

DRAFT PROPOSED RULES

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY

SOLID AND HAZARDOUS WASTE DIVISION

HAZARDOUS WASTE MANAGEMENT

CHAPTER 4

PERMIT CONDITIONS

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DEPARTMENT OF ENVIRONMENTAL QUALITY
SOLID AND HAZARDOUS WASTE DIVISION

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Bold = State added language ^ = Federal Language deleted

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/Subpart C Section 1. Permit Conditions

- 270.30 (a) Conditions applicable to all permits. The following conditions apply to all State hazardous waste management facility permits, and shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these rules and regulations must be given in the permit.
- 270.30(a) (i) Duty to comply. The permittee must comply with all conditions of this permit, except that the permittee need not comply with the conditions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit. (See Chapter 7, Section 1(b) of these rules and regulations). Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation of the appropriate Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.
- 270.30(b) (ii) Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.
- 270.30(c) (iii) Need to halt or reduce activity not a defense. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- 270.30(d) (iv) Noncompliance. In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health or the environment.
- 270.30(e) (v) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.
- 270.30(f) (vi) Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or

anticipated noncompliance, does not stay any permit condition.

- 270.30(g) (vii) Property rights. The permit does not convey any property rights of any sort, or any exclusive privilege.
- 270.30(h) (viii) Duty to provide information. The permittee shall furnish to the Director, within a reasonable time, any relevant information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
- 270.30(i) (ix) Inspection and entry. The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:
- 270.30(i)(1) (A) Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;
- 270.30(i)(2) (B) Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;
- 270.30(i)(3) (C) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
- 270.30(i)(4) (D) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by W.S. 35-11-503(d), any substances or parameters at any location.
- 270.30(j) (x) Monitoring and records.
- 270.30(j)(1) (A) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
- 270.30(j)(2) (B) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by Chapter 10, Section 5(d)(ii)(I) of these rules and regulations, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report, certification, or application. This period may be extended by request of the Director at any time. The permittee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well.
- 270.30(j)(3) (C) Records for monitoring information shall include:
- ...(i) (I) The date, exact place, and time of

sampling or measurements;

- ...(ii) (II) The individual(s) who performed the sampling or measurements;
- ...(iii) (III) The date(s) analyses were performed;
- ...(iv) (IV) The individual(s) who performed the analyses;
- ...(v) (V) The analytical techniques or methods used; and
- ...(vi) (VI) The results of such analyses.

(D) The permittee shall utilize monitoring technology meeting the accuracy requirements of the Director. If the Director determines that more accurate monitoring is required, the permittee shall be required to adopt more accurate monitoring technology upon permit renewal or modification.

(I) The monitoring technology must be commercially available and cost effective, and

(II) The analytical methods must be consistent with accepted methodologies already approved by the Environmental Protection Agency, As documented in "Test Methods for Evaluating Solid Waste," SW-846 which is incorporated by reference at Chapter 1, Section 1(g)(i)(L).

270.30(k) (xi) Signatory requirements. All applications, reports, or information submitted to the Director shall be signed and certified (See Chapter 3, Section 2(b) of these rules and regulations)

270.30(l) (xii) Reporting requirements.

270.30(l)(1) (A) Planned changes. The permittee shall give notice to the Director as soon as possible of any planned physical alterations or additions to the permitted facility.

270.30(l)(2) (B) Anticipated noncompliance. The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. For a new facility, the permittee may not treat, store, or dispose of hazardous waste; and for a facility being modified, the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility, except as provided in Chapter 6, Section 2(c) of these rules and regulations, until:

...(i) (I) The permittee has submitted to the Director by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and one of the following has occurred:

(II) **Either**

- ...(ii)(A) (1.) The Director has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or
- ...(ii)(B) (2.) Within fifteen (15) days of the date of submission of the letter in Section 1(a)(xii)(B)(I) of this Chapter, the permittee has not received notice from the Director of his or her intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of hazardous waste.
- 270.30(l)(3) (C) Transfers. This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under W.S. 35-11-503(d). (See Chapter 6, Section 2(a) of these rules and regulations).
- 270.30(l)(4) (D) Monitoring reports. Monitoring results shall be reported at the intervals specified elsewhere in this permit.
- 270.30(l)(5) (E) Compliance schedules. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.
- 270.30(l)(6) (F) Twenty-four (24) hour reporting.
- ...(i) (I) The permittee shall report any noncompliance which may endanger health or the environment orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances, including:
- ...(i)(A) (1.) Information concerning release of any hazardous waste **^ regardless of whether or not it** may cause an endangerment to public drinking water supplies.
- ...(i)(B) (2.) Any information of any release or discharge of hazardous waste or of any fire or explosion from the HWM facility, **^ regardless of whether or not it** could threaten the environment or human health outside the facility.
- ...(ii) (II) The description of the occurrence and its cause shall include:
- ...(ii)(A) (1.) Name, address, and telephone number of the owner or operator;
- ...(ii)(B) (2.) Name, address, and telephone number of the facility;
- ...(ii)(C) (3.) Date, time, and type of incident;
- ...(ii)(D) (4.) Name and quantity of material(s) involved;
- ...(ii)(E) (5.) The extent of injuries, if any;

- ...(ii)(F) (6.) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and
- ...(ii)(G) (7.) Estimated quantity and disposition of recovered material that resulted from the incident.
- ...(iii) (III) A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Director may waive the five (5) day written notice requirement in favor of a written report within fifteen (15) days.

(IV) If the actions and reports undertaken to comply with the requirements of Section 1(a)(xii)(F) of this Chapter also meet the requirements of Chapter IV, Section 4 of the Water Quality Rules and Regulations, the operator is not required to file a separate notice and report under that Chapter.

- 270.30(l)(7) (G) Manifest discrepancy report: If a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within fifteen (15) days, the permittee must submit a letter report, including a copy of the manifest, to the Director. (See Chapter 10, Section 5(c) of these rules and regulations)
- 270.30(l)(8) (H) Unmanifested waste report: This report must be submitted to the Director within fifteen (15) days of receipt of unmanifested waste. (See Chapter 10, Section 5(g) of these rules and regulations)
- 270.30(l)(9) (I) Biennial report: A biennial report must be submitted covering facility activities during odd numbered calendar years. (See Chapter 10, Section 5(f) of these rules and regulations)
- 270.30(l)(10) (J) Other noncompliance. The permittee shall report all instances of noncompliance not reported under Sections 1(a)(xii)(D), (E), and (F) of this Chapter, at the time monitoring reports are submitted. The reports shall contain the information listed in Section 1(a)(xii)(F) of this Chapter.
- 270.30(l)(11) (K) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit such facts or information.
- 270.30(m) (xiii) Information repository. The Director may require the permittee to establish and maintain an information repository at any time, based on the factors set forth in Chapter 3, Section 1(u)(ii) of these rules and regulations. The information repository will be governed by the provisions in Chapter 3, Sections

1(u)(iii) through (vi) of these rules and regulations.

270.31 (b) Requirements for recording and reporting of monitoring results. All permits shall specify:

270.31(a) (i) Equipment and methods. Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

270.31(b) (ii) Required monitoring. Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring;

270.31(c) (iii) Reporting. Applicable reporting requirements based upon the impact of the regulated activity and as specified in Chapter 5; Chapter 10 and Chapter 12, Sections 1 through 8, 19 and 20 of these rules and regulations. Reporting shall be no less frequent than specified in the above regulations.

270.32 (c) Establishing permit conditions for individual permits.

270.32(a) (i) Additional permit conditions. In addition to conditions required in all permits (Section 1(a) of this Chapter), the Director shall establish conditions, as required on a case-by-case basis, in permits under Section 2(a) of this Chapter (duration of permits), Section 1(d)(i) of this Chapter (schedules of compliance), and Section 1(b) of this Chapter (monitoring).[^]

(ii) In general. Each permit shall include:

270.32(b)(1) (A) Permit conditions necessary to achieve compliance with W.S. 35-11-503(d) and these rules and regulations, including each of the applicable requirements specified in Chapter 5; Chapter 10; Chapter 12, Sections 1 through 8, 19 and 20; and Chapter 13 of these rules and regulations. In satisfying this provision, the Director may incorporate applicable requirements of Chapter 5; Chapter 10; Chapter 12, Sections 1 through 8, 19 and 20; and Chapter 13 of these rules and regulations directly into the permit or establish other permit conditions that are based on those requirements.

270.32(b)(2) (B) 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.

(C) The Director shall specify any additional standards, together with the justification there for, as the Director believes necessary to carry out the purposes of the Act.

270.32(c) (iii) Applicable requirements. For State of Wyoming issued permits, an applicable requirement is a State statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit. [^] For State and EPA administered programs, an applicable requirement is also any requirement which takes effect prior to the modification or revocation and reissuance of a permit, to the extent allowed in

Chapter 6, Section 2(b) of these rules and regulations.

270.32(d) (iv) New or reissued permits. New or reissued permits, and to the extent allowed in Chapter 6, Section 2(b) of these rules and regulations, modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in Sections 1(b) and 1(c) of this Chapter.

270.32(e) (v) Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit.

270.33 (d) Schedules of compliance.

270.33(a) (i) The permit may, when appropriate, specify a schedule of compliance leading to compliance with W.S. 35-11-503(d) and these rules and regulations.

270.33(a)(1) (A) Time for compliance. Any schedules of compliance under Section 1(d) of this Chapter shall require compliance as soon as possible.

270.33(a)(2) (B) Interim dates. Except as provided in Section 2(d)(ii)(A)(II) of this Chapter, if a permit establishes a schedule of compliance which exceeds one (1) year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

...(i) (I) The time between interim dates shall not exceed one (1) year.

...(ii) (II) If the time necessary for completion of any interim requirement is more than one (1) year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

270.33(a)(3) (C) Reporting. The permit shall be written to require that no later than fourteen (14) days following each interim date and the final date of compliance, the permittee shall notify the Director in writing, of its compliance or noncompliance with the interim or final requirements.

270.33(b) (ii) Alternative schedules of compliance. A State hazardous waste management facility permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for treatment and storage hazardous waste management facilities, closing pursuant to applicable requirements; and, for disposal hazardous waste management facilities, closing and conducting post-closure care pursuant to applicable requirements) rather than continue to operate and meet permit requirements as follows:

270.33(b)(1) (A) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

... (i) (I) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

... (ii) (II) The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

270.33(b)(2) (B) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements.

270.33(b)(3) (C) If the permittee is undecided whether to cease conducting regulated activities, the Director may issue or modify a permit to contain two schedules as follows:

... (i) (I) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

... (ii) (II) One schedule shall lead to timely compliance with applicable requirements;

... (iii) (III) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements;

... (iv) (IV) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under Section 2(d)(ii)(C)(I) of this Chapter it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

270.33(b)(4) (D) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Director, such as resolution of the board of directors of a corporation.

270.40-43 [See Chapters 6 and 7]

270/Subpart E Section 2. Expiration and Continuation of Permits.

270.50 (a) Duration of permits.

270.50(a) (i) Permit term. State hazardous waste management facility permits shall be effective for a fixed term not to exceed ten (10) years.

270.50(b) (ii) Except as provided in Section 2(c) of this Chapter, the term of a permit shall not be extended by modification beyond the maximum duration specified in Section 2(a) of this Chapter.

- 270.50(c) (iii) The Director may issue any permit for a duration that is less than the full allowable term under Section 2(a) of this Chapter.
- 270.50(d) (iv) Five-year review. Each permit for a land disposal facility shall be reviewed by the Director five (5) years after the date of permit issuance or reissuance and shall be modified as necessary, as provided in Chapter 6, Section 2(b) of these rules and regulations.
- RCRA 3005(c)(3) (v) **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.**
- 270.4 (b) Effect of a permit.
- 270.4(a) (i) Compliance with a State hazardous waste management facility permit during its term constitutes compliance, for purposes of enforcement, with W.S. 35-11-503(d) except for those requirements not included in the permit which:
- 270.4(a)(1) (A) Become effective by statute;
- 270.4(a)(2) (B) Are promulgated under Chapter 13 of these rules and regulations restricting the placement of hazardous wastes in or on the land; or
- 270.4(a)(3) (C) Are promulgated under Chapter 10 of these rules and regulations regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of Chapter 6, Section 2(c) of these rules and regulations Class 1* permit modifications.
- 270.4(a)(4) (D) Are promulgated under Chapter 11, Sections 28, 29, or 30 of these rules and regulations limiting air emissions.
- 270.4(b) (ii) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.
- 270.4(c) (iii) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of State or local law or regulations.
- 270.51 (c) Continuation of expiring permits.
- 270.51(a) (i) Continuation. ^ The conditions of an expired permit continue in force ^ until the effective date of a new permit (see Chapter 3, Section 1(1) of these rules and regulations) if:

- 270.51(a)(1) (A) The permittee has submitted a timely application under Chapter 3, Section 2(e) of these rules and regulations and the applicable Sections in Chapter 3, Sections 2(f) through 2(t) of these rules and regulations which is a complete (under Chapter 3, Section 2(a)(iii) of these rules and regulations) application for a new permit; and
- 270.51(a)(2) (B) The Director, through no fault of the permittee, does not issue a new permit with an effective date under Chapter 3, Section 1(1) of these rules and regulations on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).
- 270.51(b) (ii) Effect. Permits continued under Section 2(c) of this Chapter remain fully effective and enforceable.
- 270.51(c) (iii) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the Director may choose to do any or all of the following:
- 270.51(c)(1) (A) Initiate enforcement action based upon the permit which has been continued;
- 270.51(c)(2) (B) Issue a notice of intent to deny the new permit under Chapter 3, Section 1(c) of these rules and regulations. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
- 270.51(c)(3) (C) Issue a new permit under Chapter 3, Section 1 and Chapter 6, Section 1 of these rules and regulations with appropriate conditions; or
- 270.51(c)(4) (D) Take other actions authorized by these regulations.
- 270.51(d) (iv) State continuation. **^ On the effective date of the authorization of the State of Wyoming hazardous waste management program**, if a permittee has submitted a timely and complete application under applicable State law and regulations, the terms and conditions of an EPA-issued RCRA permit continue in force beyond the expiration date of the permit, but only until the effective date of the State's issuance or denial of a State hazardous waste facility permit.