

**CHAPTER 1
GENERAL PROVISIONS**

Section 1. IN GENERAL.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 3. SUBSTITUTION OF STATE TERMS FOR FEDERAL TERMS.

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

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

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

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

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

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

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

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

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

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

(j) State. The State of Wyoming.

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

Section 4. DEFINITIONS.

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

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

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

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

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

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

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

(g) Class III facilities:

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

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

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

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

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

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

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

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

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

(o) HWM. Hazardous Waste Management.

(p) HWMF. Hazardous Waste Management Facility.

(q) HWRR. Wyoming Hazardous Waste Rules and Regulations.

(r) IBR. Incorporation by Reference.

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

(t) Non-HSWA tank. Inground tank systems, onground tank systems, aboveground tank systems, and existing underground tank systems that can be entered for inspection.

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

(v) Potentially exposed populations. Any or all individuals, including sensitive populations, potentially coming into contact with contaminants of concern.

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

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

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

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

Sections 5 - 123. RESERVED.

Section 124. ADMINISTRATIVE PROCEDURES.

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

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

(b) APPLICATIONS FOR A PERMIT.

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

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

applicant that the application is complete when the Director determines that all information requirements have been met. After the application is completed, the Director may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.

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

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

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

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

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

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

(c) PUBLIC NOTICE REQUIREMENTS.

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

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

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

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

(e) PUBLIC HEARINGS.

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

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

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

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

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

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

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

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

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

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

(iii) If the Director tentatively decides to modify or revoke and reissue a permit under 40 CFR 270.41 (other than 40 CFR 270.41(b)(3)) or 40 CFR 270.42(c), the Director shall prepare a draft permit under 40 CFR 124.6 of these rules incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, other than under 40 CFR 270.41(b)(3), the Director shall require the submission of a new application. In the case of revoked or reissued permits under 40 CFR 270.41(b)(3), the Director and the permittee shall comply with the appropriate requirements in 40 CFR Part 124, Subpart G for standardized permits. In a permit modification under 40 CFR

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

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

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

Sections 125-259. RESERVED.

Section 260. HAZARDOUS WASTE MANAGEMENT SYSTEM.

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

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

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

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

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

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

(b) RULEMAKING PETITION.

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

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

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

Section 261. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

(a) IBR AND EXCEPTIONS. 40 CFR Part 261 and all Subparts, except Sections 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), 261.1064(b)(2), Subpart H, Appendix IX, and the language "in the Region where the sample is collected" in 40 CFR 261.4(e)(3)(iii), are herein incorporated by reference.

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

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

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

(b) ADDITIONAL REQUIREMENTS FOR RECYCLABLE MATERIALS.

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

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

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

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

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

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

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

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

(H) Economics of the recycling process; or

(I) Other factors the Director deems relevant.

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

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

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

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

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

(c) A person who generates a hazardous waste as defined by 40 CFR 261 is subject to the compliance requirements and penalties prescribed in Articles 7 and 9 of the Act; Section

270(o) of these rules; and Section 3008 of the Act if he or she does not comply with the requirements of this Chapter.

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

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

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

Section 263. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.

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

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

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

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

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

(a) IBR AND EXCEPTIONS. 40 CFR Part 264 and all Subparts, except Subpart FF and 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), 264.101(d), 264.147(k), 264.149, 264.150, 264.301(l), 264.314(e), 264.554(l)(2), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f), and 264.1080(g) are herein incorporated by reference.

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

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

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

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

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

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

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

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

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

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

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

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

(xiii) "Malfunction" for purposes of 40 CFR 264, Subpart AA of these rules shall mean any sudden failure of a control device or a hazardous waste management unit or failure of a hazardous waste management unit to operate in a normal or usual manner, so that organic

emissions are increased. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

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

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

(d) CORRECTIVE ACTION MANAGEMENT UNITS (CAMU).

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

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

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

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

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

(e) FINANCIAL MECHANISMS.

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

(ii) For purposes of 40 CFR 264.143(h) and 264.145(h), if the facilities covered by the mechanism are in more than one state, identical evidence of financial assurance

must be submitted to, and maintained with, the state agency regulating hazardous waste or with the appropriate Regional Administrator if the facility is located in an unauthorized state.

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

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

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

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

(g) CORRECTIVE ACTION BEYOND FACILITY BOUNDARY.

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

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

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

(h) LOCATION STANDARDS.

(i) Applicability.

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

(B) Any new or existing Class 1 HWMF, as defined in Section 4(e) of these rules, that is required by law to be constructed at the site of a hazardous generator to

manage newly-listed hazardous waste that is currently legally produced solely by that generator, does not have to meet the requirements of 264(k) except for a new facility which would have to meet the requirements of Sections 264(h), (i), (j) and 270(d)(iii) of this Chapter.

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

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

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

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

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

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

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

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

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

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

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

- (B) One mile of any public park or recreation area; or
- (C) One mile of the boundaries of an incorporated city or town.
- (D) One thousand feet of any perennial lake or pond that is either naturally occurring, or which contains water used for any purpose not directly related to an industrial process.

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

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

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

- (A) Five miles of a school or an occupied dwelling house;
- (B) One mile of the center line of the right-of-way of a state or federal highway; or
- (C) Five miles of the boundaries of an incorporated city or town.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) For surface impoundments regulated for the first time by a listing or characteristic promulgated after November 8, 1984, where the Director determines hazardous constituents are likely to migrate into groundwater, the Director is authorized to impose such

requirements as may be necessary to protect human health and the environment, including requiring compliance with new unit requirements.

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

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

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

(b) MILITARY MUNITIONS.

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

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

(iii) Amendments to Department of Defense shipping controls. The Department of Defense shipping controls applicable to the transport of military munitions referenced in 40 CFR 266.203(a)(1)(ii), and in effect on November 8, 1995, are the Signature and Tally Record (DD Form 1907) and the Motor Vehicle Inspection (Transporting Hazardous Materials) (DD Form 626). For shipment by commercial transport the U.S. Government Bill of

Lading (GBL) (GSA Standard Form 1103) is also required. For shipment by military transport, the following additional controls are applicable: DD Single Line Item Release/Receipt Document (DD Form 1348-1A) and the Shipping Paper and Emergency Response Information for Hazardous Materials Transported by Government Vehicles (DD Form 836). Any amendments to the above Department of Defense shipping controls shall not become effective for purposes of 40 CFR 266.203(a)(1) until the amended Department of Defense shipping control has been adopted by rule by the DEQ. Adoption of an amended Department of Defense shipping control will be contingent on the Director's affirmative finding that the amended shipping control(s) is/are protective of human health and the environment. Copies of Department of Defense shipping controls can be obtained upon request from the DEQ, the physical address of which can be found at <http://deq.wyoming.gov/shwd>.

(iv) The owner or operator may store only waste military munitions generated by the individual facility, unless storing waste military munitions from another facility results from 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.

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

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

(vii) Amendments to DDESB storage standards. The DDESB storage standards applicable to waste military munitions, referenced in 40 CFR 266.205(a)(1)(iii), are DOD 6055.9-STD ("DOD Ammunition and Explosive Safety Standards"), in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the DDESB storage standards shall not become effective for purposes of 40 CFR 266.205(a)(1) until the amended Department of Defense DDESB storage standards have been adopted by rule by the DEQ.

Adoption of amended Department of Defense DDESB storage standards will be contingent on the Director's affirmative finding that the DDESB storage standards are protective of human health and the environment.

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

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

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

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

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

Section 268. LAND DISPOSAL RESTRICTIONS.

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

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

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

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

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

Section 269. RESERVED.

Section 270. THE HAZARDOUS WASTE PERMIT PROGRAM.

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

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

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

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

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

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

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

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

(viii) For purposes of 40 CFR 270.10(g)(1)(i) and (ii), if any owner or operator of a hazardous waste management facility has filed Part A of a permit application and has not yet filed Part B, the owner or operator shall file an amended Part A application with the Director and the EPA Regional Administrator, within six months after the promulgation of revised

federal regulations promulgated under HSWA listing or identifying additional hazardous wastes, if the facility is treating, storing, or disposing of any of those newly listed or identified wastes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) TRANSFER OF EXISTING HAZARDOUS WASTE MANAGEMENT PERMITS.

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

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

change in ownership or operational control of the facility. Upon demonstration to the Director by the new owner or operator of compliance with Subpart H, the Director shall notify the old owner or operator that he or she no longer needs to comply with Subpart H as of the date of demonstration.

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

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

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

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

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

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

(iii) Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year floodplain. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Methods used to determine the 100-year floodplain 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.

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

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

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

(f) TERMINATION OF PERMITS.

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

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

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

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

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

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

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

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

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

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

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

(i) OPERATION DURING INTERIM STATUS.

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

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

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

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

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

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

(j) HEALTH RISK ASSESSMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) If not currently operating a facility in this State, the applicant has experience operating hazardous waste treatment, storage, and disposal facilities in other states and has operated such facilities in substantial compliance with applicable state and federal

regulations and permit requirements. Applicants who do not have an operating history in this State shall submit the following information to the Director:

- (A) A listing of all permits for hazardous waste treatment, storage, and disposal facilities held by the applicant within the last ten years;
- (B) A listing of such permits revoked for cause;
- (C) A listing of hazardous waste treatment, storage, or disposal facilities owned or operated by the applicant that are currently not in substantial compliance with applicable state or federal regulations or permit requirements as officially determined by a state or federal regulatory agency; and
- (D) A description of all criminal and civil penalties assessed against the applicant resulting from violations of state or federal environmental laws within the last five years.

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

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

- (A) Misrepresented or concealed any material fact in the permit application;
- (B) Been convicted of a felony or pleaded guilty to a felony for violations of environmental quality or criminal racketeering laws or regulations within the five years preceding the application for the permit, which in the judgment of the Director constitutes evidence that the applicant cannot be relied upon to conduct the operations described in the application in compliance with the Act and these rules; or
- (C) Been adjudicated in contempt of any order of any court enforcing laws of any state or the federal government within five years preceding the application for a permit.

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

- (A) The relevance of the offense to the business for which a permit is issued;
- (B) The nature and seriousness of the offense;
- (C) The circumstances under which the offense occurred;
- (D) The date of the offense;

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

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

(m) INTERIM STATUS CORRECTIVE ACTION ORDERS.

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

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

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

(o) MONITORING, ANALYSIS AND TESTING.

(i) Authority of the Director. The Director may issue an order requiring an owner or operator to conduct such monitoring, testing, analysis, and reporting as the Director

deems reasonable to ascertain the nature and extent of a hazard, if the Director determines, upon receipt of any information, that the presence of any hazardous waste at a facility or site at which hazardous waste is, or has been, stored, treated, or disposed of or the release of any such waste from such facility or site may present a substantial hazard to human health or the environment.

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

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

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

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

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

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

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

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

Sections 271-272 RESERVED.

Section 273. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.

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

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

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

Sections 274-278. RESERVED.

Section 279. STANDARDS FOR THE MANAGEMENT OF USED OIL.

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

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

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

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

Sections 280-300. RESERVED.

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| 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 must be approved by the Director. | 270.14(b)(11)(iii) |

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| RCRA TOPIC | STATE CITATION AND EXPLANATION | RELEVANT 40 CFR REFERENCES |
|--------------------|---|----------------------------|
| | 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 act 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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|----------------------|--|----------------------------|
| 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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|-------------------------------------|---|--|
| 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) |
| 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) |

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|---------------------------------------|---|--|
| 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) |
| 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) |