

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

IN THE MATTER OF )  
REVISIONS TO CHAPTERS 1 )  
THROUGH 14 OF THE HAZARDOUS )  
WASTE MANAGEMENT RULES AND )  
REGULATIONS )  
)

**STATEMENT OF PRINCIPAL REASONS**  
**FOR ADOPTION**

The Environmental Quality Council, pursuant to the authority vested in it by Wyoming Statutes §35-11-112(a)(i), is adopting revisions to Chapters 1 through 14 of the Hazardous Waste Management Rules and Regulations. The revisions to these chapters are the result of changes in the Environmental Protection Agency (EPA) rules promulgated under the authority of the Resource Conservation and Recovery Act (RCRA). These revisions also correct typographical errors. The text below describes the chapter contents, and a description of the major revisions for each chapter.

Chapter 1 entitled “General Provisions” includes: definitions of terms, a list of references used throughout the rules, the purpose and scope of the rules and regulations, the hazardous waste permit program requirements, the requirements for rulemaking petitions, and the requirements for information availability. Chapter 1, Section 1(e) is revised to cite federal laws as they exist on January 1, 2002, and to cite the Code of Federal Regulations (CFR) as it exists on July 1, 2002. The following definitions are added to Section 1(f): active range, agreement

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state, certified delivery, chemical agents and munitions, eligible naturally occurring and/or accelerator-produced radioactive material, enforceable document, excluded scrap metal, exempted waste, explosives or munitions emergency, explosives or munitions emergency response, explosives or munitions emergency specialist, home scrap metal, inactive range, lamp, land disposal restriction standards, license, low-level mixed waste, low-level radioactive waste, military, military munitions, military range, mixed waste, naturally occurring and/or accelerator-produced radioactive material, NRC, processed scrap metal, prompt scrap, sampling connection system, soil, staging pile, unexploded ordnance, we, and you. The following definitions in Section 1(f) are revised: conditionally exempt small quantity generator, consignee, director, equipment, final closure, hazardous debris, hazardous waste, land disposal, large quantity handler of universal waste, maximum organic vapor pressure, no detectable organic emission, open-ended valve or line, partial closure, personnel or facility personnel, point of waste origination, point of waste treatment, remediation waste, safety device, small quantity handler of universal waste, underlying hazardous constituents, universal waste, universal waste handler, universal waste transfer facility, universal waste transporter, volatile organic concentration, waste determination, and waste material. In addition, the following definitions in Section 1(f) are removed: competent authorities, concerned countries, country of transit, electric lamp, end of pipe, exporting country, importing country, mercury containing lamp, notifier, OECD area, Organization for Economic Cooperation and Development (OECD), recognized trader, recovery facility, recovery operations, stormwater impoundments, and transfrontier movement. The definition of “corrective action management unit” in Section 1(f) is also removed because the definition is now contained in Chapter 10, Section 18(b)(i). Chapter 1, Section 1(g) is revised to add references to new sections in Chapter 12; to modify the provision for Test Methods for

Evaluating Solid Waste, Physical/Chemical Methods SW-846; and to add a reference to a new test method. Chapter 1, Section 1(h) and Section 3(a)(i) are revised to add references to new sections of Chapter 12. The table at Section 1(h)(i)(B) is revised to cite the chapter (11) and the sections of the state rule corresponding to 40 CFR Part 265. Chapter 1, Section 1(h)(iii) is revised to allow the Department to issue an enforceable document in lieu of a post-closure permit. Section 1(h)(iii)(C) is revised to exclude from permitting requirements emergency responses involving military munitions. Section 1(h)(iii)(E), Section 3(a)(i), Section 3(b)(i) and Section 3(b)(ii)(C) are revised to cite the chapter and the sections of the state rule corresponding to 40 CFR Part 265.

Chapter 2 entitled “Identification and Listing of Hazardous Waste” identifies those waste materials which are subject to regulation as hazardous wastes. Chapter 2, Section 1(c) is revised to add new hazardous waste listings; to define when any mixture of waste from the extraction, beneficiation, and processing of ores and minerals is a hazardous waste; and to define when a mixture of a hazardous waste and a radioactive material is a hazardous waste. Chapter 2, Section 1(c)(vii)(C) is revised to define when a mixture of a waste material excluded from regulation and a characteristic hazardous waste would be subject to regulation. Section 1(d) is revised to exclude the following from the definition of waste material: wood preserving wastewaters and spent wood preserving solutions; oil-bearing hazardous secondary materials that are generated at petroleum refineries and inserted into the petroleum refining process; recovered oil recycled into the petroleum refining process; petrochemical recovered oil inserted into the petroleum refining process; excluded scrap metal; shredded circuit boards that are recycled; comparable fuels or comparable syngas that meet certain requirements; spent caustic solutions from petroleum refining used as feedstock to produce cresylic or naphthenic acid; waste material from the

extraction, beneficiation and processing of ores and minerals; leachate or gas condensate collected from landfills where hazardous waste codes K169, K170, K171 and K172 may have been disposed; and dredged materials subject to the permitting requirements under the Federal Water Pollution Control Act or the Marine Protection, Research, and Sanctuaries Act. Chapter 2, Section 1(f) is revised to add scrap metal as a recyclable material, to remove a reference to Chapter 8, Section 8 and to insert a reference to the federal RCRA program regarding importing or exporting of waste to OECD countries. Section 1(f)(i)(D) is revised to cite the chapter and the sections of the state rule corresponding to 40 CFR Part 265. Section 1(i) adds lamps as a universal waste. Chapter 2, Section 1(c)(vi); Sections 1(d)(iv) and (vi); Sections 1(e)(ii), (v), (vi) and (vii); Sections 1(f)(i) and (iii); and Section 1(i)(i) are revised to add references to new sections of Chapter 12. Chapter 2, Section 3(e)(i) is revised to state that manufactured gas plant wastes are not required to conduct a toxicity characteristic leaching procedure to determine hazardous waste characteristics. Chapter 2, Section 4 and Appendices G and H are revised to add the hazardous waste listings for K169, K170, K171, K172, K174 and K175; to remove listings for K064, K065, K066, K090 and K091; and to modify listings for F037, K161, P127, P197, P198, U271, U404 and U279. Chapter 2, Sections 4(f), (g), and (h) add specification requirements for comparable fuels. Chapter 2, Appendices C and B correct references regarding Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA publication SW-846.

Chapter 3 entitled “Permit Applications” contains permit application procedures and requirements for hazardous waste treatment, storage, or disposal facilities, including administrative procedures for permit applications such as permit application contents and review requirements, technical information requirements, public notice and comment requirements, and

permit issuance and appeal procedures. The certification statement in Section 2(b)(iv) is revised. Chapter 3, Sections 2(e) and (s) revise the requirements for information submitted as part of a post-closure permit application. Chapter 3, Section 2(a)(v) and Section 2(e)(ii) are revised to refer to new sections of Chapter 12.

Chapter 4 entitled “Permit Conditions” describes permit conditions required to be incorporated into hazardous waste permits, including recordkeeping; reporting and schedules of compliance requirements; and the duration of permits and the continuation of expiring permits. Section 1(b)(iii) and Section 1(c)(ii) are revised to add references to new sections of Chapter 12. Chapter 4, Section 2(b)(i)(D) is added to state that compliance with the hazardous waste permit constitutes compliance for purposes of enforcement except for newly promulgated air emissions standards contained in Chapter 11.

Chapter 5 entitled “Financial Assurance” establishes standards that owners and operators of hazardous waste treatment, storage, and disposal facilities must meet to demonstrate there are sufficient funds available for closure and post-closure care, and establishes standards for liability coverage to protect individuals that may be harmed due to sudden and non-sudden releases from the facility. Chapter 5, Section 1(a)(v) is added to allow the Director to replace the requirements for financial assurance proscribed by this chapter with alternative financial requirements.

Chapter 6 entitled “Permit Modification, Revocation and Reissuance, or Termination” includes standards and procedures for permit changes. Chapter 6, Section 2(b)(i) and Section 2(c)(vii) are revised to add references to new sections of Chapter 12. Chapter 6, Section 2(c)(viii) is added regarding permit modifications to treat or dispose of waste military munitions. Chapter 6, Section 2(c)(x) is added regarding permit modifications to comply with new emission standards for hazardous waste combustors. Chapter 6, Section 2(c)(x)(B) is revised to require the

Director to respond within ninety (90) days to a request for permit modification for a hazardous waste combustor – this revision is considered more stringent than the corresponding federal rule. Chapter 6, Appendix A is revised to add provisions defining the type of permit modification to add a staging pile or to meet new air emission standards for a hazardous waste combustor.

Chapter 7 entitled “Special Forms of Permits” describes special hazardous waste permits. Chapter 7, Sections 1(b)(ii) and Section 1(f)(i) are revised to add references to new sections of Chapter 12.

Chapter 8 entitled "Standards Applicable to Generators of Hazardous Wastes" establishes standards for generators of hazardous waste must meet. Section 1(a)(iv) is revised to remove text regarding exports and imports of waste to OECD countries. Chapter 8, Section 1(a)(v) adds a reference to the requirements for exporting and importing wastes to OECD countries under the federal RCRA program. Section 1(a)(x) is added to state persons responding to an explosive or munitions emergency are not required to comply with Chapter 8 during the emergency. Section 2(a)(vi) is added to allow transport of hazardous waste on a public right-of-way without requiring a hazardous waste manifest where a facility is divided by a public right-of-way. Section 3(e)(i)(A) adds references to sections of the rules where organic air emission standards can be found. Sections 3(e)(i)(D) and 3(e)(iv)(D) correct references to land disposal restrictions contained in Chapter 13. Sections 3(e)(vii), (viii) and (ix) regarding wastewater treatment sludges from electroplating operations are added. Chapter 8, Section 4(b)(ii) are revised to reference new sections of Chapter 12. Section 5(i) and Section 8 are removed, and a reference to the federal RCRA program is added.

Chapter 9 entitled “Standards Applicable to Transporters of Hazardous Waste” establishes standards for hazardous waste transporters. This chapter is revised at Section 1(a)(iv)

and Section 2(a)(i) to remove references to Chapter 8 and to insert a reference to the federal RCRA program regarding import and export of waste to OECD countries. Chapter 9, Section 1(a)(v) is added to allow conditional transportation of explosives and munitions waste without a hazardous waste manifest or using a hazardous waste transporter during an emergency response. Chapter 9, Section 1(a)(vi) is added and requires waste military munitions to be transported in accordance with Chapter 12, Section 19(d).

Chapter 10 entitled "Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities" establishes design, location, construction, operation, closure, and post-closure standards for facilities which treat, store, and dispose of hazardous waste. This chapter is revised to add Section 1(a)(vii)(H)(I)(4.) and Section 1(a)(vii)(H)(IV) regarding permitting requirements for immediate responses to an emergency involving military munitions or explosives. Section 1(a)(vii)(K) is revised to add lamps to the list of universal wastes. Section 1(a)(x) is added to define when waste military munitions would be subject to the permitting requirements of Chapter 10 or the conditional storage exemption under Chapter 12, Section 19(f). Chapter 10, Section 1(c), Section 8(f)(ii)(E), Section 8(i), and Section 9(d)(iii)(D) are revised to cite the state hazardous waste rule corresponding to 40 CFR Part 265. Section 2(c)(i)(B) and Section 5(b)(iv) are revised to remove references to Chapter 8 and to insert a reference to the federal RCRA program regarding exports and imports of waste to OECD countries. Section 5(a) is added regarding waste military munitions transported under the conditional transportation exemption. Section 6(a)(v), Section 6(a)(vi) and Section 7(a)(iii) are added to allow the WDEQ Director to issue either a post-closure permit or an enforceable document and to replace groundwater monitoring requirements with alternative requirements. Chapter 10, Section 7(c)(ii)(H) and Section 7(c)(iii)(B)(IV) are added requiring a closure plan or

an amendment to a closure plan to include or reference groundwater monitoring alternative requirements. Section 7(i)(ii)(D) and Section 7(i)(iv)(B)(IV) are added to require a post-closure plan or an amendment to a post-closure plan to include or reference the groundwater monitoring alternative requirements. Chapter 10, Section 10(b)(xii) is added to incorporate RCRA statutory language to require surface impoundments receiving newly listed hazardous waste to be upgraded to meet minimum technology requirements or close if hazardous constituents could migrate to groundwater. Section 18(a), Section 18(c) and Section 18(f) are added and the remaining subsections are designated as Section 18(b), Section 18(d) and Section 18(e). Chapter 10, Section 18 (a)(i) and Section 18(b)(i) are added and revised to define the regulatory status of ‘grandfathered’ and new corrective action management units. Section 18(b)(i) is revised to allow authorization of corrective action management units at sites participating in the Voluntary Remediation of Contaminated Sites Program pursuant to Wyoming Statutes 35-11-1601 through W.S. 35-11-1613. Section 18(b) is revised to address grandfathered corrective action management units, including to define “corrective action management units”. Section 18(c) contains the requirements for new corrective action management units. Chapter 10, Section 18(e) adds requirements for a new type of unit called a staging pile. Section 18(f) is added to describe the management of corrective action management unit wastes at facilities permitted to accept hazardous wastes. Section 22(d)(ix) adds references to new sections of Chapter 12. Sections 28(d)(i)(A)(I) and (II) and Sections 28(d)(ii)(A)(I) and (II) are added to clarify when and how an owner or operator must determine the volatile organic concentration of a hazardous waste stream. Chapter 10, Section 28(e)(viii)(C) is revised to require tanks to be operated as a closed system. Chapter 10, Section 28(g)(v)(F) is added to require that transfers of hazardous waste in or out of a container be conducted using Container Level 3 controls to minimize exposure of the



hazardous waste to the atmosphere. Chapter 10, Section 30 is added regarding safe storage of hazardous waste munitions and explosives.

Chapter 11 entitled “Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities” are the regulations for management of hazardous waste during the period of ‘interim status’ when a facility is temporarily permitted to operate while awaiting denial or issuance of a permit, or until certification of final closure or fulfillment of post-closure requirements. Chapter 11, Section 1(a)(ii) is revised to include staging piles as a new type of unit. Section 1(a)(iii)(K)(I)(4.) and Section 1(a)(iii)(K)(IV) are added to allow an immediate response to an emergency involving military munitions or explosives without requiring a hazardous waste permit. Section 1(a)(iii)(N)(IV) is revised to add lamps as a universal waste. Section 1(a)(vii) is added to define when waste military munitions would be subject to the Chapter 11 storage requirements or the conditional storage exemption under Chapter 12, Section 19(f). Section 2(c)(ii)(H) is added to allow changes necessary to comply with National Emission Standards for Hazardous Air Pollutants from hazardous waste combustors. Section 4(c)(i)(B) is revised to remove references to Chapter 8, Section 8 and to insert a reference to the federal RCRA program regarding import and export of waste to OECD countries. Chapter 11, Section 7(a)(i) is revised to add language that waste military munitions transported in compliance with Chapter 12, Section 19(d)(i) are not required to meet the manifest, record keeping and reporting requirements. Chapter 11, Section 8(a)(vi) is added to allow the WDEQ Director to issue either a post-closure permit or an enforceable document and to replace groundwater monitoring requirements with alternative requirements. Section 9(a)(iii) and (iv), Section 9(c)(ii)(H) and Section 9(c)(iii)(A)(IV) are added to require a closure plan or an amendment to a closure plan to include or reference the groundwater monitoring alternative

requirements. Section 9(i)(iii)(D), Section 9(i)(iii)(E), and Section 9(i)(iv)A(III) are added to require a post-closure plan or an amendment to a post-closure plan to include or reference the groundwater monitoring alternative requirements. Section 9(l) is added to require facilities obtaining an enforceable document in lieu of a post-closure permit to comply with certain requirements. Chapter 11, Section 12(b)(ix) incorporates RCRA statutory language into the hazardous waste rules to require surface impoundments to be upgraded to meet minimum technology requirements or to close if hazardous constituents could migrate to groundwater. Section 30(e) is revised to define how, when and where a waste determination for volatile organic concentration of a hazardous waste would be made. Section 30(f)(viii)(C) is revised to require tanks to be operated as a closed system except under two conditions. Section 30(h)(v)(F) is added to require transfers of hazardous waste in or out of a container be conducted using Container Level 3 controls to minimize exposure of the hazardous waste to the atmosphere. Chapter 11, Section 32 is added regarding safe storage of hazardous waste munitions and explosives.

Chapter 12 entitled “Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities and Standards for the Management of Used Oil” contains regulations for the management of specific hazardous wastes including recyclable materials used in a manner constituting disposal and used oil, as well as regulations on specific types of hazardous waste management facilities. Chapter 12, Section 7 is modified and a table is added to address reclamation of spent lead-acid batteries. Section 8(a)(ii)(C) is revised to refer to rules on recyclable materials particularly fuels produced from oil-bearing hazardous waste from petroleum refining. Chapter 12 is revised at Section 10(a) to add references to new sections of Chapter 12. Section 11(c)(iv), Section 13(f)(viii), Section 14(e)(vii) and Section

15(e)(vii) are revised to clarify that cleanup requirements apply to releases of used oil that occurred in Wyoming after October 18, 1995 - the date Wyoming was authorized to implement a hazardous waste program in lieu of EPA. Chapter 12, Section 19 is added to identify when waste military munitions are subject to the hazardous waste rules and regulations and to specify the standards for the transportation and storage of these wastes, including more stringent rule provisions at Section 19(c)(iv), Section 19(d)(ii) and (iii), Section 19(f)(i)(A)(VIII) and (IX), and Section 19(f)(iii) and (v). Chapter 12, Section 20 is added to provide a conditional exemption for low-level mixed waste storage, treatment, transportation and disposal.

Chapter 13 entitled "Land Disposal Restrictions" establishes restrictions on the land disposal of hazardous wastes. Section 1(a)(v) is revised to define de minimis losses of characteristic hazardous waste. Chapter 13, Section 1(a)(vi) adds lamps as universal wastes. Section 1(c)(iv) is added to prohibit the addition of iron filings to lead containing hazardous waste. Section 1(d)(i) is revised to address removal of treatment residues, subsequent management of treatment residues, record keeping requirements for treated residues, and certification of waste management activities. Section 1(g) defines the testing, tracking, and record keeping requirements for generators and facilities to comply with the land disposal restrictions (LDR) for hazardous waste and contaminated soil. Section 1(g) is revised to add tables and requirements for generators and facilities managing hazardous waste and contaminated soil subject to LDRs. Section 1(i)(i) is revised to describe how a generator assigns waste codes for both a listed and characteristic hazardous waste to determine the appropriate LDR treatment standard. Section 1(i)(iv) is revised to describe which hazardous constituents must be included in a LDR notification. Section 3(a) is revised to establish treatment standards for wood preserving wastes with waste codes F032, F034 and F035. Section 3(c) is revised to remove

'California list' wastes codes and to add LDRs for soils that exhibit the toxicity characteristic for metals and contain polychlorinated biphenyls (PCBs). Section 3(d) is revised to remove 'first third wastes' and to add LDRs for chlorinated aliphatic wastes – waste codes K174 and K175. Section 3(e) is revised to remove 'second third wastes' and to add LDRs for wastes that are toxic due to metals concentrations. Section 3(f) is revised to remove 'third third' wastes and to add LDRs for petroleum refining wastes – waste codes K169, and K170 through K172. Section 3(g) is removed and reserved. Section 3(j)(iii) is revised to cite the date when waste code K088 is prohibited from land disposal. Section 4(a)(v) is revised to state that characteristic wastes subject to certain treatment standards must meet the universal treatment standards for underlying hazardous constituents unless the waste is managed in a Clean Water Act wastewater treatment system. Section 4(a)(vii) is revised to correct compliance dates that generators or facilities must meet for certain carbamate wastes. Sections 4(a)(viii) and (ix) are added to allow previously stored, stabilized characteristic mixed waste to comply with LDR standards in effect at the time the waste was stabilized. These sections establish an administrative stay for applying the LDRs to hazardous waste - derived zinc micronutrient fertilizers. Section 4(a)(x) is added to establish alternative treatment standards for hazardous waste codes P185, P191, P192, P197, U364, U394, and U395 based on either constituent concentrations or treatment technologies. The table entitled "Treatment Standards for Hazardous Wastes" in Section 4(a) is revised to list the constituent concentrations or the treatment technology for each characteristic and listed hazardous waste. Section 4(c)(i) is revised to list LDR designated treatment technologies in a table entitled "Technology Codes and Description of Technology-Based Standards", and adds a new treatment technology. Section 4(e)(viii)(C) and (D) are added to allow the WDEQ Director to establish a site-specific treatment variance from LDRs for contaminated soil. The table

entitled “Universal Treatment Standards” in Section 4(h)(i) is revised to list all underlying hazardous constituents and their numerical treatment standards. Section 4(j) is added to establish alternative LDR treatment standards for contaminated soil. Section 5(a)(vii) is added to state that the prohibition on storage does not apply to hazardous waste stored in a staging pile. Appendices A and B are removed and are reserved. Appendix C is revised to list those halogenated organic compounds regulated under Chapter 13, Section 3. Appendix F is revised to clarify that land disposed characteristic wastes must be treated by ‘deactivation’ and be treated to achieve universal treatment standards for underlying hazardous constituents. Appendices G and H are updated to include the effective dates for land disposed hazardous wastes that have treatment standards and to include the LDR effective dates for injected hazardous wastes. Appendix J is removed and is reserved.

Chapter 14 entitled “Standards for Universal Waste Management” establishes standards for the collection and management of the following wastes: batteries, pesticides, thermostats, and universal lamps. This chapter is revised to incorporate lamps as a universal waste at the following rule citations: Section 1(a)(i), Section 1(e), Section 1(d)(iv), Section 1(e)(v), Section 3(c), Section 3(d)(iv), and Section 3(e)(v). Section 2(k), Section 3(k), Section 4(g) and Section 6(a) are revised to remove references to Chapter 8, Section 8 and to insert references to the federal RCRA program regarding exports and imports of waste to OECD countries. Section 1(a)(ii), Section 1(c)(ii), Section 2(d), Section 2(h)(ii), Section 3(d), Section 3(h)(ii), Section 4(e)(ii) and Section 5(a)(i) are revised to include references to new sections of Chapter 12.

These amendments including provisions that are more stringent than federal provisions are adopted to govern the management of hazardous waste to reflect the special conditions that exist and that are unique to the State of Wyoming. These revisions also incorporate minimum

federal regulatory criteria to allow the state to comply with Section 3006(b) of the RCRA which require authorized States to maintain equivalency to the federal program.

The Council finds that these regulations are reasonable and necessary to accomplish the policy and purpose of the Act, as stated in W.S. 35-11-102, and they have been promulgated in accord with the rulemaking provisions of the Wyoming Administrative Procedures Act.

Dated this 24 day of June, 2008

  
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for the Environmental Quality Council