CFR 270.10(l), the Director may require that the
1096 application demonstrate compliance with specific provisions of the Act, and specific designated
1097 rules of the Solid and Hazardous Waste, Water Quality, and Air Quality Divisions of the DEQ.

1098 (xi) For purposes of 40 CFR 270.11, all applications shall be signed under oath
1099 subject to a penalty of perjury.

1100 (xii) For purposes of 40 CFR 270.11(a), the term "responsible" shall be
1101 replaced by "principal".

1102 (xiii) For purposes of 40 CFR 270.12(a), any information submitted to the DEQ
1103 pursuant to these regulations may be claimed as confidential by the submitter. Any such claim
1104 must be asserted at the time of submission in the manner prescribed on the application form or
1105 instructions or, in the case of other submissions, by stamping the words "confidential business
1106 information" on each page containing such information. If no claim is made at the time of
1107 submission, the DEQ may make the information available to the public without further notice.
1108 Upon a showing satisfactory to the Director, confidential business information will not be made
1109 available to the public pursuant to the Wyoming Public Records Act, W.S. 16-4-201 et. seq.

1110 (xiv) For purposes of 40 CFR 270.14(b)(19)(v), the term "representative" shall
1111 be inserted before the term "wind rose".

1112 (xv) For purposes of 40 CFR 270.14(b)(20), applicants may be required to
1113 submit such information as may be necessary to enable the Director to carry out his or her
1114 duties under other aspects of the Act and other federal laws as required in 40 CFR 270.3.

1115 (xvi) For purposes of 40 CFR 270.28, "Regional Administrator" shall be
1116 replaced by "Director".

1117 (xvii) For purposes of 40 CFR 270.30 and 40 CFR 270.32(b), the Director shall
1118 specify any additional standards, together with the justification therefore, as the Director
1119 believes necessary to carry out the purposes of the Act.

1120 (xviii) For purposes of 40 CFR 270.42(g)(1) and (g)(1)(i), the permittee is
1121 authorized to continue to manage wastes listed or identified as hazardous under 40 CFR Part
1122 261, or to continue to manage hazardous waste in units newly regulated as hazardous waste
1123 management units, if the unit was in existence and has a State permit issued under Articles 2, 3,
1124 4 or 5 of the Act as a hazardous waste facility with respect to the newly listed or characterized
1125 waste or newly regulated waste management unit on the effective date of the final rule listing
1126 or identifying the waste, or regulating the unit.

1127 (~~xiv~~) For purposes of 40 CFR 270.42(j)(3), the Director shall respond to the
1128 request for a combustion facility hazardous waste permit modification within ninety days of
1129 receiving the request. The Director may, at his or her discretion, extend this ninety-day
1130 deadline one time for up to thirty days by notifying the facility owner or operator.

1131 (b) TRANSFER OF EXISTING HAZARDOUS WASTE MANAGEMENT PERMITS.

1132 (i) A permit may be transferred by the permittee to a new owner or
1133 operator only if the permit has been modified or revoked and reissued (under 40 CFR 270.40(b)
1134 or 270.41(b)(2)) to identify the new permittee and incorporate such other requirements as may
1135 be necessary under these rules.

1136 (ii) Changes in the ownership or operational control of a facility may be
1137 made as a Class 1 modification with prior written approval of the Director in accordance with
1138 40 CFR 270.42 or as a routine change with prior approval under 40 CFR 124.213. The Director
1139 shall not approve transfer of ownership or operational control to any person unless the Director
1140 determines that such person meets the qualifications for owners and operators in Sections
1141 270(m) and 270(n) of these rules. The new owner or operator must submit a revised permit
1142 application no later than ninety days prior to the scheduled change. A written agreement
1143 containing a specific date for transfer of permit responsibility between the current and new
1144 permittees must also be submitted to the Director. The written agreement must also contain
1145 signed and notarized documentation from the new operator indicating that the new operator
1146 has agreed to accept and be bound by the provisions of the permit and any amendments,
1147 agreed to construct and operate the facility in accordance with the approved plan, and agreed
1148 to accept responsibility for the facility's compliance with the standards specified in the

1149 applicable sections of these rules, including the responsibility to perform corrective actions.
1150 When a transfer of ownership or operational control occurs, the old owner or operator shall
1151 comply with the requirements of 40 CFR 264, Subpart H (Financial Requirements) of these rules
1152 for permitted facilities until the new owner or operator has demonstrated that he or she is
1153 complying with the requirements of that Subpart. The new owner or operator must
1154 demonstrate compliance with Subpart H requirements within six months of the date of the
1155 change in ownership or operational control of the facility. Upon demonstration to the Director
1156 by the new owner or operator of compliance with Subpart H, the Director shall notify the old
1157 owner or operator that he or she no longer needs to comply with Subpart H as of the date of
1158 demonstration.

1159 (c) CONTENTS OF PART A OF THE PERMIT APPLICATION. Part A of the State HWMF
1160 permit application shall include the following information:

1161 (i) A listing of any civil, misdemeanor, or felony convictions within ten years
1162 prior to the date of application for any violations of any local, state, or federal law relating to
1163 environmental quality or criminal racketeering by the owner, or the operator, and all entities
1164 related by ownership to the applicant whether by common ownership or by a parent or
1165 subsidiary relationship, either directly or indirectly. This includes any partners in a partnership
1166 or executive officers or corporate directors in any corporation, if the owner or operator is a
1167 partnership or corporation.

1168 (ii) A topographic map (or other map if a topographic map is unavailable)
1169 extending one mile beyond the property boundaries of the source, depicting the facility and
1170 each of its intake and discharge structures, each of its hazardous waste treatment, storage, or
1171 disposal facilities, each well where fluids from the facility are injected underground, and those
1172 wells, springs, other surface water bodies, and drinking water wells listed in public records or
1173 otherwise known to the applicant within one mile of the facility property boundary.

1174 (d) CONTENTS OF PART B OF THE PERMIT APPLICATION. Facility location
1175 information:

1176 (i) The application shall include information concerning the area in which
1177 the facility is to be located, including the political jurisdiction (e.g., county, township, or election
1178 district), sufficient to demonstrate compliance with all applicable location standards specified in
1179 Sections 264, 267, and 270 of these rules.

1180 (ii) If the facility is proposed to be located in an area listed in Appendix VI of
1181 40 CFR 264, the owner or operator shall demonstrate compliance with the seismic standard.
1182 This demonstration may be made using either published geologic data or data obtained from
1183 field investigations carried out by the applicant. The information provided must be of such
1184 quality to be acceptable to professional geologists experienced in identifying and evaluating
1185 seismic activity.

1186 (iii) Owners and operators of all facilities shall provide an identification of
1187 whether the facility is located within a 100-year floodplain. This identification must indicate the
1188 source of data for such determination and include a copy of the relevant Federal Insurance
1189 Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is
1190 not available. Methods used to determine the 100-year floodplain must be approved by the
1191 Director. Information shall also be provided identifying the 100-year flood level and any other
1192 special flooding factors (e.g., wave action) that must be considered in designing, constructing,
1193 operating, or maintaining the facility to withstand washout from a 100-year flood.

1194 (e) CONDITIONS APPLICABLE TO ALL PERMITS. Twenty-four-hour reporting: The
1195 permittee shall report any noncompliance that may endanger health or the environment orally
1196 to the Director within twenty-four hours from the time the permittee becomes aware of the
1197 circumstances, including:

1198 (i) Information concerning release of any hazardous waste regardless of
1199 whether or not it may cause an endangerment to public drinking water supplies.

1200 (ii) Any information of any release or discharge of hazardous waste or of any
1201 fire or explosion from the HWMF, regardless of whether or not it could threaten the
1202 environment or human health outside the facility.

1203 (f) TERMINATION OF PERMITS.

1204
1205 (i) The following are causes for terminating a permit during its term, or for
1206 denying a permit renewal application:

1207
1208 (A) Noncompliance by the permittee with any condition of the
1209 permit;

1210
1211 (B) The permittee's failure in the application or during the permit
1212 issuance process to fully disclose all relevant facts, or the permittee's misrepresentation of any
1213 relevant facts at any time; or

1214
1215 (C) A determination that the permitted activity endangers human
1216 health or the environment and can only be regulated to acceptable levels by permit
1217 modification or termination; or

1218
1219 (D) If the continued operation is inconsistent with the policy and
1220 purposes of the Act.

1221
1222 (ii) Procedures. The Director will follow the applicable procedures in 40 CFR
1223 124 in terminating any permit under 40 CFR 270.43.

1224

1225 (g) PERMIT ISSUANCE. Nothing shall preclude the Director from reviewing and
1226 modifying a permit at any time during its term. Review of any application for a permit renewal
1227 shall consider improvements in the state of control and measurement technology as well as
1228 changes in applicable regulations. Each permit issued under these rules and RCRA §3005 shall
1229 contain terms and conditions as the Director determines necessary to protect human health
1230 and the environment.

1231 (h) QUALIFYING FOR INTERIM STATUS. Any person who owns or operates an
1232 'existing HWM facility' or a facility in existence on the effective date of amendments to the
1233 Environmental Quality Act and 40 CFR Part 261 that render the facility subject to the
1234 requirement to have a HWMF permit shall be eligible to receive interim status and shall be
1235 treated as having been issued a permit under the Act, if the Director determines the owner or
1236 operator has:

1237 (i) Complied with the requirements of RCRA §3010(a) and these rules
1238 pertaining to notification of hazardous waste activity; or

1239 (ii) Complied with the requirements of 40 CFR 270.10 governing submission
1240 of Part A applications.

1241 (i) OPERATION DURING INTERIM STATUS.

1242 (i) During the interim status period the facility shall not:

1243 (A) Treat, store, or dispose of hazardous waste not specified in Part A
1244 of the permit application;

1245 (B) Employ processes not specified in Part A of the permit
1246 application;

1247 (C) Exceed the design capacities specified in Part A of the permit
1248 application; or

1249 (D) Operate in any manner that has not been previously authorized
1250 by a permit issued under Articles 2, 3, 4, ~~and/or~~, or 5 of the Act, if applicable.

1251 (ii) Interim status standards. During interim status, owners or operators
1252 shall comply with interim status standards in 40 CFR Part 265, and with applicable rules,
1253 regulations, or permits issued under Articles 2, 3, 4, ~~and/or~~, or 5 of the Act.
1254

1255 ~~(j) PROFESSIONAL ENGINEER CERTIFICATION.~~

1256 ~~(i) Professional engineers shall be registered in Wyoming ("qualified~~
1257 ~~registered Professional Engineer") when referring to activities requiring Professional Engineer~~
1258 ~~certification.~~

1259 ~~(ii) Relevant sections: 40 CFR 270.14(a), 270.16(a), and 270.26(c)(15).~~

1260 ~~(k) PROFESSIONAL GEOLOGIST CERTIFICATION.~~

1261
1262 ~~(i) For purposes of 40 CFR 270.14(b)(11)(ii), the certifying geologists shall be~~
1263 ~~professional geologists registered in the State of Wyoming.~~

1264 (j) HEALTH RISK ASSESSMENT.

1265
1266 (i) Owners and operators of all facilities shall provide a health risk
1267 assessment based on health risks associated with normal operation or failure of a HWMF
1268 pollution control or containment system, as specified in Section 270(j)(ii) of these rules. The
1269 normal operation or failure modes specified in Section 270(j)(ii) of these rules shall be used.
1270 This assessment must indicate the source of data for such determination. The health risk
1271 assessment must address the following standards:

1272 (A) The cancer risk shall be assessed considering projected pollutant
1273 release rates and assumed target intakes during normal operation conditions specified in
1274 Section 270(j)(ii) of these rules.

1275 (B) The chronic toxic effect, which shall be assessed considering
1276 projected pollutant release rates and assumed target intakes during normal operation or failure
1277 conditions specified in Section 270(j)(ii) of these rules.

1278 (C) The subchronic and acute toxic effect shall be assessed
1279 considering projected pollutant release rates and assumed target intakes during failure
1280 conditions specified in Section 270(j)(ii) of these rules.

1281
1282 (ii) For the purpose of assessment of health risks associated with normal
1283 operation or failure of a HWMF pollution control or containment system, the following normal
1284 operation or failure modes shall be used:

1285 (A) For hazardous waste storage facilities that are tanks or vessels,
1286 normal operation modes shall include operation of the facility as designed; failure modes shall
1287 include tank rupture, the effects of inadvertent mixing of incompatible wastes, failure of
1288 primary and secondary containment systems or liners, and releases of toxic or hazardous air
1289 pollutants from tank ruptures or during fires;

1290 (B) For hazardous waste storage facilities that are impoundments,
1291 normal operation modes shall include operation of the facility as designed; failure modes shall
1292 include failure of primary or secondary containment systems or liners, dike failure, and releases
1293 of toxic or hazardous air pollutants during fires or from inadvertent mixing of incompatible
1294 wastes such as strong acids or bases with wastes stored in the impoundment;

1295 (C) For hazardous waste storage facilities that are waste piles, normal
1296 operation modes shall include operation of the facility as designed; failure modes shall include
1297 failure of primary and secondary containment systems or liners, failure of primary systems to
1298 control releases of wastes during high winds, and releases during fires;

1299 (D) For hazardous waste landfills and treatment facilities, normal
1300 operation modes shall include operation of the facility as designed; failure modes shall include
1301 failure of primary and secondary containment systems or liners, releases of toxic or hazardous
1302 air pollutants from inadvertent mixing of incompatible wastes and releases during fires;

1303 (E) For hazardous waste incinerators and other treatment facilities
1304 for the burning, thermal treatment, or combustion of hazardous wastes, normal operation
1305 modes shall include operation of the facility as designed; failure modes shall include failure of
1306 primary air pollution control systems, failure of any automatic or manual waste feed cutoff
1307 system, operation of the facility under conditions of waste temperature and residence time to
1308 be expected during upset, startup or shutdown conditions, and inadvertent combustion or
1309 treatment of wastes containing chlorinated hazardous wastes, dioxins, arsenic, antimony,
1310 barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium; and

1311 (F) For other hazardous waste storage, treatment, or disposal
1312 facilities, normal operation or failure modes shall be specified by the Director.

1313 (iii) For the purpose of conducting the health risk assessment required by
1314 Section 264(k)(v) of this Chapter, the following protocols (or most recent edition) shall be used
1315 by the applicant, unless alternate protocols are approved by the DEQ:

1316 (A) "Exposure Factors Handbook", 2011, U.S. Environmental
1317 Protection Agency, EPA 600/R-090/052F;

1318 (B) "Guidance for Data Useability in Risk Assessment, Part A and B",
1319 1992, U.S. Environmental Protection Agency;

1320 (C) "Guidelines for Human Exposure Assessment ", U.S.
1321 Environmental Protection Agency, Draft January 7, 2016;

1322 (D) "Risk Assessment Guidance for Superfund Volume I, Human
1323 Health Evaluation Manual (Part A)", 1989, U.S. Environmental Protection Agency, EPA 540/1-
1324 89/002;

1325 (E) "Risk Assessment Guidelines", U.S. Environmental Protection
1326 Agency, <https://www.epa.gov/risk/risk-assessment-guidelines> Numerous guidelines dated 1986-
1327 2015;

1328 (F) "Risk Assessment Guidance for Superfund, Volume 1: Human
1329 Health Evaluation Manual, Supplemental Guidance, Standard Default Exposure Factors, Interim
1330 Final", 1991, U.S. Environmental Protection Agency, OSWER Directive 9285.6-03; and

1331 (G) "Superfund Exposure Assessment Manual", 1988, U.S.
1332 Environmental Protection Agency, EPA 540/1-88/001.

1333 (iv) For the purpose of conducting the health risk assessment required by
1334 Section 264(k)(v) of this Chapter, toxicological data contained in the following publications shall
1335 be used unless alternate data sources are approved by the DEQ:

1336 (A) Integrated Risk Information System (IRIS), U.S. Environmental
1337 Protection Agency, <https://www.epa.gov/iris>;

1338 (B) "Health Effects Assessment Summary Tables", Office of Research
1339 and Development, Office of Emergency and Remedial Response, U.S. Environmental Protection
1340 Agency, OERR 9200.6-303 (94-1); and

1341 (C) Data provided by a qualified EPA toxicologist, if approved by the
1342 DEQ.

1343 (k) MANAGEMENT AND TECHNICAL CAPABILITIES OF THE OWNER AND OPERATOR.
1344 The applicant shall possess demonstrated acceptable experience in operating hazardous waste
1345 treatment, storage, and disposal facilities in a manner that does not demonstrate a disregard
1346 for human health and the environment. The Director shall consider the applicant to have
1347 demonstrated acceptable experience if:

1348 (i) The applicant is currently operating an existing facility permitted under
1349 these rules and that facility is currently in substantial compliance with all rules, regulations, and
1350 permit conditions adopted under the Environmental Quality Act and applicable federal
1351 regulations; or

1352 (ii) If not currently operating a facility in this State, the applicant has
1353 experience operating hazardous waste treatment, storage, and disposal facilities in other states
1354 and has operated such facilities in substantial compliance with applicable state and federal
1355 regulations and permit requirements. Applicants who do not have an operating history in this
1356 State shall submit the following information to the Director:

1357 (A) A listing of all permits for hazardous waste treatment, storage,
1358 and disposal facilities held by the applicant within the last ten years;

1359 (B) A listing of such permits revoked for cause;

1360 (C) A listing of hazardous waste treatment, storage, or disposal
1361 facilities owned or operated by the applicant that are currently not in substantial compliance

1362 with applicable state or federal regulations or permit requirements as officially determined by a
1363 state or federal regulatory agency; and

1364 (D) A description of all criminal and civil penalties assessed against
1365 the applicant resulting from violations of state or federal environmental laws within the last five
1366 years.

1367 (I) THE APPLICANT SHALL DEMONSTRATE FITNESS TO COMPLY WITH THE ACT AND
1368 THESE RULES. The past performance of the applicant, or any partners, executive officers, or
1369 corporate directors, based on the record before the Director, shall constitute evidence that the
1370 applicant will comply with provisions of the Act and these rules and is fit to obtain a permit.

1371 (i) The Director may determine that the applicant is not fit to obtain a
1372 permit if the applicant, or any partners, executive officers, or corporate directors have:

1373 (A) Misrepresented or concealed any material fact in the permit
1374 application;

1375 (B) Been convicted of a felony or pleaded guilty to a felony for
1376 violations of environmental quality or criminal racketeering laws or regulations within the five
1377 years preceding the application for the permit, which in the judgment of the Director
1378 constitutes evidence that the applicant cannot be relied upon to conduct the operations
1379 described in the application in compliance with the Act and these rules; or

1380 (C) Been adjudicated in contempt of any order of any court enforcing
1381 laws of any state or the federal government within five years preceding the application for a
1382 permit.

1383 (ii) In determining whether the applicant is fit under Sections 270(m) and
1384 270(n) of this Chapter, the Director shall consider:

1385 (A) The relevance of the offense to the business for which a permit is
1386 issued;

1387 (B) The nature and seriousness of the offense;

1388 (C) The circumstances under which the offense occurred;

1389 (D) The date of the offense;

1390 (E) The ownership and management structure in place at the time of
1391 the offense; and

1392 (F) Evidence of rehabilitation including the applicant's record of
1393 implementing corrective action, the applicant's cooperation with governmental entities,

1394 implementation of formal policies and procedures to prevent recurrence, and the discharge of
1395 individuals or severance of affiliation with parties responsible for the offense.

1396 (m) INTERIM STATUS CORRECTIVE ACTION ORDERS.

1397 (i) Whenever on the basis of any information the Director determines that
1398 there is or has been a release of hazardous waste into the environment from a facility
1399 authorized under 40 CFR 270.70, the Director may issue an order requiring corrective action or
1400 such other response measure as the Director deems necessary to protect human health or the
1401 environment or the State may commence a civil action under the Act.

1402 (ii) Any order issued under Section 270(p) of this Chapter may include a
1403 suspension or revocation of authorization to operate under 40 CFR 270.70, shall state with
1404 reasonable specificity the nature of the required corrective action or other response measure,
1405 and shall specify a time for compliance. If any person named in an order fails to comply with
1406 the order, the State may initiate a civil action under the Act.

1407 (n) IMMEDIATE HAZARD. Notwithstanding any other provision of the Act, upon
1408 receipt of evidence that the past or present handling, storage, treatment, transportation or
1409 disposal of any waste material or hazardous waste may present an imminent and substantial
1410 endangerment to public health or the environment, ~~the Attorney General~~ the Director may request
1411 the Attorney General to ~~may~~ bring suit on behalf of the people of the State of Wyoming against
1412 any person (including any past or present generator, past or present transporter, or past or
1413 present owner or operator of a treatment, storage or disposal facility) who has contributed or
1414 who is contributing to such handling, storage, treatment, transportation, or disposal to restrain
1415 such person from such handling, storage, treatment, transportation, or disposal, to order such
1416 person to take such other action as may be necessary, or both. A transporter shall not be
1417 deemed to have contributed or to be contributing to such handling, storage, treatment, or
1418 disposal taking place after such waste material or hazardous waste has left the possession or
1419 control of such transporter if the transportation of such waste was under a sole contractual
1420 arrangement arising from a published tariff and acceptance for carriage by common carrier by
1421 rail and such transporter has exercised due care in the past or present handling, storage,
1422 treatment, transportation, and disposal of such waste. The Director may also take other action
1423 under Section 270(p) of this Chapter including, but not limited to, issuing such orders as may be
1424 necessary to protect public health and the environment.

1425

1426 (o) MONITORING, ANALYSIS AND TESTING.

1427

1428 (i) Authority of the Director. The Director may issue an order requiring an
1429 owner or operator to conduct such monitoring, testing, analysis, and reporting as the Director
1430 deems reasonable to ascertain the nature and extent of a hazard, if the Director determines,
1431 upon receipt of any information, that the presence of any hazardous waste at a facility or site at
1432 which hazardous waste is, or has been, stored, treated, or disposed of or the release of any
1433 such waste from such facility or site may present a substantial hazard to human health or the

1434 environment, ~~the Director may issue an order requiring the owner or operator of such facility~~
1435 ~~or site to conduct such monitoring, testing, analysis, and reporting with respect to such facility~~
1436 ~~or site, as the Director deems reasonable to ascertain the nature and extent of such hazard.~~
1437

1438 (ii) Previous Owners and Operators. In the case of any facility or site not in
1439 operation at the time a determination is made under Section 270(q)(i) of this Chapter with
1440 respect to facility or site, if the Director finds that the current owner of such facilities could not
1441 reasonably be expected to have actual knowledge of the presence of hazardous waste at such
1442 facility or site and of its potential for release, the Director may issue an order requiring the
1443 most recent previous owner or operator of such facility or site who could reasonably be
1444 expected to have such actual knowledge to carry out the actions referred to in Section 270(q)(i)
1445 of this Chapter.

1446
1447 (iii) Proposal. An order under Section 270(q)(i) or Section 270(q)(ii) of this
1448 Chapter shall require the person to whom such order is issued to submit to the Director within
1449 thirty days from the issuance of such order a proposal for carrying out the required monitoring,
1450 testing, analysis, and reporting. The terms of this proposal shall become enforceable upon
1451 approval by the Director.

1452 ~~– The Director may, after providing such person with an opportunity to confer with the Director~~
1453 ~~respecting such proposal, require such person to carry out such monitoring, testing, analysis,~~
1454 ~~and reporting in accordance with such proposal, and such modifications in such proposal as the~~
1455 ~~Director deems reasonable to ascertain the nature and extent of the hazard. [RCRA §3013(c)]~~

1456 (iv) Monitoring, testing, or analysis carried out by the Director.

1457
1458 (A) If the Director determines that no owner or operator referred to
1459 in Section 270(q)(i) or Section 270(q)(ii) of this Chapter is able to conduct satisfactory
1460 monitoring, testing, analysis, or reporting, or that any such action carried out by an owner or
1461 operator is unsatisfactory, or the Director cannot initially determine that there is an owner or
1462 operator referred to in Section 270(q)(i) or Section 270(q)(ii) of this Chapter who is able to
1463 conduct such monitoring, testing, analysis, or reporting, the Director may:

1464
1465 (I) Conduct monitoring, testing, or analysis (or any
1466 combination thereof) that the Director deems reasonable to ascertain the nature and extent of
1467 the hazard associated with the site concerned, or

1468
1469 (II) Authorize a local authority or other person to carry out
1470 any such action.

1471
1472 (B) For purposes of carrying out Section 270(q)(iv) of this Chapter, the
1473 Director or any authority or other person authorized under Section 270(q)(i)(A) of this Chapter,
1474 may exercise the authorities set forth in RCRA §3007(a).
1475

1476 (v) Enforcement. The Director may request the Attorney General to
1477 commence a civil action against any person who fails or refuses to comply with any order issued
1478 under Section 270(q)(iv) of this Chapter. Such action shall be brought under Article 9 of the Act.

1479 **Sections 271-272. RESERVED.**

1480

1481 **Section 273. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.**

1482 (a) IBR. 40 CFR Part 273 and all Subparts are herein incorporated by reference ~~as~~
1483 ~~provided in 40 CFR.~~

1484

1485 (i) For purposes of 40 CFR 273.32(a)(3), "EPA" shall be defined as the U.S.
1486 Environmental Protection Agency.

1487

1488 (ii) For purposes of 40 CFR 273.15(c)(2), the term "lamp" shall be inserted
1489 after "battery,".

1490

1491 **Sections 274-278. RESERVED.**

1492

1493 **Section 279. STANDARDS FOR THE MANAGEMENT OF USED OIL.**

1494 IBR. 40 CFR Part 279 and all Subparts are herein incorporated by reference ~~as provided in 40~~
1495 ~~CFR.~~

1496 (a) For purposes of 40 CFR 279.1, "Existing tank" shall be a tank that is used for the
1497 storage or processing of used oil and that is in operation, or for which installation has
1498 commenced on or prior to the effective date of the authorized used oil program for the state in
1499 which the tank is located. Installation will be considered to have commenced if the owner or
1500 operator has obtained all permits and approvals required under federal, state or local statutes,
1501 regulations or ordinances necessary to begin installation of the tank and if either (1) a
1502 continuous on-site installation program has begun, or (2) the owner or operator has entered
1503 into contractual obligations that cannot be cancelled or modified without substantial loss for
1504 installation of the tank to be completed within a reasonable time.

1505 (b) For purposes of 40 CFR 279.43(c)(3)(ii), "Director" shall be defined as the
1506 Director, U.S. DOT Office of Hazardous Materials Regulation.

1507 (c) For purposes of 40 CFR 279.82(a), the use of used oil as a dust suppressant is
1508 prohibited.

1509

1510 **Sections 280-300. RESERVED.**

APPENDIX A:

**TABLE 1-1
More Stringent and Broader in Scope Provisions Relative to 40 CFR**

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
CLOSURE	HWRR 264(a)(vii): Wyoming is more stringent because it requires that owner/operators at closure will take, and continue to take, all steps to prevent threats to human health and the environment.	264.112(d)(2)(i)
CORRECTIVE ACTION MANAGEMENT UNITS (CAMUs)	HWRR 260(a), 264(e): Wyoming is more stringent for the definitions of "facility" and "remediation waste management site" because facilities not subject to 40 CFR 264.101 are not eligible for the less stringent management standards of the Corrective Action Management Unit (CAMU) program. Wyoming does not adopt the definition of "remediation waste management site", or the third part of the definition for "facility". Also, Wyoming is broader-in-scope because it makes the CAMU requirements available to participants in the State of Wyoming Voluntary Remediation Program implementing corrective action pursuant to a remedy agreement developed under Wyoming Statute W.S. 35-11-1607.	260.10, 264.1(j), 264.73(b)(17), 264.101(d), 264.551(a), 264.552(a), 264.552(e), and 264.553(a)
EMERGENCY REPORTING	HWRR 263(c): Wyoming is more stringent in that it requires an air, rail, highway, or water transporter to report discharged hazardous waste to the Director in addition to the National Response Center and DOT.	263.30(c)
EMERGENCY REPORTING	HWRR 262(e), 264(a)(v), 265(a)(iv), 267(a)(iii): Wyoming is more stringent because the State requires the emergency coordinator to also report their findings to the Wyoming Department of Environmental Quality (307-777-7501) in addition to the National Response Center (800-424-8802).	262.16(b)(9)(iv)(C), 262.265(d)(2), 264.56(d)(2), 265.56(d)(2), and 267.56(c)(2)

APPENDIX A:

**TABLE 1-1
More Stringent and Broader in Scope Provisions Relative to 40 CFR**

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
EMERGENCY REPORTING	HWRR 270(e)(i): Wyoming is more stringent because the State requires the permittee to report any release or discharges of hazardous waste regardless of whether or not it may cause an endangerment to the public water supplies.	270.30(l)(6)(i)(A) and (B)
FITNESS OF THE APPLICANT	HWRR 270(n): Wyoming is broader-in-scope because the State requires the applicant to demonstrate his/her fitness to meet the requirements for a hazardous waste permit.	No federal analog
HEALTH RISK ASSESSMENT	HWRR 270(a)(x): Wyoming is more stringent in that it requires provisions more stringent than the Federal exposure assessment requirements.	270.10(j)(1)
INTERIM STATUS	HWRR 270(h): Wyoming is more stringent because it uses the phrase "shall be eligible to receive interim status" versus the federal phrase "shall have interim status." Additionally, Wyoming also states that the Director determines if the owner or operator has complied with the necessary requirement. This makes Wyoming more stringent as receiving interim status is not as "automatic" as it is under federal requirements.	270.70(a)
LANDFILLS	HWRR 264(a)(x), 265(a)(x): Wyoming is more stringent because it does not adopt the option for the landfill owner or operator to make a demonstration to the Director in order to allow the placement of liquids that are not hazardous wastes in the landfill.	264.314(e), 264.314(e)(1) and (2), 265.314(f), 265.314(f)(1) and (2)
LANDFILLS	HWRR 264(a)(xi): Wyoming is more stringent because it deletes the phrase "or a demonstration is made pursuant to § 264.314(e)".	264.552(a)(3)(iii)

APPENDIX A:

**TABLE 1-1
More Stringent and Broader in Scope Provisions Relative to 40 CFR**

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
LOCATION STANDARDS	HWRR 264(a)(iv), 267(a)(ii): Wyoming is more stringent because it prohibits new facilities from locating within the boundaries of a 100-year floodplain.	264.18(b)(1), 267.18(b)
LOCATION STANDARDS	HWRR 270(c)(ii): Wyoming is more stringent in that it requires a one-mile (versus 1/4-mile in the federal code) boundary for the locations of wells, springs, surface water, etc. shown on the topographic map submitted under Part A of the application.	270.13(l)
LOCATION STANDARDS	HWRR 270(d), 270(j): Wyoming is more stringent in that it adds additional provisions requiring a health risk assessment based on health risks associated with normal operation or failure of a HWMF pollution control or containment system.	270.14(b)(11)
LOCATION STANDARDS	HWRR 270(d)(i): Wyoming is more stringent in that it requires additional information concerning the facility location "sufficient to demonstrate compliance with all of the more stringent applicable location standards specified in Sections 264, 267, and 270 of these rules." The federal code only requires that political jurisdiction be identified, so that the applicability of the seismic standard can be determined.	270.14(b)(11)(i)
LOCATION STANDARDS	HWRR 270(d)(ii): Wyoming is more stringent in that it requires that the information provided to demonstrate compliance with the seismic standard must be acceptable to professional geologists. The federal code only states that this information must be acceptable to geologists.	270.14(b)(11)(ii)
LOCATION STANDARDS	HWRR 270(d)(iii): Wyoming is more stringent in that the methods used to determine the 100-year floodplain must be approved by the Director. Information shall also be provided	270.14(b)(11)(iii)

APPENDIX A:

**TABLE 1-1
More Stringent and Broader in Scope Provisions Relative to 40 CFR**

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
	identifying the 100-year flood level and any other special flooding factors (e.g., wave action) that must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.	
MILITARY MUNITIONS	HWRR 266(b)(i): Wyoming is more stringent in that the State requires that the operator of the range must "notify the Director in writing" if remedial action is infeasible.	266.202(d)
MILITARY MUNITIONS	HWRR 266(b)(iv): Wyoming is more stringent in that Wyoming limits the conditional exemption for storage to waste generated by the facility storing the waste unless "...storage of waste military munitions from another facility is the result of an inability to transport the waste military munitions for treatment or disposal due to inclement weather or other circumstance as approved in writing by the Director."	266.205(a)(1)
MILITARY MUNITIONS	HWRR 266(b)(ii), 266(b)(vi): Wyoming is more stringent in that it does not allow a default reinstatement if the Director does not take action on the application within 60 days.	266.203(b), 266.205(c)
MILITARY MUNITIONS	HWRR 266(b)(iii), 266(b)(viii): Wyoming is more stringent in that any amendments to the effective date of the Department of Defense shipping controls or DDESB storage standards are not effective until approved by the Director.	266.203(c), 266.205(e)
NOTIFICATION	HWRR 261(a)(iii): Wyoming is more stringent in that it requires a copy of the notification be sent to the Director.	261.41(a)

APPENDIX A:

**TABLE 1-1
More Stringent and Broader in Scope Provisions Relative to 40 CFR**

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
PERMIT APPLICATIONS	HWRR 270(c)(ii): Wyoming is more stringent because the State requires under Part A of the permit application that the applicant provide information regarding the applicant's history of convictions relating to environmental or racketeering charges. There is no direct federal analog for this requirement.	270.13
PERMIT APPLICATIONS	HWRR 270(b)(ii): Wyoming is more stringent in that it adds the requirement that any person who gains ownership or operational control of a facility through a transfer, must have the Director's approval that they meet the qualifications for owners and operators under Sections 270(m) and 270(n) of this Chapter. The State also requires a written agreement between the current owner and the new owner specifying the date of transfer of responsibility, however, Wyoming requires that the written agreement contain signed and notarized documentation that the new owner will be bound to, and responsible for, the permit provisions.	270.40(b)
PERMIT MODIFICATIONS	HWRR 270(a)(xx): Wyoming is more stringent because Wyoming requires the Director to provide a response to a permit modification request within 90 days ("Combustion facility changes to meet part 63 MACT standards"). Unlike the federal rules, the regulated community may not rely on an absence of an approval after 90 days have elapsed as being a tacit approval under the State's regulation.	270.42(j)(3)
PERMIT TERMINATION	HWRR 124(a)(iii): Wyoming is more stringent because it adds a provision stating that the Director may order facility closure following permit termination. The federal rules do not give the Director this authority.	124.5

APPENDIX A:

**TABLE 1-1
More Stringent and Broader in Scope Provisions Relative to 40 CFR**

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
PROFESSIONAL ENGINEER CERTIFICATION	HWRR 3(f): Wyoming is more stringent because it requires professional engineers to be registered in Wyoming when referring to activities requiring Professional Engineer certification. This differs from the EPA phrase "qualified Professional Engineer".	264.115, 264.120, 264.143(i), 264.145(i), 264.147(e), 264.191(a), 264.191(b)(5)(ii), 264.192(a), 264.192(b), 264.193(i)(2), 264.196(f), 264.280(b), 264.554(c)(2), 264.571(a), (b), and (c), 264.573(a)(4)(ii), 264.573(g), 264.574(a), 264.1101(c)(2), 265.115, 265.120, 265.143(h), 265.145(h), 265.147(e), 265.191(a), 265.191(b)(5)(ii), 265.192(a) and (b), 265.193(i)(2), 265.196(f), 265.280(e), 265.441(a), (b), and (c), 265.443(a)(4)(ii), 265.443(g), 265.444(a), 265.1101(c)(2), 267.117, 267.147(e), 267.191, 267.192(a), 267.200(f), 270.14(a), 270.16(a), and 270.26(c)(15)
PROFESSIONAL GEOLOGIST CERTIFICATION	HWRR 3(g): Wyoming is more stringent because it requires that the certifying geologist be a professional geologist registered in the State of Wyoming. This differs from the EPA phrases "qualified geologist" or "geologists".	264.90(b)(4), 265.90(c), 265.90(d)(1), 265.93(d)(2), and 270.14(b)(11)(ii)

APPENDIX A:

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RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
PUBLIC NOTICE	HWRR 124(c)(i): Wyoming is more stringent because it requires public notice within 15 days of the preparation of a draft permit.	124.10(b)(1)
PUBLIC NOTICE	HWRR 124(c)(ii): Wyoming is more stringent because it requires publication of a notice for all RCRA permits once a week for two consecutive weeks, versus one notice required by federal regulation.	124.10(c)(2)(ii)
PUBLIC NOTICE	HWRR 124(e)(iii): Wyoming is more stringent in that it requires a hearing to be scheduled within 20 days after the close of the public comment period unless a different schedule is deemed necessary by the Council. Wyoming is also more stringent in that it requires a public notice published once a week for two consecutive weeks immediately prior to the hearing in the county where the applicant plans to locate the facility.	124.12(a)(3) and (4)
REMEDIAL ACTION PLANS (RAPs)	HWRR 264(a): Wyoming is more stringent because it does not adopt the less stringent Remedial Action Plan (RAP) alternate permit for remediation waste management sites.	264.554(l)(2)
REMEDIAL ACTION PLANS (RAPs)	HWRR 270(a): Wyoming is more stringent because it has chosen not to adopt the November 30, 1998 final rules provisions of 40 CFR 270.11(d)(2), which were considered to be less stringent relative to signatures on certification documents (Revision Checklist 175, 63 FR 65874).	270.11(d)(2)
REMEDIAL ACTION PLANS (RAPs)	HWRR 270(a), 270(a)(iv): Wyoming is more stringent because it does not adopt the less stringent Remedial Action Plan alternate permit for remediation waste management sites.	270.2, 270.11(d)(2), 270.68, 270.73(a), 270.79 - 270.230

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RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
REPORTING REQUIREMENTS	HWRR 265(a)(v): Wyoming is more stringent because it requires ground-water monitoring plans and reports to be submitted to the Director.	265.90(d)(1) and (3), 265.93(d)(2)
REPORTING REQUIREMENTS	HWRR 265(a)(vi): Wyoming is more stringent in that it requires the owner/operator to submit a written report to the Director 15 days after the assessment of ground-water quality is completed.	265.93(d)(5)
REQUIREMENTS FOR RECYCLABLE MATERIALS	HWRR 261(b): Wyoming is more stringent in that it has adopted requirements for management of sham recycling activities.	261.6
RESPONSE ACTION PLANS	HWRR 265(a)(ix): Wyoming is more stringent because it requires the surface impoundment response action plan to be submitted to the Director.	265.224(a)
RESPONSE ACTION PLANS	HWRR 265(a)(ix): Wyoming is more stringent because it requires that the waste pile response action plan be submitted to the Director.	265.259(a)
RESPONSE ACTION PLANS	HWRR 265(a)(ix): Wyoming is more stringent because it requires that the landfill response action plan be submitted to the Director.	265.303(a)
TRAINING REQUIREMENTS	HWRR 270(m): Wyoming is more stringent in that it requires information concerning the management and technical capabilities of the owner and operator in addition to the training requirements in the Federal provisions.	264.16, 270.14(b)(12)