

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.** This Chapter is promulgated pursuant to the Wyoming
10 Environmental Quality Act, specifically Wyoming Statute (W.S.) 35-11-503.

11 (b) **APPLICABILITY.** The rules contained herein shall apply to any person, government
12 or governmental subdivision, corporation, organization, partnership, business trust, association,
13 district, or other entity involved in any aspect of the management of hazardous waste.

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

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

19 (a) **GENERAL.** For any code, standard, rule or regulation incorporated by reference
20 in these rules:

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

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

27 (b) **RULE IDENTIFICATION.** This Chapter incorporates sections of the Code of
28 Federal Regulations (CFR), Title 40, Parts 124, 260-268, 270, 273, and 279 as promulgated by
29 the US Environmental Protection Agency (EPA) through July 7, 2020, unless otherwise noted.

30 (c) **EXCEPTIONS.** Nothing in 40 CFR Parts 260 - 268, 270, 273, 279 or Part 124 as
31 pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water
32 Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, or Prevention of
33 Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by
34 reference herein. More specific exceptions to the incorporated sections of 40 CFR, including
35 more stringent provisions relative to the incorporated sections of 40 CFR are detailed in the
36 relevant sections of these rules.

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

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

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

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

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

54
55 **Section 3. SUBSTITUTION OF STATE TERMS FOR FEDERAL TERMS.**

56
57 The following State terms shall replace the federal terms in 40 CFR Parts 260 through
58 268, 270, 273, 279, and 124, unless otherwise noted in these rules:

59
60 (a) Act. Wyoming Environmental Quality Act, W.S. 35-11-101 et seq.

61 (b) Administrator, Regional Administrator. Director of the Wyoming Department of
62 Environmental Quality, or their designee.

63 (c) Board, or Environmental Appeals Board. The Wyoming Environmental Quality
64 Council.

65
66 (d) Director, Regional Director, or State Director. The Director of the DEQ or his or
67 her designee.

68
69 (e) EPA, U.S. Environmental Protection Agency, EPA Headquarters. The DEQ, except
70 when used in 40 CFR 262.25 or to refer to an EPA Identification number, EPA hazardous waste
71 number, EPA forms, publications or guidance, or EPA Acknowledgment of Consent. Under the
72 latter circumstances, the definition shall be the U.S. Environmental Protection Agency and the
73 Headquarters of the U.S. Environmental Protection Agency as appropriate.

74 (f) Qualified Professional Engineer. A professional engineer registered in the State
75 of Wyoming. Professional engineers must be registered in Wyoming when activities require
76 Professional Engineer certification.

77
78 (g) Qualified Geologist or Geologists. A professional geologist registered in the
79 State of Wyoming. Professional geologists must be registered in Wyoming when activities
80 require professional geologist certification.

81
82 (h) RCRA. The comparable sections of the Wyoming Environmental Quality Act.

83
84 (i) RCRA Permit. State hazardous waste management facility (HWMF) permit, which
85 is an authorization, license, or equivalent control document issued by the DEQ to
86 implement the requirements of W.S. 35-11-503(d).

87 (j) State. The State of Wyoming.

88 (k) United States or U.S. The State of Wyoming.

89 **Section 4. DEFINITIONS.**

90 When used in these rules and any materials incorporated herein by reference, the
91 following definitions apply unless their application would be inconsistent with the Act. Terms
92 not otherwise defined in this Section will have the meaning given by RCRA.

93
94 (a) Air contaminant. Dust, fumes, mist, smoke, other particulate matter, vapor, gas
95 or any combination of the foregoing, but shall not include steam or water vapor. - Chapter 1,
96 Section 3 (Air Quality Rules).

97
98 (b) Air pollution. The presence in the outdoor atmosphere of one or more air
99 contaminants in such quantities and duration as is materially injurious to human health or
100 welfare, animal or plant life or property, or unreasonably interferes with the enjoyment of life
101 or property. - Chapter 1, Section 3 (Air Quality Rules).

102 (c) Assumed target intakes. The standard EPA exposure assumptions and factors as
103 defined in the "OSWER Directive 9285.6-03," and the EPA "exposure factors handbook," as
104 specified in "Exposure Factors Handbook", 2011, U.S. Environmental Protection Agency, EPA
105 600/R-09/052F.

106
107 (d) Chronic. That time period from seven years to a lifetime.

108
109 (e) Class I facilities. Any non-commercial or non-profit treatment or storage facility,
110 not engaged specifically in incineration, used solely to manage hazardous wastes that are
111 generated by the owner of the facility at the site of the facility, or any existing, but closed
112 treatment, storage, or disposal facility.

- 113
114 (f) Class II facilities: Any non-commercial or non-profit treatment facility engaged
115 specifically in incineration or any non-commercial or non-profit facility engaged in the disposal
116 of hazardous waste that is used solely to manage hazardous wastes that are generated by the
117 owner of the facility at the site of the facility.
- 118 (g) Class III facilities:
- 119 (i) Any commercial treatment, storage, or disposal facility;
- 120 (ii) Any other facility used to manage hazardous wastes that is not classified
121 as either a Class I or Class II facility.
- 122 (h) Council. The Environmental Quality Council established by the Act.
- 123 (i) DDESB. Department of Defense Explosives Safety Board.
- 124 (j) DOT. Any reference to the "Department of Transportation" or "DOT" shall mean
125 the U.S. Department of Transportation.
- 126 (k) Exposure. Contact with a chemical or physical agent.
- 127 (l) HSWA. Hazardous and Solid Waste Amendment of 1984.
- 128 (m) HSWA drip pad. A drip pad where F032 wastes are handled.
- 129 (n) HSWA tank. A tank owned or operated by a generator of less than one-thousand
130 kilograms of hazardous waste in any single calendar month, new underground systems, and
131 those existing underground tanks that cannot be entered for inspection.
- 132 (o) HWM. Hazardous Waste Management.
- 133 (p) HWMF. Hazardous Waste Management Facility.
- 134 (q) HWRR. Wyoming Hazardous Waste Rules and Regulations.
- 135 (r) IBR. Incorporation by Reference.
- 136 (s) Non-HSWA drip pad. A drip pad where F034 or F035 wastes are handled.
137
- 138 (t) Non-HSWA tank. Inground tank systems, onground tank systems, aboveground
139 tank systems, and existing underground tank systems that can be entered for inspection.
- 140 (u) One excess cancer per million people. A probability of one chance in one million
141 of an individual developing cancer in excess beyond their natural background risk.
- 142 (v) Potentially exposed populations. Any or all individuals, including sensitive
143 populations, potentially coming into contact with contaminants of concern.

144 (w) Risk. The probability of adverse human health or environmental effects from
145 exposure to toxic substances or materials released into the environment.

146 (x) Sewer system. Pipelines, conduits, storm sewers, pumping stations, force mains,
147 and all other constructions, devices, appurtenances and facilities used for collecting or
148 conducting authorized wastes to an ultimate point for treatment or disposal.

149 (y) Subchronic. That point in time between two weeks to seven years.

150 (z) Waste material. Any discarded material that is not excluded under 40 CFR
151 261.4(a), or that is not excluded by a variance granted by the Director under 40 CFR 260.30 and
152 260.31.

153 **Sections 5 - 123. RESERVED.**

154 **Section 124. ADMINISTRATIVE PROCEDURES.**

155 (a) IBR AND EXCEPTIONS. 40 CFR Part 124, Subparts A, B, and G are herein
156 incorporated by reference with the exception of the last sentence of 40 CFR 124.10(b)(1), the
157 fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second
158 sentence of 40 CFR 124.33(a). 40 CFR Sections 124.1, 124.4, 124.5(c), 124.5(e)-(g), 124.6(c),
159 124.6(d)(4)(ii)-(v), 124.8(b)(3), 124.8(b)(8), 124.9(b)(6), 124.10(a)(1)(iv)-(v), 124.10(c)(1)(iv)-
160 (viii), 124.10(c)(2)(i), 124.10(d)(1)(vii)-(viii), 124.10(d)(2)(iv), 124.12(b), 124.15(b)(2), 124.16,
161 124.18(b)(5), 124.19, 124.21, 124.204(d)(1) and (4), 124.205(a) and (h) are also not
162 incorporated by reference.

163
164 (i) For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii), "EPA"
165 and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental
166 Protection Agency and the U.S. Environmental Protection Agency Region 8 Regional
167 Administrator, respectively.

168
169 (b) APPLICATIONS FOR A PERMIT.

170
171 (i) Any person who requires a permit under W.S. 35-11-503(d) shall
172 complete, sign, and provide the Director with one copy of the permit application. The
173 application shall be organized in three-ring binders, and the information set forth in a format
174 that conforms to the order set forth in the applicable Sections of these rules.

175
176 (ii) Each application for a State HWMF permit shall be reviewed for
177 completeness by the Director within sixty days of receipt or an alternate date as agreed upon
178 by the Director and the applicant. Upon completing the review, the Director shall notify the
179 applicant in writing whether the application is complete. If the application is incomplete, the
180 Director shall list the information necessary to make the application complete in a notice of
181 deficiency (NOD), which shall be sent promptly to the applicant. The NOD shall specify a date

182 for submitting the necessary information. Information submitted in response to the NOD shall
183 be reviewed for completeness within sixty days of its submission. The Director shall notify the
184 applicant that the application is complete when the Director determines that all information
185 requirements have been met. After the application is completed, the Director may request
186 additional information from an applicant but only when necessary to clarify, modify, or
187 supplement previously submitted material. Requests for such additional information will not
188 render an application incomplete.

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

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

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

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

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

209 (v) All draft permits prepared under 40 CFR 124.6 shall be accompanied by a
210 fact sheet (40 CFR 124.8) or statement of basis (40 CFR 124.7) and shall be based on the
211 administrative record (40 CFR 124.9), publicly noticed (40 CFR 124.10), and made available for
212 public comment (40 CFR 124.11).

213 (c) PUBLIC NOTICE REQUIREMENTS.

214

215 (i) The Director shall provide public notice, as required under 40 CFR
216 124.10(a), within fifteen days of issuing a draft permit or a notice of intent to deny a permit
217 application and shall allow at least 45 days for public comment.

218

219 (ii) The above public notice shall be provided by publication of a notice once
220 a week for two consecutive weeks in a daily or weekly major local newspaper of general
221 circulation and broadcast over local radio stations.

222 (iii) All persons, including applicants, who believe any condition of a draft
223 permit is inappropriate or that the Director's tentative decision to deny an application,
224 terminate a permit, or prepare a draft permit is inappropriate, must raise all reasonably
225 ascertainable issues and submit all reasonably available arguments supporting their position by
226 the close of the public comment period under 40 CFR 124.10. Any supporting materials that
227 are submitted shall be included in full and may not be incorporated by reference, unless they
228 are already part of the administrative record in the same proceeding, or consist of state or
229 federal statutes and regulations, EPA documents of general applicability, or other generally
230 available reference materials. Commenters shall make supporting materials not already
231 included in the administrative record available to the DEQ as requested by the Director. A
232 comment period longer than 45 days may be necessary to give commenters a reasonable
233 opportunity to comply with the requirements of 40 CFR 124.13. Additional time shall be
234 granted under 40 CFR 124.10 to the extent that a commenter who requests additional time
235 demonstrates the need for such time.

236 (d) PERMIT ISSUANCE. Within thirty days after the close of the public comment
237 period under 40 CFR 124.10 on a draft permit, the Director shall issue a final permit decision (or
238 a decision to deny a permit for the active life of a HWMF or unit under 40 CFR 270.29) unless an
239 objection has been filed with the Director in accordance with 40 CFR 124.12(a)(3)(i). If an
240 objection has been filed, and a Council hearing is held, the Council shall issue findings of fact
241 and a decision on the proposed permit within thirty days after the final hearing. The Director
242 shall issue or deny the final permit no later than fifteen days from receipt of any findings of fact
243 and decision of the Council. The Director shall notify the applicant and each person who has
244 submitted written comments or requested notice of the final permit decision. This notice shall
245 include reference to the procedures for appealing a decision on a State HWMF permit or for
246 contesting a decision to terminate a State HWMF permit. For the purposes of 40 CFR 124.15, a
247 final permit decision means a final decision to issue, deny, modify, revoke and reissue, or
248 terminate a permit.

249

250 (e) PUBLIC HEARINGS.

251

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

255

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

260

261 (iii) The Director shall also schedule a public hearing under Chapter 2 of the
262 DEQ's Rules of Practice and Procedure whenever written notice of opposition to a draft permit
263 and a request for a hearing has been received within 45 days of public notice under Section
264 124(c)(i) of this Chapter.

265

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

273

274 (v) The public comment period under Section 124(c)(i) of this Chapter shall
275 be automatically extended to the close of any public hearing under Section 124(e)(i) or
276 124(e)(ii) of this Chapter.

277

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

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

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

287 (i) Permits may be modified, revoked and reissued, or terminated either at
288 the request of any interested person (including the permittee) or upon the Director's initiative.
289 However, permits may only be modified, revoked and reissued, or terminated for the reasons

290 specified in 40 CFR 270.41 or 40 CFR 270.43. All requests shall be in writing and shall contain
291 facts or reasons supporting the request.

292 (ii) If the Director decides the request is not justified, the Director shall send
293 the requester a brief written response giving a reason for the decision. Denials of requests for
294 modification, revocation and reissuance, or termination are not subject to public notice or
295 comment. Denials by the Director may be appealed to the Council in accordance with W.S. 35-
296 11-112(a)(iii) and the provisions of the Wyoming Administrative Procedure Act.

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

313 (iv) If the Director tentatively decides to terminate a permit under 40 CFR
314 270.43, the Director shall issue a notice of intent to terminate. A notice of intent to terminate
315 is a type of draft permit that follows the same procedures as any draft permit prepared under
316 40 CFR 124.6. All permit termination procedures shall be accomplished in accordance with the
317 requirements of the Wyoming Administrative Procedure Act.

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

322

323 **Sections 125-259. RESERVED.**

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

325 (a) IBR AND EXCEPTIONS. 40 CFR Part 260 and all Subparts, except 40 CFR 260.2(a),
326 (b), (c)(2), (d)(1) and (d)(2), 260.4(a)(4), 260.5(b)(2), the definitions of "remediation waste
327 management site", "electronic manifest (or e-manifest)", "electronic manifest system (or e-

328 manifest system), "user of the electronic manifest system," and the third part of the definition
329 for "facility" in 260.10, and 260.20(d) and (e), are herein incorporated by reference.

330 (i) For purposes of 40 CFR 260.10, in the definition of "hazardous waste
331 constituent", "Administrator" shall mean the U.S. Environmental Protection Agency
332 Administrator.

333 (ii) For purposes of 40 CFR 260.10, "existing hazardous waste management
334 (HWM) facility" or "existing facility" shall be a facility that was in operation or for which
335 construction commenced on or before November 19, 1980.

336
337 (iii) For purposes of 40 CFR 260.10, the definition of "new tank system" or
338 "new tank component" shall be as follows: A tank system or component that will be used for
339 the storage or treatment of hazardous waste:

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

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

346
347 (b) RULEMAKING PETITION.

348 (i) Any person may petition the Council to modify or revoke any provisions
349 in these rules as allowed under W.S. 16-3-106. 40 CFR 260.21 sets forth additional
350 requirements for petitions to add a testing or analytical method to 40 CFR Parts 261, 264, or
351 265. 40 CFR 260.22 sets forth additional requirements for petitions to exclude a waste or
352 waste-derived material at a particular facility from 40 CFR 261.3 or the lists of hazardous wastes
353 in Subpart D of 40 CFR Part 261. 40 CFR 260.23 sets forth additional requirements for petitions
354 to amend 40 CFR Part 273 to include additional hazardous wastes or categories of hazardous
355 waste as universal waste.

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

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

361

362 **Section 261. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.**

363 (a) IBR AND EXCEPTIONS. 40 CFR Part 261 and all Subparts, except Sections
364 261.4(b)(11), (b)(16), and (b)(17), 261.400 (a-b), 261.410(e-f), 261.411, 261.420, 261.1035(b)(1),

365 261.1064(b)(2), Subpart H, Appendix IX, and the language "in the Region where the sample is
366 collected" in 40 CFR 261.4(e)(3)(iii), are herein incorporated by reference.

367

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

370

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

373

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

377

378 (b) ADDITIONAL REQUIREMENTS FOR RECYCLABLE MATERIALS.

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

383 (A) The secondary material contains a hazardous constituent defined
384 in 40 CFR 261, Appendix VII not found in the analogous raw material or at greater levels than
385 the analogous raw material;

386 (B) The secondary material exhibits a hazardous characteristic that
387 the analogous raw material does not;

388 (C) The secondary material is being used in excess of the amount of
389 raw material that would otherwise be used;

390 (D) The recycling process (including storage) is likely to release
391 hazardous constituents or otherwise pose risks to human health or the environment that are
392 different from or greater than the risks posed by the processing of an analogous raw material or
393 product;

394 (E) The secondary material to be recycled does not have value as a
395 raw material or product and there is no guaranteed market for the end product;

396 (F) The secondary material is not handled in a manner consistent
397 with the raw material or product it replaces;

398 (G) The toxic constituent in the secondary material is useful in the
399 production of the product or the product itself;

400 (H) Economics of the recycling process; or

401 (i) Other factors the Director deems relevant.

402 (ii) No process in which liquids, solids, sludges, or dissolved constituents are
403 collected or separated in process units for recycling, recovery, or reuse including the recovery
404 of energy, within a continuous or batch manufacturing or refining process shall be considered a
405 sham recycling activity under this Section.

406

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

408

409 IBR AND EXCEPTIONS. 40 CFR Part 262 and all Subparts, except 262.10(k), and the
410 language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and (b), are
411 herein incorporated by reference.

412

413 (a) For purposes of 40 CFR 262.10(g), Section 3008 of "the Act" shall refer to RCRA
414 §3008, not the Act.

415

416 (b) For purposes of 40 CFR 262.18(e), the owner or operator shall apply to the DEQ
417 for an EPA identification number.

418

419 (c) A person who generates a hazardous waste as defined by 40 CFR 261 is subject
420 to the compliance requirements and penalties prescribed in Articles 7 and 9 of the Act; Section
421 270(o) of these rules; and Section 3008 of the Act if he or she does not comply with the
422 requirements of this Chapter.

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

429

430 (e) For purposes of 40 CFR 262.17(a), except 262.17(b) and (c), a generator may
431 accumulate hazardous waste on-site for ninety days or less without a permit or without having
432 interim status (see 40 CFR 262.14(a) for provisions regarding very small quantity generators).

433

434 (f) In addition to the emergency notification required by 40 CFR 262.16(b)(9)(iv)(C),
435 the emergency coordinator must also immediately notify the DEQ by telephone, 307-777-7501,
436 to file an identical report.

437

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

439 IBR AND EXCEPTIONS. 40 CFR Part 263 and all Subparts except 40 CFR 263.20(a)(3) are
440 herein incorporated by reference.

441 (a) For purposes of 40 CFR 263.20(g), .21(a)(4), and 263.22(d), "United States" shall
442 be defined as the United States.

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

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

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

451
452 (a) IBR AND EXCEPTIONS. 40 CFR Part 264 and all Subparts, except Subpart FF and
453 40 CFR 264.1(f), 264.1(g)(12), 264.1(j), 264.15(b)(5), 264.70(b), 264.71, 264.73(b)(17),
454 264.101(d), 264.147(k), 264.149, 264.150, 264.301(l), 264.314(e), 264.554(l)(2), 264.1030(d),
455 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g) are herein incorporated by reference.

456
457 (i) For purposes of 40 CFR 264.1(g)(1), "a State" shall be replaced by "the
458 State of Wyoming".

459
460 (ii) For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator"
461 shall be defined as the U.S. Environmental Protection Agency Region 8 Regional Administrator.

462
463 (iii) For purposes of 40 CFR 264.13(b)(3)(ii), the equivalent sampling method
464 is one that is approved by rule pursuant to Chapter 3, Section 3 of the DEQ's Rules of Practice
465 and Procedure.

466
467 (iv) For purposes of 40 CFR 264.18(b)(1), new facilities shall not be located
468 within the boundaries of a 100-year floodplain. Facilities shall also meet the location standards
469 of Section 264(i), (j), and (k) of this Chapter.

470 (v) For purposes of 40 CFR 264.56(d)(2), the coordinator must immediately
471 notify either the government official designated as the on-scene coordinator for that
472 geographical area, or the National Response Center (using their 24-hour toll free number 800-
473 424-8802). The DEQ must also be notified immediately, using its 24-hour telephone number,
474 307-777-7501.

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

477
478 (vii) For purposes of 40 CFR 264, Subpart G (Federal closure provision), the
479 owner or operator will continue to take all steps as required by 40 CFR 264.112(d)(2)(i).

480
481 (viii) For purposes of 40 CFR 264.191(a), the tank system's integrity
482 assessment must be completed by January 12, 1988, for HSWA tanks, as defined at Section
483 4(a)(xiv), and by October 18, 1996, for non-HSWA tanks, as defined at Section 4(a)(xxi).

484 (ix) For purposes of 40 CFR 264.191(c), the compliance date for conducting
485 the assessment is within 12 months of July 14, 1986, for HSWA tanks, as defined in Section
486 4(a)(xiv). For non-HSWA tanks, as defined at Section 4(a)(xxi), the compliance date is within 12
487 months of October 18, 1995.

488
489 (x) For purposes of 40 CFR 264.314(e), the placement of any liquid that is
490 not a hazardous waste in a landfill is prohibited.

491
492 (xi) For purposes of 40 CFR 264.552(a)(3)(iii), the State deletes the phrase
493 "or a demonstration is made pursuant to §264.314(e)".

494
495 (xii) For purposes of 40 CFR 264.1030(c), the reference to "40 CFR 124.15"
496 shall be replaced by "40 CFR 124.5", which addresses "Modifications, revocation and
497 reissuance, or termination of permits."

498
499 (xiii) "Malfunction" for purposes of 40 CFR 264, Subpart AA of these rules shall
500 mean any sudden failure of a control device or a hazardous waste management unit or failure
501 of a hazardous waste management unit to operate in a normal or usual manner, so that organic
502 emissions are increased. Failures that are caused in part by poor maintenance or careless
503 operation are not malfunctions.

504
505 (b) AIR QUALITY RULES. Compliance with the permitting requirements of these rules
506 does not obviate any duty to obtain and comply with an air quality construction or modification
507 permit issued pursuant to Chapter 6, Section 2 of the DEQ's Air Quality Rules.

508 (c) IDENTIFICATION NUMBER. Every facility owner or operator must apply to the
509 DEQ for an EPA identification number in accordance with the EPA notification procedures (45
510 FR 12746). The EPA identification number shall be considered to be the State of Wyoming
511 identification number for purposes of these rules.

512 (d) CORRECTIVE ACTION MANAGEMENT UNITS (CAMU).

513 (i) To implement remedies under 40 CFR 264.101, W.S. 35-11-1607, RCRA
514 §3008(h), or these rules, the Director may designate an area at the facility as a corrective action
515 management unit under the requirements in this Section or a signed remedy agreement
516 pursuant to W.S. 35-11-1607. Corrective action management unit means an area within a
517 facility that is used only for managing CAMU-eligible wastes for implementing corrective action
518 or cleanup at the facility. A CAMU must be located within the contiguous property under the

519 control of the owner/operator where the wastes to be managed in the CAMU originated. One
520 or more CAMUs may be designated at a facility.

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

523 (iii) Disposal of CAMU-eligible wastes in permitted hazardous waste landfills
524 shall be subject to the following requirements:

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

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

532 (e) FINANCIAL MECHANISMS.

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

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

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

544 (f) AIR EMISSION STANDARDS FOR TANKS, SURFACE IMPOUNDMENTS, AND
545 CONTAINERS.

546 (i) The requirements of 40 CFR 264, Subpart CC do not apply to a waste
547 management unit that is used solely for on-site treatment or storage of hazardous waste that is
548 placed in the unit as the result of implementing remedial activities required under the
549 corrective action authorities of RCRA § §§3004(u), 3004(v), or 3008(h), CERCLA authorities,
550 similar federal authorities, or these rules.

551 (ii) For the owner and operator of a facility subject to Subpart CC who
552 received a final permit under RCRA §3005 or these rules prior to December 6, 1996, the
553 requirements of this subpart shall be incorporated into the permit when the permit is reissued

554 in accordance with the requirements of 40 CFR 124.15 or reviewed in accordance with the
555 requirements of 40 CFR 270.50(d). Until such date when the permit is reissued in accordance
556 with the requirements of 40 CFR 124.15 or reviewed in accordance with the requirements of 40
557 CFR 270.50(d), the owner and operator are subject to the requirements of 40 CFR Part 265,
558 subpart CC.

559 (g) CORRECTIVE ACTION BEYOND FACILITY BOUNDARY.

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

561 (i) All facilities operating under permits issued under these rules, W.S. 35-
562 11-801, 40 CFR 270.50, and RCRA §3005(c).

563
564 (ii) All landfills, surface impoundments, and waste pile units (including any
565 new units, replacements of existing units, or lateral expansions of existing units) that receive
566 hazardous waste after July 26, 1982.

567
568 (h) LOCATION STANDARDS.

569 (i) Applicability.

570 (A) Any new or existing facility for the treatment, storage, or disposal
571 of hazardous wastes must meet the location standards of 40 CFR 264.18 and those in Chapter 1,
572 except as provided in Section 264(i)(i)(B) of this Chapter.

573 (B) Any new or existing Class 1 HWMF, as defined in Section 4(e) of
574 these rules, that is required by law to be constructed at the site of a hazardous generator to
575 manage newly-listed hazardous waste that is currently legally produced solely by that
576 generator, does not have to meet the requirements of 264(k) except for a new facility which
577 would have to meet the requirements of Sections 264(i), (j), (k) and 270(d)(iii) of this Chapter.

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

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

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

585 (iii) Wild and Scenic Rivers Act: Facility locations shall not diminish the
586 scenic, recreational, and fish and wildlife values for any Section of river designated for
587 protection under the Wild and Scenic Rivers Act, 16 USC 1271 et seq., and implementing
588 regulations.

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

593 (v) Endangered Species Act: Facilities shall not be located within a critical
594 habitat of an endangered or threatened species listed pursuant to the Endangered Species Act,
595 16 USC 1531 et seq., and implementing regulations, where the facility may cause destruction or
596 adverse modification of the critical habitat, may jeopardize the continued existence of
597 endangered or threatened species or contribute to the taking of such species.

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

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

604 (viii) Hydrogeologic conditions: Facilities shall not be located in an area where
605 the DEQ, after investigation by the applicant, finds that there is a reasonable probability that
606 hazardous waste management activities cause or contribute to a violation of surface water or
607 groundwater quality standards contained in Water Quality Rules, Chapters 1 and 8..

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

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

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

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

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

616 (E) Three hundred feet of any perennial river or stream.

617 (j) ADDITIONAL LOCATION STANDARDS REQUIREMENTS FOR CLASS III FACILITIES.

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

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

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

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

625
626 (ii) The following additional location standards shall apply to Class III facilities
627 if they are more restrictive than the location standards of Sections 264(k)(i)(A) through (C) of
628 this Chapter:

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

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

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

646

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

649

650 (a) IBR AND EXCEPTIONS. 40 CFR Part 265, and all Subparts except Subparts FF and R
651 and Sections 40 CFR 265.1(c)(4) and (c)(15), 265.15(b)(5), 70(b), 265.71, 265.147(k), 265.149,
652 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g) are herein
653 incorporated by reference.

654 (i) For purposes of 40 CFR 265.1(c)(5), "a State" shall be replaced by "the
655 State of Wyoming".

656

657 (ii) For purposes of 40 CFR 265.11, the owner or operator shall apply to the
658 DEQ for an EPA identification number.

659

660 (iii) For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator"
661 shall be defined as the U.S. Environmental Protection Agency Region 8 Regional Administrator.

662

663 (iv) For purposes of 40 CFR 265.1083(c)(4)(ii), "EPA" shall be defined as the
664 U.S. Environmental Protection Agency.

665

666 (v) For purposes of 40 CFR 265.56(d)(2), the emergency coordinator must
667 immediately notify either the government official designated as the on-scene coordinator for
668 that geographical area, or the National Response Center (using their 24-hour toll free number
669 800-424-8802). Notice shall also be given to the Director, DEQ, whose address can be found at
670 <http://deq.wyoming.gov/shwd>, using the DEQ 24-hour telephone number, 307-777-7501.

671 (vi) For purposes of 40 CFR 265.90(d)(1) and (3), and 40 CFR 265.93(d)(2),
672 ground-water monitoring plans and reports shall be submitted to the Director.

673 (vii) For purposes of 40 CFR 265.93(d)(5), the owner/operator shall submit a
674 written report to the Director fifteen days after the determination of ground-water quality is
675 made.

676 (viii) For purposes of 40 CFR 265.191(a), the tank system's integrity
677 assessment must be completed by January 12, 1988 for HSWA tanks, as defined at Section
678 4(a)(xiv), and by October 18, 1996, for non-HSWA tanks, as defined at Section 4(a)(xxi).

679 (ix) For purposes of 40 CFR 265.191(c), the compliance date for conducting
680 the assessment is within twelve months of July 14, 1986, for HSWA tanks, as defined in Section
681 4(a)(xiv). For non-HSWA tanks, as defined at Section 4(a)(xxi), the compliance date is within
682 twelve months of October 18, 1995.

683

684 (x) For purposes of 40 CFR subparts 265.224(a), 265.259(a), and 265.303(a),
685 all response action plans shall be submitted to the Director.

686

687 (xi) For purposes of 40 CFR 265.314(f), the placement of any liquid that is not
688 a hazardous waste in a landfill is prohibited.

689 (xii) For purposes of 40 CFR 265.340(b)(2), the language is replaced with, "The
690 following requirements continue to apply even when the owner or operator has demonstrated
691 compliance with the MACT requirements of part 63, Subpart EEE of this Chapter: 40 CFR
692 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this
693 part."

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

698 (b) PURPOSE, SCOPE, AND APPLICABILITY. The requirements of 40 CFR Part 265
699 apply to:

700 (i) The disposal of hazardous waste by means of underground injection,
701 regulated under Chapter 27 of the DEQ's Water Quality Rules; and

702 (ii) Any person who treats, stores, or disposes of hazardous waste, if
703 Wyoming has not been authorized to carry out the requirements and prohibitions applicable to
704 the treatment, storage, or disposal of hazardous waste at his or her facility. The requirements
705 and prohibitions that are applicable until Wyoming receives authorization to carry them out
706 include all federal program requirements identified in 40 CFR 271.1(j).

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

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

714

715 (e) REQUIREMENTS FOR EXISTING AND NEWLY REGULATED SURFACE
716 IMPOUNDMENTS.

717 (i) Surface impoundments regulated for the first time by a listing or
718 characteristic promulgated after November 8, 1984, must comply with new unit requirements
719 or stop hazardous waste activity by four years after the date of promulgation of the new listing
720 or characteristic.

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

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

728

729 (a) IBR AND EXCEPTIONS. 40 CFR Part 266 and all Subparts are herein incorporated
730 by reference.

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

735 (b) MILITARY MUNITIONS.

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

745 (ii) Reinstatement of exemption. If any waste military munition loses its
746 exemption under 40 CFR 266.203(a)(1), an application may be filed with the Director for
747 reinstatement of the exemption from hazardous waste transportation regulation with respect
748 to such munition as soon as the munition is returned to compliance with the conditions of 40
749 CFR 266.203(a)(1). If the Director finds that reinstatement of the exemption is appropriate
750 based on factors such as the transporter's provision of a satisfactory explanation of the
751 circumstances of the violation, or a demonstration that the violations are not likely to recur, the
752 Director may reinstate the exemption under 40 CFR 266.203(a)(1). If the Director does not act
753 on the reinstatement application within sixty days after receipt of the application and if the
754 military continues to seek reinstatement of the exemption, it is the responsibility of the military
755 to contact the Director to establish a mutually-agreeable timeline for the Director to address
756 the application. In reinstating the exemption under 40 CFR 266.203(a)(1), the Director may
757 specify additional conditions as are necessary to ensure and document proper transportation to
758 protect human health and the environment.

759 (iii) Amendments to Department of Defense shipping controls. The
760 Department of Defense shipping controls applicable to the transport of military munitions
761 referenced in 40 CFR 266.203(a)(1)(ii), and in effect on November 8, 1995, are the Signature
762 and Tally Record (DD Form 1907) and the Motor Vehicle Inspection (Transporting Hazardous
763 Materials) (DD Form 626). For shipment by commercial transport the U.S. Government Bill of
764 Lading (GBL) (GSA Standard Form 1103) is also required. For shipment by military transport,
765 the following additional controls are applicable: DD Single Line Item Release/Receipt Document
766 (DD Form 1348-1A) and the Shipping Paper and Emergency Response Information for
767 Hazardous Materials Transported by Government Vehicles (DD Form 836). Any amendments to
768 the above Department of Defense shipping controls shall not become effective for purposes of
769 40 CFR 266.203(a)(1) until the amended Department of Defense shipping control has been
770 adopted by rule by the DEQ. Adoption of an amended Department of Defense shipping control
771 will be contingent on the Director's affirmative finding that the amended shipping control(s)
772 is/are protective of human health and the environment. Copies of Department of Defense
773 shipping controls can be obtained upon request from the DEQ, the physical address of which
774 can be found at <http://deq.wyoming.gov/shwd>.

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

780 (v) Reinstatement of conditional exemption. If any waste military munition
781 loses its conditional exemption under 40 CFR 266.205(a)(1), an application may be filed with
782 the Director for reinstatement of the conditional exemption from hazardous waste storage
783 regulation with respect to such munition as soon as the munition is returned to compliance
784 with the conditions of 40 CFR 266.205(a)(1). If the Director finds that reinstatement of the
785 conditional exemption is appropriate based on factors such as the owner's or operator's
786 provision of a satisfactory explanation of the circumstances of the violation, or a demonstration
787 that the violations are not likely to recur, the Director may reinstate the conditional exemption
788 under 40 CFR 266.205(a)(1). If the Director does not act on the reinstatement application
789 within sixty days after receipt of the application and if the military continues to seek
790 reinstatement of the exemption, it is the responsibility of the military to contact the Director to
791 establish a mutually-agreeable time line for the Director to address the application. In
792 reinstating the conditional exemption under 40 CFR 266.205(a)(1), the Director may specify
793 additional conditions as are necessary to ensure and document proper storage to protect
794 human health and the environment.

795 (vi) Waste military munitions that are chemical agents or chemical munitions
796 and that exhibit a hazardous waste characteristic or are listed as hazardous waste under 40 CFR
797 Part 261, are listed or identified as a hazardous waste and shall be subject to the applicable
798 regulatory requirements of the Act.

799 (vii) Amendments to DDESB storage standards. The DDESB storage standards
800 applicable to waste military munitions, referenced in 40 CFR 266.205(a)(1)(iii), are DOD 6055.9-
801 STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995,
802 except as provided in the following sentence. Any amendments to the DDESB storage
803 standards shall not become effective for purposes of 40 CFR 266.205(a)(1) until the amended
804 Department of Defense DDESB storage standards have been adopted by rule by the DEQ.
805 Adoption of amended Department of Defense DDESB storage standards will be contingent on
806 the Director's affirmative finding that the DDESB storage standards are protective of human
807 health and the environment.

808

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

811

812 **IBR AND EXCEPTIONS.** 40 CFR Part 267 and all Subparts, except 40 CFR 267.150, are herein
813 incorporated by reference.

814 (a) For purposes of 40 CFR 267.12, an owner or operator must apply to the DEQ for
815 an EPA identification number following the DEQ's notification procedures and using EPA form
816 8700-12. Owners operators may obtain information and required forms from the DEQ or from
817 the EPA regional office. The EPA identification number shall be considered to be the State of
818 Wyoming identification number for purposes of these rules.

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

821 (c) For purposes of 40 CFR 267.56(c)(2), the emergency coordinator must
822 immediately notify either the government official designated as the on-scene coordinator for
823 that geographical area, or the National Response Center (using their 24-hour toll-free number
824 800-424-8802). The DEQ must also be notified immediately, using the 24-hour telephone
825 number 307-777-7501.

826

827 **Section 268. LAND DISPOSAL RESTRICTIONS.**

828 IBR AND EXCEPTIONS. 40 CFR Part 268 and all Subparts are herein incorporated by reference,
829 except for 40 CFR 268.5, 268.6, 268.13, 268.42(b), 268.44(a) through (g), and 268.44(o).

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

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

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

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

842

843 **Section 269. RESERVED.**

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

845 (a) IBR AND EXCEPTIONS. 40 CFR Part 270 and all Subparts, except 40 CFR
846 270.1(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
847 Entries 9 and 10), 270.51(d), 270.60(a), 270.64, 270.68, 270.73(a), Subpart H (40 CFR 270.79 -
848 270.230), 270.260(h), and 270.290(r) are herein incorporated by reference.

849 (i) For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.11(a)(3),
850 270.32(a), 270.32(b)(2), 270.32(c), 270.72(a)(5), 270.72(b)(5), 270.235(a)(1)(iii)(A),
851 270.235(a)(2)(iii)(A), and 270.235(b)(1)(ii), "EPA" shall be defined as the U.S. Environmental
852 Protection Agency, and "Administrator" or "Regional Administrator" shall be defined as the U.S.
853 Environmental Protection Agency Region 8 Regional Administrator.

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

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

860 (iv) The definition "Remedial Action Plan (RAP)" as defined in 40 CFR 270.2 is
861 not adopted by the State.

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

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

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

875 (viii) For purposes of 40 CFR 270.10(g)(1)(i) and (ii), if any owner or operator of
876 a hazardous waste management facility has filed Part A of a permit application and has not yet
877 filed Part B, the owner or operator shall file an amended Part A application with the Director
878 and the EPA Regional Administrator, within six months after the promulgation of revised
879 federal regulations promulgated under HSWA listing or identifying additional hazardous wastes,
880 if the facility is treating, storing, or disposing of any of those newly listed or identified wastes.

881 (ix) For purposes of 40 CFR 270.10(j)(1), any Part B permit application
882 submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous
883 waste in a surface impoundment, incinerator, burner, or landfill must be accompanied by
884 information, reasonably ascertainable by the owner or operator, on the potential for the public

885 to be exposed to hazardous wastes or hazardous constituents through releases related to the
886 unit. At a minimum, such information must address:

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

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

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

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

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

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

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

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

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

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

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

920 (xviii) For purposes of 40 CFR 270.42(g)(1) and (g)(1)(i), the permittee is
921 authorized to continue to manage wastes listed or identified as hazardous under 40 CFR Part
922 261, or to continue to manage hazardous waste in units newly regulated as hazardous waste
923 management units, if the unit was in existence and has a State permit issued under Articles 2, 3,
924 4 or 5 of the Act as a hazardous waste facility with respect to the newly listed or characterized
925 waste or newly regulated waste management unit on the effective date of the final rule listing
926 or identifying the waste, or regulating the unit.

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

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

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

936 (ii) Changes in the ownership or operational control of a facility may be
937 made as a Class 1 modification with prior written approval of the Director in accordance with
938 40 CFR 270.42 or as a routine change with prior approval under 40 CFR 124.213. The Director
939 shall not approve transfer of ownership or operational control to any person unless the Director
940 determines that such person meets the qualifications for owners and operators in Sections
941 270(m) and 270(n) of these rules. The new owner or operator must submit a revised permit
942 application no later than ninety days prior to the scheduled change. A written agreement
943 containing a specific date for transfer of permit responsibility between the current and new
944 permittees must also be submitted to the Director. The written agreement must also contain
945 signed and notarized documentation from the new operator indicating that the new operator
946 has agreed to accept and be bound by the provisions of the permit and any amendments,
947 agreed to construct and operate the facility in accordance with the approved plan, and agreed
948 to accept responsibility for the facility's compliance with the standards specified in the
949 applicable sections of these rules, including the responsibility to perform corrective actions.
950 When a transfer of ownership or operational control occurs, the old owner or operator shall
951 comply with the requirements of 40 CFR 264, Subpart H (Financial Requirements) of these rules
952 for permitted facilities until the new owner or operator has demonstrated that he or she is
953 complying with the requirements of that Subpart. The new owner or operator must
954 demonstrate compliance with Subpart H requirements within six months of the date of the
955 change in ownership or operational control of the facility. Upon demonstration to the Director
956 by the new owner or operator of compliance with Subpart H, the Director shall notify the old
957 owner or operator that he or she no longer needs to comply with Subpart H as of the date of
958 demonstration.

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

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

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

974 (d) CONTENTS OF PART B OF THE PERMIT APPLICATION. Facility location
975 information:

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

980 (ii) If the facility is proposed to be located in an area listed in Appendix VI of
981 40 CFR 264, the owner or operator shall demonstrate compliance with the seismic standard.
982 This demonstration may be made using either published geologic data or data obtained from
983 field investigations carried out by the applicant. The information provided must be of such
984 quality to be acceptable to professional geologists experienced in identifying and evaluating
985 seismic activity.

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

994 (e) CONDITIONS APPLICABLE TO ALL PERMITS. Twenty-four-hour reporting: The
995 permittee shall report any noncompliance that may endanger health or the environment orally

996 to the Director within twenty-four hours from the time the permittee becomes aware of the
997 circumstances, including:

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

1000 (ii) Any information of any release or discharge of hazardous waste or of any
1001 fire or explosion from the HWMF, regardless of whether or not it could threaten the
1002 environment or human health outside the facility.

1003 (f) TERMINATION OF PERMITS.

1004

1005 (i) The following are causes for terminating a permit during its term, or for
1006 denying a permit renewal application:

1007

1008 (A) Noncompliance by the permittee with any condition of the
1009 permit;

1010

1011 (B) The permittee's failure in the application or during the permit
1012 issuance process to fully disclose all relevant facts, or the permittee's misrepresentation of any
1013 relevant facts at any time; or

1014

1015 (C) A determination that the permitted activity endangers human
1016 health or the environment and can only be regulated to acceptable levels by permit
1017 modification or termination; or

1018

1019 (D) If the continued operation is inconsistent with the policy and
1020 purposes of the Act.

1021

1022 (ii) Procedures. The Director will follow the applicable procedures in 40 CFR
1023 124 in terminating any permit under 40 CFR 270.43.

1024

1025 (g) PERMIT ISSUANCE. Nothing shall preclude the Director from reviewing and
1026 modifying a permit at any time during its term. Review of any application for a permit renewal
1027 shall consider improvements in the state of control and measurement technology as well as
1028 changes in applicable regulations. Each permit issued under these rules and RCRA §3005 shall
1029 contain terms and conditions as the Director determines necessary to protect human health
1030 and the environment.

1031 (h) QUALIFYING FOR INTERIM STATUS. Any person who owns or operates an
1032 'existing HWM facility' or a facility in existence on the effective date of amendments to the
1033 Environmental Quality Act and 40 CFR Part 261 that render the facility subject to the
1034 requirement to have a HWMF permit shall be eligible to receive interim status and shall be

1035 treated as having been issued a permit under the Act, if the Director determines the owner or
1036 operator has:

1037 (i) Complied with the requirements of RCRA §3010(a) and these rules
1038 pertaining to notification of hazardous waste activity; or

1039 (ii) Complied with the requirements of 40 CFR 270.10 governing submission
1040 of Part A applications.

1041 (i) OPERATION DURING INTERIM STATUS.

1042 (i) During the interim status period the facility shall not:

1043 (A) Treat, store, or dispose of hazardous waste not specified in Part A
1044 of the permit application;

1045 (B) Employ processes not specified in Part A of the permit
1046 application;

1047 (C) Exceed the design capacities specified in Part A of the permit
1048 application; or

1049 (D) Operate in any manner that has not been previously authorized
1050 by a permit issued under Articles 2, 3, 4, or 5 of the Act, if applicable.

1051 (ii) Interim status standards. During interim status, owners or operators
1052 shall comply with interim status standards in 40 CFR Part 265, and with applicable rules,
1053 regulations, or permits issued under Articles 2, 3, 4, or 5 of the Act.

1054 (j) HEALTH RISK ASSESSMENT.

1055 (i) Owners and operators of all facilities shall provide a health risk
1056 assessment based on health risks associated with normal operation or failure of a HWMF
1057 pollution control or containment system, as specified in Section 270(j)(ii) of these rules. The
1058 normal operation or failure modes specified in Section 270(j)(ii) of these rules shall be used.
1059 This assessment must indicate the source of data for such determination. The health risk
1060 assessment must address the following standards:
1061
1062

1063 (A) The cancer risk shall be assessed considering projected pollutant
1064 release rates and assumed target intakes during normal operation conditions specified in
1065 Section 270(j)(ii) of these rules.

1066 (B) The chronic toxic effect, which shall be assessed considering
1067 projected pollutant release rates and assumed target intakes during normal operation or failure
1068 conditions specified in Section 270(j)(ii) of these rules.

1069 (C) The subchronic and acute toxic effect shall be assessed
1070 considering projected pollutant release rates and assumed target intakes during failure
1071 conditions specified in Section 270(j)(ii) of these rules.

1072

1073 (ii) For the purpose of assessment of health risks associated with normal
1074 operation or failure of a HWMF pollution control or containment system, the following normal
1075 operation or failure modes shall be used:

1076 (A) For hazardous waste storage facilities that are tanks or vessels,
1077 normal operation modes shall include operation of the facility as designed; failure modes shall
1078 include tank rupture, the effects of inadvertent mixing of incompatible wastes, failure of
1079 primary and secondary containment systems or liners, and releases of toxic or hazardous air
1080 pollutants from tank ruptures or during fires;

1081 (B) For hazardous waste storage facilities that are impoundments,
1082 normal operation modes shall include operation of the facility as designed; failure modes shall
1083 include failure of primary or secondary containment systems or liners, dike failure, and releases
1084 of toxic or hazardous air pollutants during fires or from inadvertent mixing of incompatible
1085 wastes such as strong acids or bases with wastes stored in the impoundment;

1086 (C) For hazardous waste storage facilities that are waste piles, normal
1087 operation modes shall include operation of the facility as designed; failure modes shall include
1088 failure of primary and secondary containment systems or liners, failure of primary systems to
1089 control releases of wastes during high winds, and releases during fires;

1090 (D) For hazardous waste landfills and treatment facilities, normal
1091 operation modes shall include operation of the facility as designed; failure modes shall include
1092 failure of primary and secondary containment systems or liners, releases of toxic or hazardous
1093 air pollutants from inadvertent mixing of incompatible wastes and releases during fires;

1094 (E) For hazardous waste incinerators and other treatment facilities
1095 for the burning, thermal treatment, or combustion of hazardous wastes, normal operation
1096 modes shall include operation of the facility as designed; failure modes shall include failure of
1097 primary air pollution control systems, failure of any automatic or manual waste feed cutoff
1098 system, operation of the facility under conditions of waste temperature and residence time to
1099 be expected during upset, startup or shutdown conditions, and inadvertent combustion or
1100 treatment of wastes containing chlorinated hazardous wastes, dioxins, arsenic, antimony,
1101 barium, beryllium, cadmium, chromium, lead, mercury, silver, and thallium; and

1102 (F) For other hazardous waste storage, treatment, or disposal
1103 facilities, normal operation or failure modes shall be specified by the Director.

1104 (iii) For the purpose of conducting the health risk assessment required by
1105 Section 264(k)(v) of this Chapter, the following protocols (or most recent edition) shall be used
1106 by the applicant, unless alternate protocols are approved by the DEQ:

1107 (A) "Exposure Factors Handbook", 2011, U.S. Environmental
1108 Protection Agency, EPA 600/R-090/052F;

1109 (B) "Guidance for Data Useability in Risk Assessment, Part A and B",
1110 1992, U.S. Environmental Protection Agency;

1111 (C) "Guidelines for Human Exposure Assessment ", U.S.
1112 Environmental Protection Agency, Draft January 7, 2016;

1113 (D) "Risk Assessment Guidance for Superfund Volume I, Human
1114 Health Evaluation Manual (Part A)", 1989, U.S. Environmental Protection Agency, EPA 540/1-
1115 89/002;

1116 (E) "Risk Assessment Guidelines", U.S. Environmental Protection
1117 Agency, <https://www.epa.gov/risk/risk-assessment-guidelines>;

1118 (F) "Risk Assessment Guidance for Superfund, Volume 1: Human
1119 Health Evaluation Manual, Supplemental Guidance, Standard Default Exposure Factors, Interim
1120 Final", 1991, U.S. Environmental Protection Agency, OSWER Directive 9285.6-03; and

1121 (G) "Superfund Exposure Assessment Manual", 1988, U.S.
1122 Environmental Protection Agency, EPA 540/1-88/001.

1123 (iv) For the purpose of conducting the health risk assessment required by
1124 Section 264(k)(v) of this Chapter, toxicological data contained in the following publications shall
1125 be used unless alternate data sources are approved by the DEQ:

1126 (A) Integrated Risk Information System (IRIS), U.S. Environmental
1127 Protection Agency, <https://www.epa.gov/iris>;

1128 (B) "Health Effects Assessment Summary Tables", Office of Research
1129 and Development, Office of Emergency and Remedial Response, U.S. Environmental Protection
1130 Agency, OERR 9200.6-303 (94-1); and

1131 (C) Data provided by a qualified EPA toxicologist, if approved by the
1132 DEQ.

1133 (k) MANAGEMENT AND TECHNICAL CAPABILITIES OF THE OWNER AND OPERATOR.
1134 The applicant shall possess demonstrated acceptable experience in operating hazardous waste
1135 treatment, storage, and disposal facilities in a manner that does not demonstrate a disregard
1136 for human health and the environment. The Director shall consider the applicant to have
1137 demonstrated acceptable experience if:

1138 (i) The applicant is currently operating an existing facility permitted under
1139 these rules and that facility is currently in substantial compliance with all rules, regulations, and
1140 permit conditions adopted under the Environmental Quality Act and applicable federal
1141 regulations; or

1142 (ii) If not currently operating a facility in this State, the applicant has
1143 experience operating hazardous waste treatment, storage, and disposal facilities in other states
1144 and has operated such facilities in substantial compliance with applicable state and federal
1145 regulations and permit requirements. Applicants who do not have an operating history in this
1146 State shall submit the following information to the Director:

1147 (A) A listing of all permits for hazardous waste treatment, storage,
1148 and disposal facilities held by the applicant within the last ten years;

1149 (B) A listing of such permits revoked for cause;

1150 (C) A listing of hazardous waste treatment, storage, or disposal
1151 facilities owned or operated by the applicant that are currently not in substantial compliance
1152 with applicable state or federal regulations or permit requirements as officially determined by a
1153 state or federal regulatory agency; and

1154 (D) A description of all criminal and civil penalties assessed against
1155 the applicant resulting from violations of state or federal environmental laws within the last five
1156 years.

1157
1158 (I) THE APPLICANT SHALL DEMONSTRATE FITNESS TO COMPLY WITH THE ACT AND
1159 THESE RULES. The past performance of the applicant, or any partners, executive officers, or
1160 corporate directors, based on the record before the Director, shall constitute evidence that the
1161 applicant will comply with provisions of the Act and these rules and is fit to obtain a permit.

1162 (i) The Director may determine that the applicant is not fit to obtain a
1163 permit if the applicant, or any partners, executive officers, or corporate directors have:

1164 (A) Misrepresented or concealed any material fact in the permit
1165 application;

1166 (B) Been convicted of a felony or pleaded guilty to a felony for
1167 violations of environmental quality or criminal racketeering laws or regulations within the five
1168 years preceding the application for the permit, which in the judgment of the Director
1169 constitutes evidence that the applicant cannot be relied upon to conduct the operations
1170 described in the application in compliance with the Act and these rules; or

1171 (C) Been adjudicated in contempt of any order of any court enforcing
1172 laws of any state or the federal government within five years preceding the application for a
1173 permit.

1174 (ii) In determining whether the applicant is fit under Sections 270(m) and
1175 270(n) of this Chapter, the Director shall consider:

1176 (A) The relevance of the offense to the business for which a permit is
1177 issued;

1178 (B) The nature and seriousness of the offense;

1179 (C) The circumstances under which the offense occurred;

1180 (D) The date of the offense;

1181 (E) The ownership and management structure in place at the time of
1182 the offense; and

1183

1184 (F) Evidence of rehabilitation including the applicant's record of
1185 implementing corrective action, the applicant's cooperation with governmental entities,
1186 implementation of formal policies and procedures to prevent recurrence, and the discharge of
1187 individuals or severance of affiliation with parties responsible for the offense.

1188 (m) INTERIM STATUS CORRECTIVE ACTION ORDERS.

1189 (i) Whenever on the basis of any information the Director determines that
1190 there is or has been a release of hazardous waste into the environment from a facility
1191 authorized under 40 CFR 270.70, the Director may issue an order requiring corrective action or
1192 such other response measure as the Director deems necessary to protect human health or the
1193 environment or the State may commence a civil action under the Act.

1194 (ii) Any order issued under Section 270(p) of this Chapter may include a
1195 suspension or revocation of authorization to operate under 40 CFR 270.70, shall state with
1196 reasonable specificity the nature of the required corrective action or other response measure,
1197 and shall specify a time for compliance. If any person named in an order fails to comply with
1198 the order, the State may initiate a civil action under the Act.

1199 (n) IMMEDIATE HAZARD. Notwithstanding any other provision of the Act, upon
1200 receipt of evidence that the past or present handling, storage, treatment, transportation or
1201 disposal of any waste material or hazardous waste may present an imminent and substantial
1202 endangerment to public health or the environment, the Director may request the Attorney
1203 General to bring suit on behalf of the people of the State of Wyoming against any person
1204 (including any past or present generator, past or present transporter, or past or present owner
1205 or operator of a treatment, storage or disposal facility) who has contributed or who is
1206 contributing to such handling, storage, treatment, transportation, or disposal to restrain such
1207 person from such handling, storage, treatment, transportation, or disposal, to order such
1208 person to take such other action as may be necessary, or both. A transporter shall not be
1209 deemed to have contributed or to be contributing to such handling, storage, treatment, or

1210 disposal taking place after such waste material or hazardous waste has left the possession or
1211 control of such transporter if the transportation of such waste was under a sole contractual
1212 arrangement arising from a published tariff and acceptance for carriage by common carrier by
1213 rail and such transporter has exercised due care in the past or present handling, storage,
1214 treatment, transportation, and disposal of such waste. The Director may also take other action
1215 under Section 270(p) of this Chapter including, but not limited to, issuing such orders as may be
1216 necessary to protect public health and the environment.

1217
1218 (o) MONITORING, ANALYSIS AND TESTING.

1219
1220 (i) Authority of the Director. The Director may issue an order requiring an
1221 owner or operator to conduct such monitoring, testing, analysis, and reporting as the Director
1222 deems reasonable to ascertain the nature and extent of a hazard, if the Director determines,
1223 upon receipt of any information, that the presence of any hazardous waste at a facility or site at
1224 which hazardous waste is, or has been, stored, treated, or disposed of or the release of any
1225 such waste from such facility or site may present a substantial hazard to human health or the
1226 environment.

1227
1228 (ii) Previous Owners and Operators. In the case of any facility or site not in
1229 operation at the time a determination is made under Section 270(q)(i) of this Chapter with
1230 respect to facility or site, if the Director finds that the current owner of such facilities could not
1231 reasonably be expected to have actual knowledge of the presence of hazardous waste at such
1232 facility or site and of its potential for release, the Director may issue an order requiring the
1233 most recent previous owner or operator of such facility or site who could reasonably be
1234 expected to have such actual knowledge to carry out the actions referred to in Section 270(q)(i)
1235 of this Chapter.

1236
1237 (iii) Proposal. An order under Section 270(q)(i) or Section 270(q)(ii) of this
1238 Chapter shall require the person to whom such order is issued to submit to the Director within
1239 thirty days from the issuance of such order a proposal for carrying out the required monitoring,
1240 testing, analysis, and reporting. The terms of this proposal shall become enforceable upon
1241 approval by the Director.

1242
1243 (iv) Monitoring, testing, or analysis carried out by the Director.

1244
1245 (A) If the Director determines that no owner or operator referred to
1246 in Section 270(q)(i) or Section 270(q)(ii) of this Chapter is able to conduct satisfactory
1247 monitoring, testing, analysis, or reporting, or that any such action carried out by an owner or
1248 operator is unsatisfactory, or the Director cannot initially determine that there is an owner or
1249 operator referred to in Section 270(q)(i) or Section 270(q)(ii) of this Chapter who is able to
1250 conduct such monitoring, testing, analysis, or reporting, the Director may:

1252 (I) Conduct monitoring, testing, or analysis (or any
1253 combination thereof) that the Director deems reasonable to ascertain the nature and extent of
1254 the hazard associated with the site concerned, or

1255
1256 (II) Authorize a local authority or other person to carry out
1257 any such action.

1258
1259 (B) For purposes of carrying out Section 270(q)(iv) of this Chapter, the
1260 Director or any authority or other person authorized under Section 270(q)(i)(A) of this Chapter,
1261 may exercise the authorities set forth in RCRA §3007(a).

1262
1263 (v) Enforcement. The Director may request the Attorney General to
1264 commence a civil action against any person who fails or refuses to comply with any order issued
1265 under Section 270(q)(iv) of this Chapter. Such action shall be brought under Article 9 of the Act.

1266 **Sections 271-272. RESERVED.**

1267

1268 **Section 273. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.**

1269 (a) IBR. 40 CFR Part 273 and all Subparts are herein incorporated by reference.

1270

1271 (i) For purposes of 40 CFR 273.32(a)(3), "EPA" shall be defined as the U.S.
1272 Environmental Protection Agency.

1273

1274 (ii) For purposes of 40 CFR 273.15(c)(2), the term "lamp" shall be inserted
1275 after "battery,".

1276

1277 **Sections 274-278. RESERVED.**

1278

1279 **Section 279. STANDARDS FOR THE MANAGEMENT OF USED OIL.**

1280 IBR. 40 CFR Part 279 and all Subparts are herein incorporated by reference.

1281 (a) For purposes of 40 CFR 279.1, "Existing tank" shall be a tank that is used for the
1282 storage or processing of used oil and that is in operation, or for which installation has
1283 commenced on or prior to the effective date of the authorized used oil program for the state in
1284 which the tank is located. Installation will be considered to have commenced if the owner or
1285 operator has obtained all permits and approvals required under federal, state or local statutes,
1286 regulations or ordinances necessary to begin installation of the tank and if either (1) a
1287 continuous on-site installation program has begun, or (2) the owner or operator has entered
1288 into contractual obligations that cannot be cancelled or modified without substantial loss for
1289 installation of the tank to be completed within a reasonable time.

1290 (b) For purposes of 40 CFR 279.43(c)(3)(ii), "Director" shall be defined as the
1291 Director, U.S. DOT Office of Hazardous Materials Regulation.

1292 (c) For purposes of 40 CFR 279.82(a), the use of used oil as a dust suppressant is
1293 prohibited.

1294

1295 **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)

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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)

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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	270.14(b)(11)(iii)

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	must be approved by the Director. Information shall also be provided 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)

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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)

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RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
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
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)

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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)
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)

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RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
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
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)

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RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
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)