

Wyoming Administrative Rules

Environmental Quality, Dept. of

Hazardous Waste

Chapter 1: General Provisions

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WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY

SOLID AND HAZARDOUS WASTE DIVISION

HAZARDOUS WASTE MANAGEMENT

CHAPTER 1

GENERAL PROVISIONS

Section 1. IN GENERAL.

(a) AUTHORITY. The authority for the rules contained in this Chapter is the Wyoming Environmental Quality Act, W.S. 35-11-101 et seq.

(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. These rules are effective immediately upon filing with the Secretary of State.

(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.

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

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

(a) GENERAL. Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260 – 268, 270, 273, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of January 31, 2014, including any notes and appendices therein, unless expressly provided otherwise in these rules. These rules do not include any later amendments or editions of the incorporated matter.

(b) EXCEPTIONS. The following 40 CFR portions by date are excluded from these rules: May 15, 2000 (65 FR 30886; Amendments to NPDES Program regulations), April 22, 2004 (69 FR 21737; Performance Track), October 25, 2004 (69 FR 62217; Performance Track), October 30, 2008 (73 FR 64668; Definition of Solid Waste), December 19, 2008 (73 FR 77954; RCRA Comparable Fuel Exclusion), and the amendments involving Performance Track requirements made as part of 71 FR 16862 on April 4, 2006. 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. 40 CFR Part 278 is not incorporated by reference, as the part applies to the Tri-State Mining District, not Wyoming.

(i) More specific exceptions to subparts of the 40 CFR, including more stringent provisions relative to the 40 CFR are detailed in the relevant sections of these rules.

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

(d) 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, <http://www.ecfr.gov>; and

(ii) Volumes of the 40 CFR are available for public inspection at the Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division, Herschler Building 4-W, 122 West 25th Street, Cheyenne, WY 82002. Printed copies of the 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 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 http://deg.state.wy.us/shwd/HWRules_z03.asp.

Section 3. SUBSTITUTION OF STATE TERMS FOR FEDERAL TERMS.

(a) SUBSTITUTION OF TERMS AND INTERNAL REFERENCES. 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:

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

260.10/270.2 (ii) Administrator, or Regional Administrator. When used in the context of 40 CFR, the definition shall be the Director of the Wyoming Department of Environmental Quality, or his designee, except where noted in these rules. When used in the context of these rules, the definition shall be the U.S. Environmental Protection Agency Administrator or Region 8 Regional Administrator as appropriate.

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

(iv) Department, or DEQ. The Wyoming Department of Environmental Quality.

270.2 (v) Director, Regional Director or State Director. The Director of the DEQ or his or her designee. (In some circumstances however, the EPA retains authority to take certain actions even though Wyoming has an approved program. In these cases, reference is made to the EPA Administrator instead of the Director.)

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

270.2 (vii) EPA, U.S. Environmental Protection Agency, EPA Headquarters. When used in the context of 40 CFR, the definition shall be the DEQ, except when used to refer to an

EPA Identification number, EPA hazardous waste number, EPA forms, publications or guidance, EPA Acknowledgment of Consent, and where noted in these rules. 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. When used in the context of these rules, the definition shall be the U.S. Environmental Protection Agency.

- 260.10/270.2 (viii) RCRA. When used in the context of 40 CFR, the definition shall be the comparable sections of the Wyoming Environmental Quality Act. When used in the context of these rules, the definition shall be The Resource Conservation and Recovery Act, 42 U.S. Code, Sections 6901 et seq.
- (ix) RCRA Permit. State hazardous waste management facility (HWMF) permit. An authorization, license, or equivalent control document issued by the DEQ to implement the requirements of W.S. 35-11-503(d).
- 261.2 (x) "Solid Waste" (see "Waste Material").
- 260.10 (xi) State. The state of Wyoming.
- 260.10 (xii) United States or U.S. When used in the context of 40 CFR, the definition shall be the State of Wyoming, except where noted in these rules. When used in the context of these rules, the definition shall be the United States.
- 261.2(a)(1) (xiii) Waste material. Specific to 40 CFR 261.2(a)(1), any discarded material that is not excluded under §261.4(a), or that is not excluded by a variance granted by the Director under 40 CFR 260.30 and 260.31.

Section 4. DEFINITIONS.

(a) GENERAL. 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 Section 4(a) of this Chapter will have the meaning given by RCRA.

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

(ii) Air pollution. The presence in the outdoor atmosphere of one (1) or more contaminants in such quantities and duration which may be injurious to human health or welfare, animal or plant life, or property, or unreasonably interferes with the enjoyment of life or property.

(iii) 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.

(iv) CFR. The United States Code of Federal Regulations.

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

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

(vii) 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 which is used solely to manage hazardous wastes which are generated by the owner of the facility at the site of the facility.

(viii) Class III facilities. Are:

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

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

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

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

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

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

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

(xiv) 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.

(xv) HWM. Hazardous Waste Management.

(xvi) HWMF. Hazardous Waste Management Facility.

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

(xviii) IBR. Incorporation By Reference.

(xix) Municipality. A city, town, county, district, association or other public body.

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

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

(xxii) One excess cancer per million people. A probability of one chance in one million of an individual developing cancer.

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

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

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

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

(xxvii) Voluntary Remediation Program, or VRP. Wyoming State cleanup program established in the year 2000 per Article 16 of the Act.

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 as provided in 40 CFR, except that 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) are expressly omitted from the incorporation by reference of each of those subsections. 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.

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

(iii) For purposes of 40 CFR 124.19, the "Environmental Appeals Board" shall be the Council. Environmental appeals under 40 CFR 124.19 are addressed in Section 124(f) of these rules.

(iv) All permit termination procedures shall be accomplished in accordance with the requirements of the Wyoming Administrative Procedures 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.

(b) APPLICATIONS FOR A PERMIT.

124.3(a)(1) (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.

124.3(c) (ii) Each application for a State HWMF permit should be reviewed for completeness by the Director within 60 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 should be reviewed for completeness within 60 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.

- 124.3(f) (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 to the county commission and any solid waste district for the county in which the potential facility is located.
- (C) Cause a notice to be published once a week for two (2) 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 submission.
- (iv) Once an application is complete, the Director shall conduct a technical review of the application within 90 days of the effective date of the application or an alternate date agreed upon by the Director and the applicant.
- 124.6(e) (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). The Director shall give notice of opportunity for a public hearing (40 CFR 124.12), issue a final decision (40 CFR 124.15) and respond to comments (40 CFR 124.17). Draft permits prepared by the State of Wyoming shall be accompanied by a fact sheet if required by 40 CFR 124.8. An appeal may be taken in accordance with Article 10 of the Act and the provisions of the Wyoming Administrative Procedures Act.
- 124.9(b) (vi) The administrative record for a draft permit should consist of:
- 124.9(b)(5) (A) Other non-confidential documents contained in the supporting file for the draft permit, e.g., memorandums of meetings and records of communications.
- (c) MODIFICATION, REVOCATION AND REISSUANCE, OR TERMINATION OF PERMITS.
- 124.5(a) (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.

124.5(b) (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 informally appealed to the Council. An appeal may be taken in accordance with W.S. 35-11-112(a)(iii) and the provisions of the Wyoming Administrative Procedures Act.

124.5(c)(1),(2), and (3) (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.

124.5(d) (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 which follows the same procedures as any draft permit prepared under 40 CFR 124.6.

(d) PUBLIC NOTICE REQUIREMENTS.

124.10(b)(1) (i) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under 40 CFR 124.10(a) shall commence within 15 days of these activities and shall allow at least 45 days for public comment.

124.10(c)(2)(ii) (ii) Public notice of activities described in 40 CFR 124.10(a)(1) shall be given by publication of a notice once a week for two (2) consecutive weeks in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.

124.13 (iii) Obligation to raise issues and provide information during the public comment period. 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 which 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.)

124.15(a) (iv) Within 30 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),(ii) & (a)(4). 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 30 days after the final hearing. The Director shall issue or deny the final permit no later than 15 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.

124.12(a)(1) (i) The Director shall hold a public hearing pursuant to Chapter 3 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);

124.12(a)(2) (ii) The Director may also hold a public hearing pursuant to Chapter 3 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;

124.12(a)(3)(i),(ii) & (a)(4) (iii) The Director shall hold a public hearing under Chapter 3 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(d)(i) of this Chapter. Whenever possible the Director shall schedule a hearing under Section 124(e) of this Chapter at a location convenient to the nearest population center to the proposed facility and within 20 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(d) 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 (2) consecutive weeks immediately prior to the hearing.

124.12(c) (iv) The public comment period under Section 124(d)(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.

(v) 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 30 days after entry of the order or other final action complained of pursuant to the provisions of the Wyoming Administrative Procedures Act.

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

124.200(a)

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

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, 40 CFR 260.10 (definitions of "Performance Track member facility", "remediation waste management site", and the third part of the definition for "facility"), and 260.20(d) and (e), are herein incorporated by reference as provided in 40 CFR. For the purposes of Part 260, the State is not adopting the changes associated with 73 ER 62668; October 30, 2008; Definition of Solid Waste.

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

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

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

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

(iii) For purposes of 40 CFR 260.10, the definitions of "existing tank system" or "existing component" shall be as follows: A tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986 for HSWA tanks, as defined in Section 4(a)(xiv). For non-HSWA tanks as defined in Section 4(a)(xxi), the installation date is October 18, 1995. Installation will be considered to have commenced if the owner or operator has obtained all permits and approvals required under federal, state or local hazardous waste control statutes, regulations or ordinances necessary to begin physical construction of the site or installation of the tank system and if either:

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

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

(iv) 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.

260.20(a) (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.

260.20(b) (ii) Each petition must be submitted in accordance with Chapter 3, Section 2 of the DEQ's Rules of Practice and Procedure.

260.20(c) (iii) Rule making petitions will be evaluated in accordance with the requirements of Chapter 3, Sections 2(c) - (e) and Section 4(b) of the 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), 261.4(b)(16), 261.4(b)(17), 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 as provided in 40 CFR. For the purposes of Part 261, the State is not adopting the changes associated with 73 FR 62668; October 30, 2008; Definition of Solid Waste.

(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.

(iv) For purposes of 40 CFR 261.5(c)(5), the phrase "or used batteries (or used battery cells) returned to a battery manufacturer for regeneration" should be inserted after the reference to "40 CFR part 266, Subpart G."

(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 and/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 Section 261(b) of this Chapter.

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

(a) IBR AND EXCEPTIONS. 40 CFR Part 262 and all Subparts, except 262.10(j), and (k), 262.34(j), (k), and (l), Subpart I, Subpart J, and the language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR. 40 CFR 262.20(a)(2) is not incorporated by reference, as it addresses a federal deadline that has passed.

(i) For purposes of 40 CFR 262.10(d), 262.58(a), 262.80(a) and 262.89(a) the reference to "Federal definition of hazardous waste in 40 CFR 261.3" is retained.

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

262.10(g)

(A) A person who generates a hazardous waste as defined by 40 CFR 261 is subject to the compliance requirements and penalties prescribed in W.S. 35-11-

503(d); 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.

(iii) For purposes of 40 CFR 262.10(d), 262.21, Subpart E, Subpart F, 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.

(iv) For purposes of 40 CFR 262.34(a), Except as provided in paragraphs (d), (e), and (f) of 40 CFR 262.34, a generator may accumulate hazardous waste on-site for 90 days or less without a permit or without having interim status (see 40 CFR 261.5(g)(2) for provisions regarding conditionally exempt small quantity generators).

(v) For purposes of 40 CFR 262.34(d)(5)(iv)(C), in addition to the emergency notification required by 40 CFR 262.34(d)(5)(iv)(C), the emergency coordinator must also immediately notify the DEQ by telephone, 307-777-7781, to file an identical report.

(vi) For purposes of 40 CFR 262, Appendix A, Item 18a, Paragraph 4, the following shall apply: "Owners or operators of facilities located in Wyoming should contact the DEQ for information on where to report discrepancies involving "significant differences" to State officials."

Section 263. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.

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

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

(ii) 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 for the export functions of these subparts.

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

(iv) For purposes of 40 CFR 263.30(c), notice shall also be given to the Director, DEQ, 122 W. 25th Street, Cheyenne, WY 82002, 307-777-7781.

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, excluding 40 CFR 264.1(f), 264.1(g)(12), 264.1(j), 264.15(b)(5), 264.70(b), 264.73(b)(17), 264.101(d), 264.147(k), 264.149, 264.150, 264.195(e), 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 as provided in 40 CFR.

(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 2 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 Sections 264(k), 264(l), and 264(m) of these rules.

(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 307-777-7781.

(vi) For purposes of 40 CFR 264.71(a)(3) and 264.1082(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency.

(vii) For purposes of the 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 which 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) UNDERGROUND INJECTION. Disposal of hazardous waste by means of underground injection is regulated under Chapters VIII, IX, and XIII of the Wyoming Water Quality Rules and Regulations.

(c) AIR QUALITY RULES. Compliance with the permitting requirements of these rules does not obviate any duty to obtain and comply with Air Quality construction or modification permit pursuant to Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations.

(d) 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.

(e) CORRECTIVE ACTION MANAGEMENT UNITS (CAMU).

264.551(a) & 264.552(a) (i) To implement remedies under 40 CFR 264.101, W.S. 35-11-503(d), W.S. 35-11-1607, or RCRA §3008(h), 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.

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

264.555 (iii) Disposal of CAMU-eligible wastes in permitted hazardous waste landfills.

264.555(a)(3) (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.

264.555(g) (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.

(f) FINANCIAL MECHANISMS.

(i) For purposes of 40 CFR 264.143(c) and 264.145(c), surety bonds guaranteeing performance of closure and/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) For purposes of 40 CFR 264.151, 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 which are affected by the owner or operator's financial assurance mechanisms.

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

264.1080(b)(5) (i) 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 Sections 3004(u), §3004(v), or §3008(h), CERCLA authorities, or similar federal authorities, or W.S. 35-11-503(d).

264.1080(c) (ii) For the owner and operator of a facility subject to Subpart CC who received a final permit under RCRA Section 3005 or W.S. 35-11-503(d) 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 of this Chapter or reviewed in accordance with the requirements of 40 CFR 270.50(d) of this Chapter. 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.

(h) PROFESSIONAL ENGINEER CERTIFICATION.

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

(ii) Relevant sections: 40 CFR 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), and 264.1101(c)(2).

(i) PROFESSIONAL GEOLOGIST CERTIFICATION.

(i) For purposes of 40 CFR 264.90(b)(4), the certifying geologist shall be a professional geologist registered in the State of Wyoming.

(j) CORRECTIVE ACTION BEYOND FACILITY BOUNDARY.

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

RCRA §3004(v)(1) (A) All facilities operating under permits issued under W.S. 35-11-503(d); W.S. 35-11-801; 40 CFR 270.50; and RCRA Section 3005(c), and

RCRA §3004(v)(2) (B) All landfills, surface impoundments, and waste pile units (including any new units, replacements of existing units, or lateral expansions of existing units) which receive hazardous waste after July 26, 1982.

RCRA §3004(v) (C) Pending promulgation of such regulations, the Director shall issue corrective action orders for facilities referred to in paragraphs 264(j)(i)(A) and (B) above, on a case-by-case basis, consistent with the purposes of 40 CFR 264.101(c).

(k) LOCATION STANDARDS.

(i) Applicability.

(A) The location standards in Section 264(k) of this Chapter apply to any new or existing facility for the treatment, storage, or disposal of hazardous wastes, which is subject to the permit requirements of this Chapter, except as provided in Section 264(k)(i)(B) of this Chapter.

(B) The location standards in Section 264(k) of this Chapter, excluding the standards in Sections 264(a)(iv) and 270(d)(i)(C) of this Chapter, do not apply to any new or existing Class I HWMF as defined in Section 4(a) of these rules which is required by law to be constructed at the site of a hazardous waste generator to manage newly-listed hazardous waste currently legally produced solely by that generator.

(l) **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(a) 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 will have a detrimental effect on surface water or groundwater quality.

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

(A) One (1) mile of a school, or one (1) mile of an occupied dwelling house;

(B) One (1) mile of any public park or recreation area;

(C) One (1) mile of the boundaries of an incorporated city or town.

(x) One thousand (1,000) feet of any perennial lake or pond which is either naturally occurring, or which contains water used for any purpose not directly related to an industrial process.

(xi) Three hundred (300) feet of any perennial river or stream.

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

- (i) All location standards applicable to Class II facilities, in Section 264(l) of this Chapter;
- (ii) Five (5) miles of a school or an occupied dwelling house;
- (iii) One (1) mile of the center line of the right-of-way of a State or federal highway;
- (iv) Five (5) miles of the boundaries of an incorporated city or town;
- (v) For any HWMF subject to the location standards of Sections 264(m)(i) through (iv) of this Chapter, the following additional location standards shall apply if they are more restrictive than the location standards of Sections 264(m)(i) through (iv) 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(l)(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(l)(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(l)(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 excluding Subpart R and Sections 40 CFR 265.1(c)(4), 265.15(b)(5), 265.1(c)(15), 265.70(b), 265.147(k), 265.149, 265.150, 265.195(d), 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g) are herein incorporated by reference as provided in 40 CFR.

(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.

For purposes of 40 CFR 265.71(a)(3) and 265.1083(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency.

(iv) 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, 122 W. 25th Street, Cheyenne, WY 82002, using the DEQ 24-hour telephone number, 307-777-7781.

(v) 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.

(vi) For purposes of 40 CFR 265.93(d)(5) the owner/operator shall submit a written report to the Director 15 days after the determination of ground-water quality is made.

(vii) 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).

(viii) For purposes of 40 CFR 265.191(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.

(ix) 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.

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

(xi) 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."

(xii) "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 do not apply to a person who treats, stores, or disposes of hazardous waste except that:

(i) Disposal of hazardous waste by means of underground injection is regulated under Chapters VIII, IX, and XIII of the Wyoming Water Quality Rules and Regulations.

(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 is subject to 40 CFR part 265. 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.

(i) 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.

265.1080(c) (i) For purposes of 40 CFR 265.1080(c), the phrase "or W.S. 35-11-503(d)" shall be inserted after "...RCRA Section 3005...".

(e) PROFESSIONAL ENGINEER CERTIFICATION.

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

(ii) Relevant sections: 40 CFR 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), and 265.1101(c)(2).

(f) PROFESSIONAL GEOLOGIST CERTIFICATION.

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

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

RCRA §3005(j)(1) (i) Existing surface impoundments subject to Subtitle C prior to November 8, 1984, must comply with new unit requirements by November 8, 1988 or stop hazardous waste activity.

RCRA §3005(j)(6) (ii) 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 (4) years after the date of promulgation of the new listing or characteristic.

RCRA §3005(j)(7)(B) (iii) 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 as provided in 40 CFR.

(i) 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/or Accelerator-

produced Radioactive Material), otherwise “you” refers to any generator, treater, or handler of hazardous waste under these rules.

(b) MILITARY MUNITIONS.

266.202(d) (i) For purposes of RCRA Section 1004(27), a used or fired military munition is a waste material, and, therefore, is potentially subject to RCRA corrective action authorities under W.S. 35-11-503(d), 40 CFR 264.101(c), or RCRA Sections 3004(u) and (v), and 3008(h), or imminent and substantial endangerment authorities under W.S. 35-11-115; W.S. 35-11-503(d); Articles 7 and 9 of the Act or RCRA Section 7003, if the munition lands off-range and is not promptly rendered safe and/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).

266.203(b) (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 take action on the reinstatement application within 60 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.

266.203(c) (iii) Amendments to DOD 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, 122 West 25th Street, Cheyenne, Wyoming 82009.

266.205(a)(1) (iv) The owner or operator may store only waste military munitions generated by the individual facility.

266.205(a)(1) (v) Section 266(b)(iv) of this Chapter does not apply if 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(c) (vi) 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 take action on the reinstatement application within 60 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.
- 266.205(d)(1) (vii) 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.
- 266.205(e) (viii) 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.

- (a) IBR AND EXCEPTIONS. 40 CFR Part 267 and all Subparts, except 40 CFR 267.150, are herein incorporated by reference as provided in 40 CFR.
- (i) For purposes of 40 CFR 267.12, You must apply to the DEQ for an EPA identification number following the DEQ's notification procedures and using EPA form 8700-12. You may obtain information and required forms from the DEQ or from your EPA regional office. The EPA identification number shall be considered to be the State of Wyoming identification number for purposes of these rules.
- (ii) For purposes of 40 CFR 267.18(b), new facilities shall not be located within the boundaries of a 100-year floodplain.
- (iii) 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 its 24-hour telephone number 307-777-7781.
- (b) PROFESSIONAL ENGINEER CERTIFICATION.

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

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

Section 268. LAND DISPOSAL RESTRICTIONS.

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

(i) 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.

(ii) The authority for implementing the excluded sections 268.5, 268.6, 268.42(b), and 268.44(a) through (g) remains with the U.S. Environmental Protection Agency.

(iii) 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.

(iv) 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.

(v) 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)(18), 270.42(l), 270.42 (Appendix I, Part A, Entries 9 and 10, and Part O(1)(a)-(d)), 270.51, 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 as provided in 40 CFR.

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

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

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

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

(vi) For purposes of 270.10(e)(3), the Administrator or the Director may, by compliance order issued under W.S. 35-11-503(d); Articles 7 and 9 of the Act; or RCRA Section 3008, extend the date by which the owner and operator of an existing HWMF must submit Part A of their permit application.

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

(viii) 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.

(ix) 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 (6) 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.

(x) 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 a 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.

(xi) 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.

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

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

(xiv) 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.

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

(xvi) 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.

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

(xviii) 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.

(xix) For purposes of 40 CFR 270.42(g)(1) and (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.

(xx) 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 90 days of receiving the request. The Director may, at his or her discretion, extend this 90 day deadline one time for up to 30 days by notifying the facility owner or operator.

(b) TRANSFER OF EXISTING HAZARDOUS WASTE MANAGEMENT PERMITS.

270.40(a) (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.

270.40(b) (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 (90) 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 (6) 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.

(i) Part A of the State HWMF permit application shall include the following information:

(A) A listing of any civil, misdemeanor, or felony convictions within ten (10) 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/operator is a partnership or corporation.

270.13(l) (B) 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 (1) mile of the facility property boundary.

(d) CONTENTS OF PART B OF THE PERMIT APPLICATION.

270.14(b)(11) (i) Facility location information:

270.14(b)(11)(i) (A) 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) (B) 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) (C) 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) which 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.

270.30(l)(6) (i) Twenty-four (24) hour reporting.

...(i) (A) The permittee shall report any noncompliance which may endanger health or the environment orally to the Director within twenty-four (24) hours from the time the permittee becomes aware of the circumstances, including:

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

...(i)(B) (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.

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

270.43(a)(1) (A) Noncompliance by the permittee with any condition of the permit;

270.43(a)(2) (B) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or

270.43(a)(3) (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.

270.43(b) (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.

(i) 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 W.S. 35-11-503(d) and RCRA Section 3005 shall contain terms and conditions as the Director determines necessary to protect human health and the environment.

(h) QUALIFYING FOR INTERIM STATUS.

270.70(a) (i) 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:

270.70(a)(1) (A) Complied with the requirements of section 3010(a) of RCRA and W.S. 35-11-503(d) pertaining to notification of hazardous waste activity, or

270.70(a)(2) (B) Complied with the requirements of 40 CFR 270.10 governing submission of Part A applications.

(i) OPERATION DURING INTERIM STATUS.

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

270.71(a)(1) (A) Treat, store, or dispose of hazardous waste not specified in Part A of the permit application;

270.71(a)(2) (B) Employ processes not specified in Part A of the permit application;

270.71(a)(3) (C) Exceed the design capacities specified in Part A of the permit application; or

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

270.71(b) (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, and/or 5 of the Act.

(j) PROFESSIONAL ENGINEER CERTIFICATION.

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

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

(k) PROFESSIONAL GEOLOGIST CERTIFICATION.

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

(I) 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(I)(ii) of these rules. The normal operation or failure modes specified in Section 270(I)(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(I)(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(I)(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(I)(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 which 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 which 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 which 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(m)(v) of this Chapter, the following protocols 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, <http://www.epa.gov/oswer/riskassessment/datause/>,

(C) "Human Health: Exposure Assessment", U.S. Environmental Protection Agency, http://www.epa.gov/oswer/riskassessment/human_health_exposure.htm.

(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, <http://cfpub.epa.gov/ncea/cfm/recordisplay.cfm?deid=55907>,

(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(m)(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.

(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 (91-1) (or most recent edition),

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

(m) 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 which 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 (10) 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 which 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 (5) years.

(n) 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, constitutes 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) Obtained a permit from the Director by misrepresentation or concealment of a material fact;

(C) 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 (5) 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;

(D) Been adjudicated in contempt of any order of any court enforcing laws of any state or the federal government within five (5) 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;

(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.

(o) INTERIM STATUS CORRECTIVE ACTION ORDERS.

RCRA §3008(h)(1) (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.

RCRA §3008(h)(2) (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.

(p) IMMINENT HAZARD.

RCRA §7003(a) (i) Notwithstanding any other provision of the Act, upon receipt of evidence that the past or present handling, storage, treatment, transportation or disposal of any waste material or hazardous waste may present an imminent and substantial endangerment to public health or the environment, the Attorney General may bring suit on behalf of the people of the State of Wyoming against any person (including any past or present generator, past or present transporter, or past or present owner or operator of a treatment, storage or disposal facility) who has contributed or who is contributing to such handling, storage, treatment, transportation or disposal to restrain such person from such handling, storage, treatment, transportation, or disposal, to order such person to take such other action as may be necessary, or both. A transporter shall not be deemed to have contributed or to be contributing to such handling, storage, treatment, or disposal taking place after such waste material or hazardous waste has left the possession or control of such transporter if the transportation of such waste was under a sole contractual arrangement arising from a published tariff and acceptance for carriage by common carrier by rail and such transporter has exercised due care in the past or present handling, storage, treatment, transportation and disposal of such waste. The Director may also take other action under Section 270(p) of this Chapter including, but not limited to, issuing such orders as may be necessary to protect public health and the environment.

(q) MONITORING, ANALYSIS AND TESTING.

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

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

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

RCRA §3013(b) (ii) Previous Owners and Operators. In the case of any facility or site not in operation at the time a determination is made under Section 270(q)(i) of this Chapter with respect to facility or site, if the Director finds that the owner of such facilities could not reasonably be expected to have actual knowledge of the presence of hazardous waste at such facility or site and of its potential for release, 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.

RCRA §3013(c) (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 30 days from the issuance of such order a proposal for carrying out the required monitoring, testing, analysis, and reporting. The Director may, after providing such person with an opportunity to confer with the Director respecting such proposal, require such person to carry out such monitoring, testing, analysis, and reporting in accordance with such proposal, and such modifications in such proposal as the Director deems reasonable to ascertain the nature and extent of the hazard.

RCRA §3013(d) (iv) Monitoring, testing, or analysis carried out by the Director.

RCRA §3013(d)(1) (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 monitoring, testing, analysis, or reporting satisfactory to the Director, if the Director deems any such action carried out by an owner or operator to be unsatisfactory, or if the Director cannot initially determine that there is an owner or operator referred to in Section 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:

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

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

RCRA §3013(d)(3) (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 W.S. 35-11-109(a) and W.S. 35-11-110(a).

RCRA §3013(e) (v) Enforcement. The Director may commence a civil action against any person who fails or refuses to comply with any order issued under Section 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 as provided in 40 CFR.

(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.

(a) IBR. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR.

(i) 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 which cannot be cancelled or modified without substantial loss for installation of the tank to be completed within a reasonable time.

(ii) 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.

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

Sections 280-300. RESERVED.

APPENDIX A: TABLES SHOWING MORE STRINGENT AND BROADER-IN-SCOPE
PROVISIONS AND GENERAL CORRESPONDENCE OF PREVIOUS WYOMING HAZARDOUS
WASTE RULES TO FEDERAL CFR AND STATUTES

Table 1-1. MORE STRINGENT AND BROADER-IN-SCOPE PROVISIONS OF HWRR
RELATIVE TO 40 CFR.

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
CLOSURE	HWRR 264(a)(vii): Wyoming is more stringent because it requires that owner/operators at closure will take, and continue to take, all steps to prevent threats to human health and the environment.	264.112(d)(2)(i)
CORRECTIVE ACTION MANAGEMENT UNITS (CAMUs)	HWRR 260(a), 264(e): Wyoming is more stringent for the definitions of "facility" and "remediation waste management site" because facilities not subject to 40 CFR 264.101 are not eligible for the less stringent management standards of the Corrective Action Management Unit (CAMU) program. Wyoming does not adopt the definition of "remediation waste management site", or the third part of the definition for "facility". Also, Wyoming is broader-in-scope because it makes the CAMU requirements available to participants in the State of Wyoming Voluntary Remediation Program implementing corrective action pursuant to a remedy agreement developed under Wyoming Statute W.S. 35-11-1607.	260.10, 264.1(j), 264.73(b)(17), 264.101(d), 264.551(a), 264.552(a), 264.552(e), and 264.553(a)
EMERGENCY REPORTING	HWRR 263(a)(iv): 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(a)(v), 264(a)(v), 265(a)(iv), 267(a)(iii): Wyoming is more stringent because the State requires the emergency coordinator to also report his findings to the Wyoming Department of Environmental Quality (307-777-7781) in addition to the National Response Center (800-424-8802).	262.34(d)(5)(iv)(C), 264.56(d)(2), 265.56(d)(2), and 267.56(c)(2)

Table 1-1. MORE STRINGENT AND BROADER-IN-SCOPE PROVISIONS OF HWRR
RELATIVE TO 40 CFR.

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
EMERGENCY REPORTING	HWRR 270(e)(i): Wyoming is more stringent because the State requires the permittee to report any release or discharges of hazardous waste regardless of whether or not it may cause an endangerment to the public water supplies.	270.30(l)(6)(i)(A) and (B)
FITNESS OF THE APPLICANT	HWRR 270(n): Wyoming is broader-in-scope because the State requires the applicant to demonstrate his/her fitness to meet the requirements for a hazardous waste permit.	No federal analog
HEALTH RISK ASSESSMENT	HWRR 270(a)(x): Wyoming is more stringent in that it requires provisions more stringent than the Federal exposure assessment requirements.	270.10(j)(1)
INTERIM STATUS	HWRR 270(h)(i): 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)
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)

Table 1-1. MORE STRINGENT AND BROADER-IN-SCOPE PROVISIONS OF HWRR
RELATIVE TO 40 CFR.

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
LOCATION STANDARDS	HWRR 270(c)(i)(B): 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(i)
LOCATION STANDARDS	HWRR 270(d)(i), 270(l): 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)(A): 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)(i)(B): 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)(i)(C): Wyoming is more stringent in that the methods used to determine the 100-year floodplain must be approved by the Director. Information shall also be provided identifying the 100-year flood level and any other special flooding factors (e.g., wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood.	270.14(b)(11)(iii)

Table 1-1. MORE STRINGENT AND BROADER-IN-SCOPE PROVISIONS OF HWRR
RELATIVE TO 40 CFR.

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
MILITARY MUNITIONS	HWRR 266(b)(i): Wyoming is more stringent in that the State requires that the operator of the range must "notify the Director in writing" if remedial action is infeasible.	266.202(d)
MILITARY MUNITIONS	HWRR 266(b)(iv): Wyoming is more stringent in that Wyoming limits the conditional exemption for storage to waste generated by the facility storing the waste unless "...storage of waste military munitions from another facility is the result of an inability to transport the waste military munitions for treatment or disposal due to inclement weather or other circumstance as approved in writing by the Director."	266.205(a)(1)
MILITARY MUNITIONS	HWRR 266(b)(ii), 266(b)(vi): Wyoming is more stringent in that it does not allow a default reinstatement if the Director does not take action on the application within 60 days.	266.203(b), 266.205(c)
MILITARY MUNITIONS	HWRR 266(b)(iii), 266(b)(viii): Wyoming is more stringent in that any amendments to the effective date of the Department of Defense shipping controls or DDESB storage standards are not effective until approved by the Director.	266.203(c), 266.205(e)
NOTIFICATION	HWRR 261(a)(iii): Wyoming is more stringent in that it requires a copy of the notification be sent to the Director.	261.41(a)
PERMIT APPLICATIONS	HWRR 270(c)(i)(A): 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

Table 1-1. MORE STRINGENT AND BROADER-IN-SCOPE PROVISIONS OF HWRR
RELATIVE TO 40 CFR.

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
PERMIT APPLICATIONS	HWRR 270(b)(ii): Wyoming is more stringent in that it adds the requirement that any person who gains ownership or operational control of a facility through a transfer, must have the Director's approval that they meet the qualifications for owners and operators under Sections 270(m) and 270(n) of this Chapter. The State also requires a written agreement between the current owner and the new owner specifying the date of transfer of responsibility, however, Wyoming requires that the written agreement contain signed and notarized documentation that the new owner will be bound to, and responsible for, the permit provisions.	270.40(b)
PERMIT MODIFICATIONS	HWRR 270(a)(xx): Wyoming is more stringent because Wyoming requires the Director to provide a response to a permit modification request within 90 days ("Combustion facility changes to meet part 63 MACT standards"). Unlike the federal rules, the regulated community may not rely on an absence of an approval after 90 days have elapsed as being a tacit approval under the State's regulation.	270.42(j)(3)
PERMIT TERMINATION	HWRR 124(a)(v): 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

Table 1-1. MORE STRINGENT AND BROADER-IN-SCOPE PROVISIONS OF HWRR
RELATIVE TO 40 CFR.

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
PROFESSIONAL ENGINEER CERTIFICATION	HWRR 264(h), 265(e), 267(b), 270(j): Wyoming is more stringent because it requires professional engineers to be registered in Wyoming ("qualified registered Professional Engineer") when referring to activities requiring Professional Engineer certification. This differs from the EPA phrase "qualified Professional Engineer".	264.115, 264.120, 264.143(i), 264.145(i), 264.147(e), 264.191(a), 264.191(b)(5)(ii), 264.192(a), 264.192(b), 264.193(i)(2), 264.196(f), 264.280(b), 264.554(c)(2), 264.571(a), (b), and (c), 264.573(a)(4)(ii), 264.573(g), 264.574(a), 264.1101(c)(2), 265.115, 265.120, 265.143(h), 265.145(h), 265.147(e), 265.191(a), 265.191(b)(5)(ii), 265.192(a) and (b), 265.193(i)(2), 265.196(f), 265.280(e), 265.441(a), (b), and (c), 265.443(a)(4)(ii), 265.443(g), 265.444(a), 265.1101(c)(2), 267.117, 267.147(e), 267.191, 267.192(a), 267.200(f), 270.14(a), 270.16(a), and 270.26(c)(15)
PROFESSIONAL GEOLOGIST CERTIFICATION	HWRR 264(i), 265(f), 270(k): 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(d)(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(d)(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)

**Table 1-1. MORE STRINGENT AND BROADER-IN-SCOPE PROVISIONS OF HWRR
RELATIVE TO 40 CFR.**

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
REMEDIAL ACTION PLANS (RAPs)	HWRR 264(a): Wyoming is more stringent because it does not adopt the less stringent Remedial Action Plan (RAP) alternate permit for remediation waste management sites.	264.554(l)(2)
REMEDIAL ACTION PLANS (RAPs)	HWRR 270(a): Wyoming is more stringent because it has chosen not to adopt the November 30, 1998 final rules provisions of 40 CFR 270.11(d)(2) which were considered to be less stringent relative to signatures on certification documents (Revision Checklist 175, 63 FR 65874).	270.11(d)(2)
REMEDIAL ACTION PLANS (RAPs)	HWRR 270(a), 270(a)(iv): Wyoming is more stringent because it does not adopt the less stringent Remedial Action Plan alternate permit for remediation waste management sites.	270.2, 270.11(d)(2), 270.68, 270.73(a), 270.79 - 270.230
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)

Table 1-1. MORE STRINGENT AND BROADER-IN-SCOPE PROVISIONS OF HWRR
RELATIVE TO 40 CFR.

RCRA TOPIC	STATE CITATION AND EXPLANATION	RELEVANT 40 CFR REFERENCES
TRAINING REQUIREMENTS	HWRR 270(m): Wyoming is more stringent in that it requires information concerning the management and technical capabilities of the owner and operator in addition to the training requirements in the Federal provisions.	264.16, 270.14(b)(12)

Table 1-2. GENERAL CORRESPONDENCE BETWEEN PREVIOUS STATE RULES AND FEDERAL RULES

EPA Regulation Code of Federal Regulations (CFR)	Previous DEQ Hazardous Waste Management Rules	Description
PART 124 (except 124.5)	Chapter 3, Section 1	Administrative Procedures
Section 124.5	Chapter 6, Section 1	Modification, Revocation and Reissuance, or Termination of Permits
PART 260	Chapter 1	General Provisions
PART 261	Chapter 2	Identification and Listing of Hazardous Waste
PART 262	Chapter 8	Standards Applicable to the Generators of Hazardous Wastes
PART 263	Chapter 9	Standards Applicable to the Transporters of Hazardous Wastes
PART 264 (except Subpart H)	Chapter 10	Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities Who Have a Wyoming Permit.
PART 265 (except Subpart H)	Chapter 11	Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities.
PARTS 264/265, Subparts H	Chapter 5	Financial Requirements
PART 266	Chapter 12	Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities
PART 268	Chapter 13	Land Disposal Restrictions
PART 270, Subpart A	Chapter 1, Section 1(h)-(j)	Permit Program – General Information
PART 270, Subpart B	Chapter 3, Section 2	Permit Application
PART 270, Subpart C	Chapter 4, Section 1	Permit Conditions
PART 270, Subpart D	Chapter 6, Section 2	Changes to Permits
PART 270, Subpart E	Chapter 4, Section 2	Expiration and Continuation of Permits
PART 270, Subpart F	Chapter 7	Special Forms of Permits
PART 270, Subpart G	Chapter 11, Section 2	Interim Status
PART 273	Chapter 14	Standards for Universal Waste Management
PART 279	Chapter 12	Management Standards for Used Oil

Table 1-3. GENERAL CORRESPONDENCE BETWEEN PREVIOUS STATE RULES AND
FEDERAL STATUTES

Section of RCRA	Previous DEQ Hazardous Waste Management Rules	Description
RCRA § 3004(v)	Chapter 10, Section 6(l)(iii)	Corrective Action Beyond Facility Boundary
RCRA § 3005(c)(3)	Chapter 4, Section 2(a)(v)	Permit Issuance
RCRA § 3005(j)(1), (6), and (7)(B)	Chapter 10, Section 10(b)(x)- (xii)	Interim Status Surface Impoundments
RCRA § 3008(h)	Chapter 11, Section 8(f)	Interim Status Corrective Action
RCRA § 3013	Chapter 1, Section 1(l)	Monitoring, Analysis, and Testing
RCRA § 7003(a)	Chapter 1, Section 1(k)	Imminent Hazard