



## Notice of Intent to Adopt Rules

A copy of the proposed rules may be obtained at <https://rules.wyo.gov>

Revised June 2020

<b><u>1. General Information</u></b>			
a. Agency/Board Name*			
b. Agency/Board Address		c. City	d. Zip Code
e. Name of Agency Liaison		f. Agency Liaison Telephone Number	
g. Agency Liaison Email Address			
h. Date of Public Notice		i. Comment Period End Date	
j. Public Comment URL or Email Address:			
k. Program			
Amended Program Name (if applicable):			
* <input type="checkbox"/> By checking this box, the agency is indicating it is exempt from certain sections of the Administrative Procedure Act including public comment period requirements. Please contact the agency for details regarding these rules.			
<b><u>2. Legislative Enactment</u></b> For purposes of this Section 2, "new" only applies to regular non-emergency rules promulgated in response to a Wyoming legislative enactment not previously addressed in whole or in part by prior rulemaking and does not include rules adopted in response to a federal mandate.			
a. Are these non-emergency regular rules new as per the above description and the definition of "new" in Chapter 1 of the Rules on Rules?			
<input type="checkbox"/> No. <input type="checkbox"/> Yes. If the rules are new, please provide the Legislative Chapter Numbers and Years Enacted (e.g. 2015 Session Laws Chapter 154):			
<b><u>3. Rule Type and Information</u></b> For purposes of this Section 3, "New" means an emergency or regular rule that has never been previously created.			
a. Provide the Chapter Number, Title and Proposed Action for Each Chapter. Please use the "Additional Rule Information" form to identify additional rule chapters.			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			
Chapter Number:	Chapter Name:	<input type="checkbox"/> New <input type="checkbox"/> Amended <input type="checkbox"/> Repealed	
Amended Chapter Name (if applicable):			

**4. Public Comments and Hearing Information**

a. A public hearing on the proposed rules has been scheduled.  No.  Yes. Please complete the boxes below.

Date:	Time:	City:	Location:
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b. What is the manner in which interested persons may present their views on the rulemaking action?

By submitting written comments to the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

A public hearing will be held if requested by 25 persons, a government subdivision, or by an association having not less than 25 members. Requests for a public hearing may be submitted:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

c. Any person may urge the Agency not to adopt the rules and request the Agency to state its reasons for overruling the consideration urged against adoption. Requests for an agency response must be made prior to, or within thirty (30) days after adoption, of the rule, addressed to the Agency and Agency Liaison listed in Section 1 above.

**5. Federal Law Requirements**

a. These rules are created/amended/revoked to comply with federal law or regulatory requirements.  No.  Yes. Please complete the boxes below.

Applicable Federal Law or Regulation Citation:
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Indicate one (1):

The proposed rules meet, but do not exceed, minimum federal requirements.

The proposed rules exceed minimum federal requirements.

Any person wishing to object to the accuracy of any information provided by the Agency under this item should submit their objections prior to final adoption to:

To the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

**6. State Statutory Requirements**

a. Indicate one (1):

The proposed rule change *MEETS* minimum substantive statutory requirements.

The proposed rule change *EXCEEDS* minimum substantive statutory requirements. Please attach a statement explaining the reason that the rules exceed the requirements.

b.  The Agency has completed a takings assessment as required by W.S. 9-5-304. A copy of the assessment used to evaluate the proposed rules may be obtained:

By contacting the Agency at the physical and/or email address listed in Section 1 above.

At the following URL: \_\_\_\_\_

**7. Additional APA Provisions**

a. Complete all that apply in regards to uniform rules:

These rules are not impacted by the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j).

The following chapters do not differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j):

\_\_\_\_\_ (Provide chapter numbers)

These chapters differ from the uniform rules identified in the Administrative Procedure Act, W.S. 16-3-103(j) (see Statement of Principal Reasons).

\_\_\_\_\_ (Provide chapter numbers)

b. Checklist

The Statement of Principal Reasons is attached to this Notice and, in compliance with *Tri-State Generation and Transmission Association, Inc. v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979), includes a brief statement of the substance or terms of the rule and the basis and purpose of the rule.

If applicable: In consultation with the Attorney General's Office, the Agency's Attorney General representative concurs that strike and underscore is not required as the proposed amendments are pervasive (Chapter 3, *Types of Rules Filings*, Section 1, Proposed Rules, of the Rules on Rules).

**8. Authorization**

a. I certify that the foregoing information is correct.

<i>Printed Name of Authorized Individual</i>	
<i>Title of Authorized Individual</i>	
<i>Date of Authorization</i>	

**BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING**

<b>IN THE MATTER OF REVISIONS</b>	)	<b>STATEMENT OF</b>
<b>TO CHAPTERS 1 AND 7</b>	)	<b>PRINCIPAL REASONS</b>
<b>OF THE SOLID WASTE</b>	)	<b>FOR ADOPTION</b>
<b>RULES AND REGULATIONS</b>	)	

The Environmental Quality Council, pursuant to the authority vested in it by Wyoming Statute § 35-11-112(a)(i), has adopted revisions to Wyoming Solid Waste Rules and Regulations Chapter 1, General Provisions and Chapter 7, Financial Assurance.

The Department of Environmental Quality, Solid and Hazardous Waste Division (Division) proposed revisions to the definitions of Solid Waste Rules and Regulations Chapter 1. The Division proposed revisions to the defined terms that are used in Solid Waste Rules and Regulations. The Division proposed revisions to clarify the permit application format, the permit application procedure and the public notice and comment procedure. The Division proposed restructuring passages in the Chapter for clarity and formatting and grammar corrections.

The Division proposed revisions to Solid Waste Rules and Regulations Chapter 7 in order to modernize the financial assurance regulations, retain all financial instruments for use now and into the future, diversify the financial assurance portfolios, provide for immediate cash needs in the event of forfeiture, and ultimately reduce the reclamation liability risk to the State of Wyoming. Wyoming Statute § 35-11-504, recognizes surety bonds, self-bonds, federally insured certificates of deposit, cash, government securities, or irrevocable letters of credit as acceptable bond instruments. The Division proposed revisions to clarify the requirements for closure, post-closure, and corrective action cost estimates. The Division proposed revisions to clarify the requirements to participate in the State Guarantee Trust Account. The Division proposed restructuring passages in Chapter 7 for clarity and formatting and grammar corrections.

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Hearing Examiner – *Printed Name*  
Wyoming Environmental Quality Council

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Hearing Examiner – *Signed Name*  
Wyoming Environmental Quality Council

## CHAPTER 1

### GENERAL PROVISIONS

#### Section 1. In General.

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

(b) Definitions: In addition to the definitions in the Wyoming Environmental Quality Act, for the purpose of these rules and unless the context otherwise requires:

(i) "Act" means the Wyoming Environmental Quality Act, W.S. §§ 35-11-101 et seq.

(ii) "Active life" means the period of operation beginning with the initial receipt of solid waste and ending at completion of closure activities.

(iii) "Active portion" means that part of a facility or unit that has received or is receiving wastes and that has not been closed or reclaimed.

(iv) "Applicant" means that person, as defined in the Act, submitting an application to the Administrator for a permit for a solid waste management facility, who shall be:

(A) For a city owned facility, the city;

(B) For a county owned facility, the county;

(C) For a facility owned by any other public entity, that public entity;

(D) For an individual, the individual;

(E) For a corporation, the corporation; and

(F) For a sole proprietorship or partnership, the partnership or proprietorship.

(v) "Aquifer" means, in relation to all solid waste facilities except municipal solid waste landfills, a geologic formation, group of formations, or portion of a formation capable of yielding significant quantities of groundwater to wells or springs. For municipal solid waste landfills, "aquifer" means an underground geologic formation:

(A) Which has boundaries that may be ascertained or reasonably inferred;

(B) In which water stands, flows, or percolates;

(C) Which is capable of yielding to wells or springs significant quantities of groundwater that may be put to beneficial use; and

(D) Which is capable of yielding to wells or springs which produce a sustainable volume of more than one-half gallon of water per minute.

(vi) "Asbestos-containing solid wastes" or "asbestos" means solid wastes containing greater than one percent by weight asbestos in any of the asbestiform varieties of: chrysotile (serpentine), amosite (cummingtonite, grunerite), crocidolite (riebeckite), anthophyllite, actinolite, or tremolite, and which may be considered friable asbestos.

(vii) "Buffer zone" means that portion of the solid waste management facility which is not used for waste management activities but is reserved for the placement and operation of monitoring equipment or for preventing public access during specific waste disposal events, such as the disposal of friable asbestos. The fire lane may be within the buffer zone.

(viii) "Cell" means compacted solid wastes that are enclosed by natural soil or other cover material within a trench, unit, or area-fill in a land disposal facility.

(ix) "Cease Disposal" for the purposes of the Cease and Transfer Program created pursuant to W.S. §§ 35-11-528 through 532, means ceasing disposal of municipal solid waste.

(x) "Clean fill" means fill consisting solely of uncontaminated natural soil and rock, hardened asphalt rubble, bricks, and concrete rubble.

(xi) "Clean wood" means untreated wood which has not been painted, stained, or sealed. Clean wood does not include treated railroad ties, treated posts, paper, or construction/demolition wastes containing non-wood materials.

(xii) "Closed facility" means a regulated facility at which operations have been properly terminated in accord with an approved facility closure plan on file with the Solid and Hazardous Waste Division or the Water Quality Division and complying with all applicable rules and requirements concerning its stabilization.

(xiii) "Closure" in the context of a facility means the act of securing and stabilizing a regulated facility pursuant to the requirements of these rules. Closure of an individual unit means securing and stabilizing an individual unit of a facility, including the construction of final cover over disposal units that have reached their permitted capacity and may also be referred to as intermediate or phased reclamation.

(xiv) "Closure period" means the period of time during which a facility is

completing closure. The closure period begins when the facility ceases receipt of wastes. The closure period ends when the Administrator approves certification from a registered professional engineer confirming that the provisions of the closure plan have been carried out and that the facility has been closed in compliance with the closure standards specified in these rules.

(xv) "Commercial solid waste management facility" means any facility receiving a monthly average greater than 500 short tons per day of unprocessed household refuse or mixed household and industrial refuse for management or disposal excluding lands and facilities subject to W.S. § 35-11-402(a)(xiii).

(xvi) "Complete application" means a permit application that the Administrator has determined to contain all the information required to be submitted by the rules, in sufficient detail to allow a technical review of the information to commence.

(xvii) "Constituent" when used in the context of groundwater monitoring, generally means inorganic substances and organic compounds that may be found in groundwater and in particular the constituents that must be monitored in groundwater samples collected under the applicable chapter of the Solid Waste Rules and Regulations.

(xviii) "Construction/demolition landfill" means a solid waste management facility that accepts only inert construction waste, demolition waste, street sweepings, brush, or other material specifically approved by the Administrator. This excludes garbage, liquids, sludges, friable asbestos, and hazardous or toxic wastes.

(xix) "Construction/demolition waste" includes but is not limited to stone, clean and treated wood, concrete, asphaltic concrete, cinder blocks, brick, plaster and metal or other material specifically approved by the Administrator.

(xx) "Container" means any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

(xxi) "Corrective action" means all actions necessary to eliminate the public health threat or environmental threat from a release to the environment of pollutants from an operating or closed regulated facility and to restore the environmental conditions as required.

(xxii) "Cover material" means soil or other suitable material that is used to cover compacted solid wastes in a land disposal facility.

(xxiii) "Decommissioning" means removing all liquids and accumulated sludges, and cleaning a storage tank for its intended reuse or disposal.

(xxiv) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste material into or on any land or water so that such waste material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

(xxv) "Existing facility" means any facility that was receiving solid wastes on or before September 13, 1989.

(xxvi) "Existing unit" means any municipal solid waste landfill unit receiving solid waste as of October 9, 1993.

(xxvii) "Facility" means the total contiguous area described in the permit application and which is occupied by any solid waste management area, unit, site, process, or system and the operation thereof including, but not limited to, equipment, buildings, solid waste treatment, storage, transfer, processing, and disposal areas, buffer zones, monitor well systems, fire lanes, working area litter and access fences, systems for the remediation of releases to the environment, and perimeter access control fences. The term "facility" does not include contiguous or noncontiguous lands which may be owned or leased by the applicant which are not disturbed by solid waste management operations and which are external to the contiguous area occupied by the solid waste management area, unit, site, process, or system.

(xxviii) "Farming and ranching operation" means agricultural operations whose principal function is the growing of crops and the raising of livestock, but does not include large concentrated animal feeding operations as defined by the Water Quality Rules, Chapter 2, Appendix G.

(xxix) "Final cover" means cover material that is used to completely cover the top of a land disposal facility or unit, including, but not limited to, compacted soils, drainage layers, synthetic membranes, soil-cement admixtures, and topsoils.

(xxx) "Fire lane" means an area which does not contain combustible materials, including vegetation, and which can be utilized to provide access to firefighting equipment.

(xxxi) "Floodplain" means low land and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands that are inundated by the 100-year flood.

(xxxii) "Friable asbestos" means asbestos that, when dry, can be crumbled, pulverized or reduced to powder by hand pressure, and includes previously nonfriable asbestos after such previously nonfriable asbestos becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

(xxxiii) "Garbage" means any putrescible solid or semi-solid animal or vegetable waste material resulting from the handling, preparation, cooking, serving and consumption of food.

(xxxiv) "Green waste" means organic plant materials, such as yard trimmings, grass clippings, house and garden plants, tree trimmings, and brush. Green waste does not



include other putrescible waste including, but not limited to food waste, animal waste, and manure.

(xxxv) "Groundwater" means, in relation to all solid waste facilities except municipal solid waste landfills, water below the land surface in a saturated zone of soil or rock. For municipal solid waste landfills, "groundwater" means any water, including hot water and geothermal steam, under the surface of the land or the bed of any stream, lake, reservoir or other body of surface water, including water that has been exposed to the surface by an excavation such as a pit which:

(A) Stands, flows or percolates; and

(B) Is capable of being produced to the ground surface in sufficient quantity to be put to beneficial use.

(xxxvi) "Incineration" means the controlled process by which combustible solid wastes are burned and altered to noncombustible gases and other residues. A solid waste incineration facility is considered to be a solid waste management facility.

(xxxvii) "Incorporated city or town" shall mean a "first class city" or a "town" as defined in W.S. § 15-1-101(a).

(xxxviii) "Industrial landfill" means a solid waste management facility utilizing an engineered method of land disposal primarily for industrial solid waste.

(xxxix) "Industrial solid waste" means solid waste resulting from, or incidental to, any process of industry, manufacturing, mining or development of any agricultural or natural resources.

(xl) "Irrevocable letter of credit" means a negotiated financial instrument that is used to pay a beneficiary issued by a banking institution to guarantee payment.

(xli) "Landfill" means a solid waste management facility for the land burial of solid wastes, utilizing an engineered method of controls to avoid creating a hazard to the public health, the environment, plants, or animals.

(xlii) "Lateral expansion" of a facility means the horizontal enlargement of the boundaries of a solid waste management facility. Lateral expansion of a disposal unit means the horizontal enlargement of the permitted waste boundaries of a disposal unit.

(xlili) "Liabilities" means obligations to transfer assets or provide services to other entities in the future as a result of past transactions including off-balance sheet liabilities.

(xliv) "Lower explosive limit" means the lowest percent by volume of a mixture of explosive gases in air that will propagate a flame at 25° Celsius and atmospheric

pressure.

(xiv) "Low hazard or low volume treatment, processing, storage, and transfer facility" means a solid waste management facility which accepts only solid wastes as described in this subsection. This provision does not apply to facilities whose owner or operator simultaneously owns or operates more than one such solid waste management facility within one mile of each other.

(A) Mobile transfer, treatment, and storage facilities.

(B) Clean wood waste storage facilities: Facilities storing clean wood waste in storage piles with a combined base surface area larger than 10,000 square feet or containing greater than 100,000 cubic feet of clean wood waste. So long as clean wood waste at such facilities is stored no less than 100 feet from off-site structures, storm water is properly managed, and the pile does not create a public or private nuisance.

(C) Solid waste transfer, treatment, storage, and processing facilities: Solid waste transfer, treatment, storage, and processing facilities receiving fifty cubic yards or less of solid waste per day and occupying no more than ten acres, including a twenty-foot buffer zone within a fenced facility boundary, which individually or in combination manage no more than the specified types and quantities of the following wastes:

(I) Paper, cardboard, plastic, aluminum cans, glass, and metal, or other nonputrescible municipal solid wastes which may be specifically authorized by the Administrator, for the primary purposes of transfer to a recycling facility or beneficial reuse in a manner approved by the Administrator. This provision applies to the sorting, shredding, grinding, crushing, baling, and storage of these wastes, except CRTs as noted below, prior to transfer to a recycling facility or approved beneficial reuse site; and

(II) 5,000 gallons of used oil; and

(III) 5,000 gallons of used antifreeze; and

(IV) 1,000 scrap tires stored in compliance with standards in Chapter 8 of these rules, if the scrap tires are stored to be recycled, reclaimed, reused, or are destined for disposal at a permitted facility; and

(V) Green waste and clean wood waste storage piles, and

(VI) Compost piles for green waste and manure operated in a manner that does not create odors, constitute a nuisance, or attract vectors; and

(VII) Household hazardous waste collected no more frequently than quarterly collection days, provided that the household hazardous waste collected is removed from the site and transported to a permitted facility within thirty days of receipt; and

(VIII) 50 cubic yards of electronic waste, other than CRTs, stored in containers; and

(IX) 50 cubic yards of CRTs stored intact in containers and kept whole without any shredding, grinding, crushing, or baling; and

(X) 500 lead acid batteries, if the batteries are stored in an upright position and are not leaking, for the purpose of transfer to a recycling facility; and

(XI) 100 cubic yards of construction and demolition waste stored in containers; and

(XII) 150 cubic yards of mixed solid wastes stored in containers and animal mortality managed in mixed municipal solid waste or separate containers.

(D) Commercially operated used oil management facilities: Used oil collection centers, aggregation points, transfer facilities, processors, re-refiners, burners, and used oil fuel marketers that store greater than 10,000 gallons of used oil to be recycled or burned for energy recovery, subject to the used oil management requirements contained in the Wyoming Hazardous Waste Rules and Regulations.

(E) Facilities storing waste, other than construction/demolition waste, for transfer to a recycling facility: Facilities occupying no more than ten acres and used only for the transfer, treatment, and storage of less than 500 short tons received per day of paper, cardboard, plastic, aluminum cans, glass, metal, clean wood, and other nonputrescible municipal solid wastes which may be specifically authorized by the Administrator, for the primary purposes of transfer to a recycling facility or beneficial reuse in a manner approved by the Administrator. This provision applies to the sorting, shredding, grinding, crushing, baling, and storage of these wastes prior to transfer to a recycling facility or approved beneficial reuse site. This provision does not apply to facilities that manage scrap tires or CRTs.

(F) Facilities storing construction/demolition waste for transfer to a recycling facility: Facilities occupying no more than ten acres and used only for the transfer, treatment, and storage of less than 500 short tons received per day of construction/demolition waste authorized by the Administrator, for the primary purposes of transfer to a recycling facility or beneficial reuse in a manner approved by the Administrator. This provision applies to the sorting, shredding, grinding, crushing, baling, and storage of these wastes prior to transfer to a recycling facility or approved beneficial reuse site. This provision applies only if all waste management activities occur either indoors or outdoors in containers. This provision does not apply to scrap tire or electronic waste management facilities.

(G) Facilities not considered low hazard or low volume: Transfer,

treatment, storage, and processing facilities managing wastes or materials having or exhibiting one or more of the following criteria or characteristics are not low hazard and low volume waste management facilities. Exceptions may be granted by the Administrator based on consideration of concentration and volumes of wastes to be managed:

- (I) Toxicity, Carcinogenicity, Ignitability, Flammability, Explosivity, Instability, Corrosivity, Incompatibility;
- (II) Special wastes as defined in this subsection;
- (III) Medical/infectious wastes, PCB-containing wastes;
- (IV) Excluded hazardous wastes as defined in 40 CFR part 261, or the Department's Hazardous Waste Rules;
- (V) Wastes that have the potential to create odor, vector, dust, or other nuisances;or
- (VI) Wastes that in the evaluation of the Administrator have a significant potential to impact public health or the environment, unless the operator of a proposed facility can demonstrate by submittal of a waste analysis and characterization plan that the waste treatment, processing, storage, or transfer activity can be considered a low hazard and low volume waste management activity consistent with the Act.

(xlvi) "Major Change" means a change to any solid waste management facility location, design or construction, or to any operating, monitoring, closure or post-closure activities, involving one or more of the following items:

- (A) The total permitted volumetric capacity of the facility is to be increased by more than five percent;
- (B) The effectiveness of any liner, leachate collection or detection system, gas detection or migration system, or pollution control or treatment system may be reduced; or
- (C) The facility modification will, in the judgment of the Administrator, be likely to alter the fundamental nature of the facility's activities.

(xlvii) "Mixed household and industrial refuse" means any mixture of municipal solid wastes, industrial solid wastes, or sludge.

(xlviii) "Mixed solid waste" means municipal solid waste and industrial solid waste.

(xlix) "Mobile transfer, treatment and storage facility" means a facility which is mobilized to conduct transfer, treatment or storage of a solid waste at or near the

point of generation.

(l) "Monitoring" means all procedures and techniques used to systematically collect, analyze and inspect data on operational parameters of the facility or on the quality of the air, groundwater, surface water and soil.

(li) "Municipal solid waste" means solid waste resulting from or incidental to residential, community, trade or business activities, including garbage, rubbish, dead animals, abandoned automobiles and all other solid waste other than construction and demolition, industrial or hazardous waste.

(lii) "Municipal solid waste landfill" (MSWLF) means a solid waste management facility for the land burial of municipal solid waste that utilizes an engineered method of controls to avoid creating a hazard to the public health, the environment, plants, or animals.

(liii) "Municipal solid waste landfill unit" means a discrete area of land or an excavation that receives municipal solid waste and that is not a land application unit, surface impoundment, injection well, or waste pile. A MSWLF unit may also receive other types of Resource Conservation and Recovery Act Subtitle D waste such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Such a landfill unit may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion of an existing MSWLF unit. A construction and demolition landfill that receives residential lead-based paint waste and does not receive any other household waste is not a MSWLF unit.

(liv) "Net worth" means total assets minus total liabilities including on and off-balance sheet liabilities.

(lv) "New facility" means:

(A) Any facility that did not receive solid waste on or before September 13, 1989; or

(B) Any modification or lateral expansion of an original permit boundary for the purpose of increasing capacity or site life by more than five percent. An incidental facility boundary enlargement for the development of, but not limited to fire lanes, buffer zones, surface water diversion systems, and monitoring systems which are not in conflict with local zoning, land use, or land ownership is not considered to be a new facility.

(lvi) "New municipal solid waste landfill unit" means any municipal solid waste landfill unit that did not receive waste prior to October 9, 1993.

(lvii) "Occupied dwelling house" means a permanent building or fixed mobile home that is currently being used on a permanent or temporary basis for human habitation.

(lviii) "100-year floodplain" means an area where a flood has a one-percent or greater chance of recurring in any given year or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period.

(lix) "On-site decommissioning" means decommissioning performed within a facility's property boundary.

(lx) "Open burning" means uncontrolled burning of solid waste in the open.

(lxi) "Open dump" means an uncontrolled solid waste management facility at which solid wastes are placed on the land in such a manner that they present a real or potential hazard to public health and the environment. Open dump includes any solid waste management facility subject to the permitting requirements of these rules which does not have a current, valid permit.

(lxii) "Operator" means the applicant who has been granted a permit, who may manage and operate the solid waste management facility or who may hire another person, who shall be known as the solid waste manager, for these responsibilities.

(lxiii) "Petroleum-contaminated soils" means solid waste consisting of any natural or manmade soil or rock material into which petroleum product has been added, excluding hardened asphalt rubble.

(lxiv) "Petroleum product" means any crude oil or any liquid petroleum fraction including but not limited to gasoline, diesel fuels, and used and unused motor oils.

(lxv) "Pile" means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

(lxvi) "Plans" means maps, specifications, drawings and narrative description, prepared to describe the solid waste management facility and its operation.

(lxvii) "Population" when used in the context of statistical evaluations of groundwater data, means the total set of all possible concentration measurements for any given constituent.

(lxviii) "Post-closure period" means the period of time during which a closed facility is maintained and monitored. The post-closure period begins when the Administrator approves certification from a registered professional engineer confirming that the provisions of the closure plan have been carried out and that the facility has been closed in compliance with the closure standards specified in these rules

(lxix) "Principal officer" means an officer described in the bylaws of a corporation or appointed by the board of directors in accordance with the bylaws who serves

at least at the level of vice president.

(lxx) "Private industrial solid waste disposal facility" means any industrial solid waste disposal facility used solely for the disposal of solid waste generated by the owner of the facility where wastes are not transported over public roadways for delivery to the facility and access by persons other than employees of the facility owner is restricted.

(lxxi) "Processing plant" means a solid waste management facility used or designed to transfer, shred, grind, bale, compost, salvage, separate, reclaim or provide other treatment of solid wastes.

(lxxii) "Recycling facility" means a facility where used or waste materials are processed or broken down into raw materials which are then used to make or produce new items or products.

(lxxiii) "Release" includes, but is not limited to, any spilling, leaking, pumping, pouring, emptying, emitting, discharging, dumping, addition, escaping, leaching, or unauthorized disposal of any oil or hazardous substance which enters, or threatens to enter, waters of the state.

(lxxiv) "Routine cover" means cover material that is applied to the top and side slopes of compacted solid wastes at the end of each operating day.

(lxxv) "Salvaging" means the controlled removal by the operator or his or her agent of solid waste from a solid waste management facility for the purpose of reuse.

(lxxvi) "Sanitary landfill" means a municipal solid waste landfill.

(lxxvii) "Scavenging" means the removal by persons other than the operator or his agent of solid wastes from any solid waste management facility.

(lxxviii) "Scrap tire" means a tire that is no longer used for its original purpose.

(lxxix) "Seismic impact zone" means an area with a ten percent or greater probability that the maximum horizontal acceleration in hard rock, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10g in 250 years.

(lxxx) "Self-bond" means an indemnity agreement in a sum certain made payable to the State, with or without separate surety. The indemnity agreement is signed by the operator and, if applicable, the operator's ultimate parent guarantor.

(lxxxi) "Silviculture waste" means any wood wastes generated during the management and development of forests. This includes but is not limited to all wood wastes that are generated during the operation of a sawmill.

(lxxxii)"Sludge" means the accumulated semisolid mixture of solid wastes and water, oils, or other liquids.

(lxxxiii)"Solid waste manager" means any person designated by the applicant who has primary responsibility for the daily management and operation of the solid waste management facility.

(lxxxiv)"Solid waste management unit" means a contiguous area of land on or in which solid waste is placed, or the largest area in which there is significant likelihood of mixing solid waste constituents in the same area of a solid waste management facility. Examples of solid waste management units include a surface impoundment at a solid waste management facility, a waste pile, a land treatment area, a municipal, construction/demolition, or industrial landfill unit, an incinerator, a tank and its associated piping and underlying containment systems at a solid waste management facility and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

(lxxxv)"Solid waste petroleum storage tank" means any underground or aboveground storage tank that has been taken out of service and which contained any petroleum substance, including but not limited to motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(lxxxvi)"Special wastes" are those wastes which require special handling as described in Chapter 8 of these rules.

(lxxxvii)"Storage" means the holding of solid waste for a temporary period, at the end of which time the solid waste is treated, disposed of, or stored elsewhere.

(lxxxviii)"Storage facility" means any facility that stores solid waste for a temporary period, at the end of which time the solid waste is treated, disposed, or stored elsewhere.

(lxxxix)"Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments include, but are not limited to holding, storage, settling, and aeration pits, ponds and lagoons.

(xc) "Tangible net worth" means net worth minus intangibles such as goodwill, patents or royalties.

(xci) "Tank" means a stationary device designed to contain an accumulation of waste that is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) that provide structural support and integrity.



(xcii) "Topsoil" means all surface soil usually including the organic layer in which plants have most of their roots, or in the case where no topsoil is present, the top six inches of in-place native material.

(xciii) "Transfer of waste" means the temporary holding of solid waste pending transportation of the solid waste for treatment, storage, or disposal.

(xciv) "Transfer facility" means any solid waste transportation related facility including loading docks, parking areas, storage areas and ancillary features.

(xcv) "Treatment" means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid waste so as to recover energy or material resources from the waste or so as to render it safer to transport, store, or dispose of, or to make it amenable for recovery, use, or storage, or for reduction in volume. Treatment includes but is not limited to baling, chipping, composting, distilling, incinerating, processing, reconditioning, recovering, recycling, re-refining, reclaiming, and shredding.

(xcvi) "Treatment facility" means any facility that treats solid waste. Types of treatment facilities include but are not limited to solid waste incinerators, tire shredding/chipping facilities, tire pyrolysis plants, solid waste shredding or baling facilities, drum and barrel reconditioning/recycling facilities, composting facilities, and facilities used to distill, re-refine, recover, recycle, or incinerate used antifreeze, oils or solvents.

(xcvii) "Ultimate parent guarantor" means an entity not controlled by any other entity and is the topmost responsible entity which owns or controls the operator and is the guarantor for a self-bond.

(xcviii) "Unprocessed household refuse" means municipal solid wastes which have not been treated, processed, or recycled at a facility subject to the requirements of these rules.

(xcix) "Unstable area" means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

(c) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically connected with this aquifer within the facility's property boundary.

(ci) "Used antifreeze" means any antifreeze that has been used and new antifreeze which has not been used for its intended purpose but is being discarded.

(cii) "Used oil" means any oil that has been refined from crude oil, or any

synthetic oil, that has been used and new oil which has not been used for its intended purpose but is being discarded. Used oil does not include animal or vegetable oil.

(ciii) "Used tire" means a tire that cannot be described as new, but which is structurally intact and, for passenger tires, has a tread depth greater than two thirty-seconds (2/32) of an inch. A used tire can be mounted on a vehicle's rim without repair.

(civ) "Vadose zone" means the unsaturated zone between the land surface and the water table.

(cv) "Vector" means a carrier capable of transmitting a pathogen from one organism to another, including flies, mosquitoes, skunks, or rodents.

(cvi) "Waste management unit boundary" for the purpose of establishing a relevant point of compliance for municipal solid waste landfills, "waste management unit boundary" means a vertical surface located at the hydraulically downgradient limit of the municipal solid waste landfill unit. This vertical surface extends down to the uppermost aquifer.

(cvii) "Waste pile" means any noncontainerized accumulation of solid waste used for treatment or storage of solid waste.

(cviii) "Water table" means the seasonally high surface of groundwater which is subject to atmospheric pressure in an unconfined aquifer. Water table does not mean the piezometric surface of a confined aquifer.

(cix) "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.

(cx) "Working face" means that portion of the land disposal site where solid wastes are being deposited and are being spread and compacted prior to the placement of cover materials.

(c) Permit required for new and existing facilities:

(i) A permit or a one-time or emergency disposal authorization is required for the location, construction, operation or closure of any new or existing solid waste management facility. All facilities shall be located, designed, constructed, operated and closed in accordance with the permit or disposal authorization issued by the Director or Administrator.

(ii) A permit or disposal authorization may not be required for the facilities or activities specified in subsection (f) of this section.

(iii) Any facility that is regulated under more than one Chapter of these rules can apply for and receive a single solid waste management permit if the operator demonstrates compliance with each applicable Chapter.

(d) Recordkeeping, monitoring and reporting requirements:

(i) Operators of any solid waste management facility will be required to establish and maintain monitoring equipment or methods, sample effluent discharges or emissions, or provide such other information as may be reasonably required and specified by the Administrator.

(ii) All records required by these rules shall be maintained by the operator of the facility for a minimum of three years from the date of recording, except for those records required to be kept through the life and post-closure period of the facility as specified in these rules. All records shall be available for inspection and copying by Department personnel during reasonable business hours. Copies of these records shall be submitted to the Administrator when requested.

(e) The following acts are prohibited:

(i) Open dumping;

(ii) Scavenging and animal feeding at active solid waste management facilities;

(iii) Dumping bulk liquid wastes at solid waste management facilities unless specifically authorized by the Administrator;

(iv) Dumping hazardous wastes (other than hazardous wastes generated by residential households and conditionally exempt small quantity waste generators) in any facility other than a facility authorized as a hazardous waste disposal facility by these rules unless specifically authorized by the Administrator;

(v) Open burning of any wastes not exempted in subsection (f) of this section; and

(vi) Speculative accumulation of solid wastes at a facility intended for use as a solid waste management facility without a permit.

(f) Exemptions: The Administrator may exempt the following from a permit or any requirement to obtain a waste management authorization under these rules, provided that persons engaged in such activities may be required to supply information to the Administrator which demonstrates that the act, practice, or facility is exempt, and shall allow entry of Department inspectors for purposes of verification of such information:

(i) Auto salvage yards and scrap metal dealers: Baling of used motor vehicles or scrap metals, and operation of metal smelters regulated by the Air Quality Division and storage for sale or reuse of used motor vehicles, motor vehicle parts, or scrap metals at auto salvage yards or scrap metal dealers as authorized under W.S. § 31-13-114, provided that for used oil, used antifreeze, tires, and lead acid batteries the following storage accumulation limits are not exceeded:

(A) 1,000 scrap tires, excluding any scrap tires remaining on wheels attached to vehicles;

(B) 1,000 gallons of used motor oil;

(C) 1,200 used lead acid batteries, excluding any used lead acid batteries remaining in vehicles, if the batteries are being stored in an upright position and are not leaking, for the purpose of being transferred to a recycling facility; and

(D) 500 gallons of used antifreeze, if the antifreeze is being stored to be recycled, and the owner or operator only stores used antifreeze they generate or receive from do-it-yourself antifreeze changers or other similar sources.

(ii) Single family units or households: The collection, storage and disposal of household wastes generated by a single family unit or household on their own property in such a manner that does not create a health hazard, public or private nuisance, or detriment to the environment.

(iii) Clean fill: The disposal or beneficial use of clean fill in such a manner that does not create a health hazard, public or private nuisance or detriment to the environment.

(iv) Clean wood waste storage facilities: Facilities storing clean wood waste in storage piles with a base surface area no larger than 10,000 square feet containing no greater than 100,000 cubic feet of clean wood waste. Clean wood waste at such facilities shall be stored no less than 100 feet from off-site structures, and the pile shall not create a public or private nuisance.

(v) De minimis waste management activities: The management of solid wastes, which in the judgement of the Administrator, constitute de minimis quantities which are managed in a manner that does not create a health hazard, public or private nuisance, or detriment to the environment.

(vi) Retail business facilities: Retail business facilities which have fewer than 1,000 scrap tires on the premises at any one time.

(vii) Facilities that store lead acid batteries: A retail business facility or a solid waste storage or transfer facility used only for the storage or transfer of no more than 1,200 used lead acid batteries for the purpose of transfer to a recycling facility, if the

batteries are stored in an upright position and are not leaking.

(viii) Commercially operated used oil management facilities: Used oil collection centers, aggregation points, transfer facilities, processors, re-refiners, burners, and used oil fuel marketers that store no more than 10,000 gallons of used oil to be recycled or burned for energy recovery, provided the storage tanks are properly labeled, and subject to the used oil management requirements contained in the Wyoming Hazardous Waste Rules.

(ix) Used oil generators: Used oil generators subject to the used oil management requirements contained in the Wyoming Hazardous Waste Rules.

(x) Facilities storing waste, other than construction/demolition waste, for transfer to a recycling facility: A solid waste storage, treatment, or transfer facility occupying no more than five acres and used only for the storage, treatment, or transfer of paper, cardboard, plastic, aluminum cans, glass, metal, clean wood, construction/demolition waste, and other nonputrescible municipal solid wastes, for the primary purposes of transfer to a recycling facility or beneficial reuse in a manner approved by the Administrator. Unless all waste management occurs indoors, the facility shall maintain a twenty-foot buffer zone/fire lane separating waste from a fenced facility boundary. This exemption applies to the sorting, shredding, grinding, crushing, baling and storage of these wastes prior to transfer to a recycling facility or approved beneficial reuse site. This exemption does not apply to facilities that manage scrap tires, CRTs, or that decommission petroleum storage tanks.

(xi) Facilities storing construction/demolition waste for transfer to a recycling facility: A solid waste storage, treatment, or transfer facility occupying no more than one acre and used only for the storage, treatment, or transfer of construction/demolition waste for the primary purposes of transfer to a recycling facility or beneficial reuse in a manner approved by the Administrator. Unless all waste management occurs indoors, the facility shall maintain a twenty-foot buffer zone/fire lane separating waste from a fenced facility boundary. This exemption applies to the sorting, shredding, grinding, crushing, baling, and storage of these wastes prior to transfer to a recycling facility or approved beneficial reuse site. This exemption does not apply to facilities that manage scrap tires, electronic waste, or that decommission petroleum storage tanks.

(xii) Solid waste transfer, treatment, storage, and processing facilities: Solid waste transfer, treatment, storage, and processing facilities receiving twenty cubic yards or less of solid waste per day and occupying no more than five acres, including a twenty-foot buffer zone within a fenced facility boundary, which individually or in combination manage no more than the quantities of wastes specified in this subsection. This exemption does not apply to facilities whose owner or operator simultaneously owns or operates more than one transfer facility within one mile of each other.

(A) 50 cubic yards of mixed solid wastes stored in containers;

(B) 50 cubic yards of construction and demolition waste stored in containers;

- (C) Green waste and clean wood waste storage or compost piles;
  - (D) Compost piles for green waste and manure operated in a manner that does not create odors, constitute a nuisance, or attract vectors;
  - (E) 500 scrap tires stored in a manner that prevents fires and vector habitat;
  - (F) 20 cubic yards of electronic waste, except CRTs, stored in containers for shipment to a recycling facility;
  - (G) 20 cubic yards of CRTs stored intact in containers and kept whole without any shredding, grinding, crushing, or baling. Devices containing CRTs, such as televisions and computer monitors, may be disassembled, but the CRTs shall remain intact. If inadvertently broken, CRTs must be promptly containerized for proper management;
  - (H) 1,000 gallons of used oil;
  - (I) 1,000 gallons of used antifreeze, if the used antifreeze is stored to be recycled, reclaimed, or reused;
  - (J) 250 used lead acid batteries, if the batteries are stored in an upright position and are not leaking, for the purpose of transfer to a recycling facility;
  - (K) 150 cubic yards of paper, cardboard, plastic, aluminum cans, glass, and metal, or other nonputrescible municipal solid wastes which may be specifically authorized by the Administrator, for the primary purposes of transfer to a recycling facility or beneficial reuse in a manner approved by the Administrator. This provision applies to the sorting, shredding, grinding, crushing, baling, and storage of these wastes prior to transfer to a recycling facility or approved beneficial reuse site; and
  - (L) Household hazardous waste collected no more frequently than semiannual collection days, provided that the household hazardous waste collected is removed from the site and transported to a permitted facility within thirty days.
- (xiii) Vehicle service and maintenance facilities: In addition to used oil stored pursuant to this subsection, used antifreeze storage tanks located at vehicle service facilities, provided the storage tanks are properly labeled, have a used antifreeze storage capacity of no more than 500 gallons, and are used only to contain used antifreeze that the owner or operator generates or receives from do-it-yourself antifreeze changes.
- (xiv) Medical waste management facilities: Medical waste storage units, incinerators, autoclaves, or other treatment devices, used to store or treat only medical wastes which are generated by the owner or operator of the medical facility or by doctor's offices,

medical clinics, dental offices and other medical waste generators within the county or local area where the medical waste storage units, incinerators, autoclaves, or other treatment devices are located.

(xv) Beneficial use: The reuse of wastes in a manner which is both beneficial and protective of human health and the environment, and conducted in a manner approved by the Administrator.

(xvi) Household hazardous waste collection events: -The collection of household hazardous waste on no more than a quarterly basis by the operator of a permitted solid waste facility or by a person at a site where landowner consent has been obtained. Collected household hazardous waste must be removed from the collection site within thirty days and transported to a permitted facility for proper management.

(xvii) An exemption or solid waste management permit are not required for facilities which are not solid waste facilities as defined by W.S. § 35-11-103(d)(ii).

(g) Inspections:

(i) No permit, authorization or exemption shall be issued unless the owner of the facility provides written authorization for the Department's authorized representative, upon the presentation of credentials and other documents as may be required by law, to access and enter upon the operator's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of a permit, authorization or exemption; have access to and copy, at reasonable times, any records that must be kept under the conditions of any permit, authorization or exemption; inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the Act; and collect resource data, sample or monitor at reasonable times, for the purposes of ensuring compliance or as otherwise authorized by the appropriate rules of the Department, any substances or parameters at any location.

(ii) Inspections shall be conducted at the discretion of the Administrator and may consist of:

- (A) Pre-application inspections;
- (B) Preconstruction inspections;
- (C) Construction inspections;
- (D) Closure, post-closure, and annual operational compliance inspections; and
- (E) Routine or complaint-related inspections.

(iii) The operator shall allow Department personnel entry to the facility for

the purpose of inspection. Department personnel shall not be required to provide advance notice or a waiver of liability as a condition of entry to any facility for the purpose of conducting any solid waste management facility compliance inspection.

(iv) The Administrator shall provide copies of all inspection reports to the operator following completion of the inspection.

(v) The inspection requirements for municipal solid waste landfills with lifetime permits are in Chapter 2 of these rules.

(vi) Following any inspection by Department personnel, the operator will be notified in writing of any deficiencies within forty-five days from the date of the inspection unless the Department is waiting to receive additional information from the operator.

(h) Financial assurance: No permit or permit amendment shall be issued for any regulated facility unless the operator provides financial assurance, in accordance with Chapter 7 of these rules, that ensures there are adequate sources of funds to provide for closure, post-closure, and corrective action.

## **Section 2. Permit Application Procedure.**

(a) Application requirements: Each application for a solid waste management facility permit shall contain information adequate to demonstrate compliance with the minimum standards for location, design and construction, operating, monitoring, closure and post-closure as specified in the applicable chapter of these rules. Permit application procedures are set out in W.S. § 35-11-502, except general permit procedures for closure of municipal solid waste landfills with less than thirty acres of municipal solid waste disposal area, which are set forth in Section 2(h) of this Chapter.

(b) Permit application format: For all permit applications, amendments, transfers, and one-time or emergency waste management authorizations, shall be submitted in a format approved by the Administrator. The information in the application shall be presented in an order that conforms to the order set forth in the applicable sections of these rules, unless the Administrator approves an alternate format for the organization of the application.

(i) For permit amendments, the application shall include a description of the amendment sought, including additional plates or drawings as necessary to completely describe the proposed amendment.

(ii) For resubmittal of permit applications or submittal of supplemental information, the applicant shall have the option to submit copies of only the updated and revised portion of the application, if the revised and updated pages and drawings are appropriately numbered and dated to facilitate incorporation into the previous permit document and the revisions are clearly identified using strikethrough and underline



presentation of words unless the Administrator approves an alternate format.

(c) Public notice and comment: Each application for a new, renewal, or closure permit shall be submitted for public notice and comment as follows:

(i) Upon receipt of notification that the application has been determined to be complete, the applicant shall comply with the following requirements:

(A) Within fifteen days of being notified that the application is complete:

(I) Provide written notice to landowners with property located within a half mile of the site, using certified, return receipt requested mail for disposal facilities and first-class mail for other solid waste management facilities;

(II) Provide written notice to each member of the interested parties mailing list maintained by the Administrator, 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, using first-class mail;

(III) Cause a written notice to be published once a week for two consecutive weeks in a newspaper of general circulation within the county where the applicant plans to locate the facility; and

(IV) Specific text for the written notice shall be provided to the applicant by the Administrator. The notice shall contain information about the permit application including the identity of the applicant, the proposed facility location and size, the wastes types intended for management, the method of waste management, and the operating life. The notice shall identify the last date for filing comments on the application;

(B) Provide the Administrator with documentation that the notice requirements of subsection (c)(i)(A) of this section have been followed. Documentation shall consist of copies of return receipt cards, publisher's affidavits and other documentation, as appropriate; and

(C) The public comment period shall begin on the first date of publication and shall end at 5:00 pm on the thirtieth day following the last date of publication.

(D) The Administrator may, at his or her discretion, conduct a public hearing on the application submission.

(ii) For each new, renewal, or closure permit application or any application for a major change, the Administrator shall issue a proposed permit following completion of the Administrator's permit analysis, unless the permit is denied pursuant to Section 4 of this Chapter. Upon receipt of a proposed permit, the applicant shall comply

with the following requirements:

(A) Within fifteen days of receiving a proposed permit:

(I) Provide written notice to landowners with property located within a half mile of the site, the mayor of each city or town within fifty miles of the proposed facility, the local county commission and any solid waste district for the county in which the potential facility is located, using certified, return receipt requested mail for disposal facilities and first-class mail for other solid waste management facilities;

(II) Provide written notice to each member of the interested parties mailing list maintained by the Administrator using first-class mail;

(III) Cause a written notice to be published once a week for two consecutive weeks in a newspaper of general circulation within the county where the applicant plans to locate the facility; and

(IV) Specific text for the written notice shall be provided to the applicant by the Administrator. The notice shall contain information about the permit application including the identity of the applicant, the proposed facility location and size, the wastes types intended for management, the method of waste management, the operating life, and the Administrator's findings. The notice shall identify the period for filing objections to the application;

(B) Provide the Administrator with documentation that the notice and filing requirements of subsection (c)(ii)(A) of this section have been followed. Documentation shall consist of copies of return receipt cards, and publisher's affidavits or affidavits of personal delivery as appropriate.

(C) The public comment period shall begin on the first date of publication and shall end at 5:00 pm on the thirtieth day following the last date of publication.

(D) Any interested person may submit written objections no later than 5:00 pm Mountain Time on the last day of the public comment period. If substantial written objections are received by the Director, a public hearing will be held in accordance with W.S. § 35-11-502(k).

(d) Permit renewal applications:

(i) In addition to the following requirements, permit renewal applications are subject to the application procedures set forth in W.S. § 35-11-502 and subsections (a), (b), and (c) of this section.

(ii) The operator subject to solid waste management facility permit requirements shall provide the Administrator with a renewal application. The permit renewal

application shall contain the information specified in the relevant chapter(s) of these rules and be submitted in accordance with the time frames specified.

(iii) Except for municipal solid waste landfills with lifetime permits, issued under Chapter 2 of these rules shall submit a permit renewal application no less than twelve months prior to the expiration of said permit unless a closure permit application has been submitted. Municipal solid waste landfills with lifetime permits shall submit a renewal application no later than three years prior to the expiration of the lifetime municipal solid waste landfill permit. The renewal application shall contain the information specified in the applicable chapter of these rules.

(e) Closure permit applications:

(i) In addition to the following requirements, closure permit applications are subject to the application procedures set forth in W.S. § 35-11-502 and subsections (a), (b), and (c) of this section.

(ii) The operator shall provide the Administrator with a closure permit application if required by the applicable chapter of these rules in accordance with the time frames specified therein.

(iii) Anticipated closure: The operator of a facility with a valid permit shall submit a closure permit application to the Administrator no less than twelve months prior to the anticipated facility closure.

(iv) Unanticipated closure: In the event any solid waste management facility ceases operation, as determined by nonreceipt of solid wastes for any continuous nine month period or any continuous one year period for landfarm facilities or petroleum-contaminated soils land treatment facilities, the facility operator shall provide written notification to the Administrator no later than thirty days after the end of such nine month (or one year) period. This notification shall be accompanied by a closure permit application unless the Administrator approves interim measures with delayed final closure for good cause upon application by the operator.

(f) Variance application procedure for location standards specified in W.S. § 35-11-502(c):

(i) For solid waste disposal facilities which do not meet the location standards specified in paragraphs (i) through (iv) of W.S. § 35-11-502(c), the applicant may apply to the Director for a variance from the standards by submitting a written variance application. The variance application shall contain the following information:

(A) For proposed facilities which do not meet the location standards for proximity to towns, schools or any occupied dwelling house in W.S. § 35-11-502(c)(i) or (ii), the applicant shall:

(I) Present an analysis of additional traffic which would result from the proposed facility, and demonstrate that additional traffic caused by operation of a disposal facility will not pose a safety threat to the public;

(II) Demonstrate that the operation of the proposed facility will not present odor, dust, litter, insect, noise, health (human and animal) or aesthetic problems, and will not present a public nuisance by its proximity to the town, schools or dwellings. This demonstration may be made through analysis of the facility design and operation practices; and

(III) Provide design features and monitoring specifications used to preclude methane migration from affecting any buildings within one mile of the proposed facility, if the facility is used for the disposal of wastes which may form methane as a decomposition product.

(B) For proposed facilities which do not meet the location standard for proximity to, and visual screening from, state or federal highways in W.S. § 35-11-502(c)-(iii), the applicant shall provide information describing how the design and operation of the facility will minimize visual impacts to the highway(s).

(C) For proposed facilities, excluding incinerators, which do not meet the location standard for proximity to water wells in W.S. § 35-11-502(c)(iv), the applicant shall provide:

(I) A detailed description of the site's geologic and hydrologic characteristics, supported by data from on-site soil borings and groundwater monitoring wells;

(II) A detailed description of the proposed facility's containment system (cap and liner systems) and surface water diversion structures;

(III) A detailed description of the groundwater monitoring program (including location of wells, sampling frequency and sampling parameters) which would be instituted when the facility begins operations; and

(IV) An analysis of the potential for contaminants which may leak from the disposal facility to adversely affect the nearby water well(s). This analysis may be in the form of contaminant transport modeling results, an evaluation of hydrologic conditions or aquifer properties, or other applicable information.

(D) In addition to the other information requested in this subsection, all variance applications made under this subsection shall be accompanied by the following information:

(I) The proposed size of the facility;

applicant;

(II) The name, address and telephone number of the

(III) The legal description of the property;

(IV) A detailed description of the facility which includes information on the amount, rate (tons per day), type (including chemical analyses if other than household refuse) and source of incoming wastes, a narrative describing the facility operating procedures, and the estimated site capacity and site life;

(V) The names and addresses of the property owners of all lands within one mile of the proposed facility boundary;

(VI) A USGS topographic map (scale of 1:24,000 or 1: 62,500) which shows the boundaries of the proposed landfill site or other suitable topographic map may be submitted if a 1:24,000 map is unavailable; and

(VII) Information sufficient to evaluate the conditions specified in paragraph (i)(ii) of this section.

(ii) In granting any variance as provided by this paragraph, the Director shall issue written findings that the variance will not injure or threaten to injure the public health, safety, or welfare. The Director shall only make such a finding if the evidence presented in the application and obtained at a public hearing demonstrates that:

(A) There are no available alternative locations which meet the location standards to meet the disposal needs of the applicant, within a reasonable distance of the boundary of the service area of the facility;

(B) It is not possible to use existing facilities owned by another person within a reasonable distance of the boundary of the service area of the facility; and

(C) Special or unique conditions or circumstances apply to the applicant and justify granting the variance.

(iii) In granting any variance the Director shall condition the variance such that it applies only to the facility described in the application. Changes to the facility size, type or source of waste, rate at which waste is received, or any other aspect of the facility may render the variance invalid as determined by the Director.

(iv) The Administrator shall review the variance application within ninety days of the receipt of the application. If the application is incomplete or technically inadequate, the Administrator shall so advise and state in writing to the applicant the information required. Additional information submitted in response to any deficiency notification shall be reviewed by the Administrator within ninety days.

(v) If the application is complete and technically adequate the Administrator shall provide draft findings and recommendations to the Director and the applicant. The draft findings shall state whether or not the Administrator has found that the variance will not injure or threaten to injure the public health, safety or welfare and the basis for the draft findings.

(vi) Unless a delay is requested by the applicant, the Director shall schedule a public hearing on the draft findings within forty-five days. Notice of the hearing shall be published at least thirty days prior to the date of the hearing. Notice shall be published once a week for two consecutive weeks in a paper of general circulation within the county where the facility is located. The notice shall contain the identity of the applicant, summary information on the variance application, the location where the public can view copies of the application and the Administrator's review, the Administrator's draft decision regarding granting or denying the variance application, and the date, time and location of the hearing.

(vii) A public comment period shall begin on the first date of publication and shall end at the conclusion of the hearing. The Director shall make a final decision regarding the variance within sixty days from the date of the hearing.

(g) Permit application procedures for low hazard or low volume treatment, processing, storage, and transfer facilities:

(i) The Administrator shall conduct a completeness and technical review of each application submittal within thirty days of receipt of the application. If the Administrator deems the application incomplete or technically inadequate, the Administrator shall so advise and state in writing to the applicant the information required.

(ii) Public notice for low hazard or low volume facilities: For each new low hazard or low volume treatment, processing, storage, and transfer facility permit application or application for a major amendment to an existing facility permit, the Administrator shall issue a proposed permit following completion of the Administrator's permit analysis, unless the permit is denied pursuant to Section 4 of this Chapter. Upon receipt of a proposed permit the applicant shall within fifteen days:

(A) Cause a written notice to be published once a week for two consecutive weeks. If the facility is mobile, notice shall be published in a newspaper of general circulation within the state. If the facility is not mobile, notice shall be published in a newspaper of general circulation within the county where the applicant plans to locate the facility. Specific text of the notice shall be provided to the applicant by the Administrator. The notice shall contain information about the permit application including the identity of the applicant, the proposed facility service area, location, if not mobile, size, the waste types intended for management, the method of waste management, the operating life, and the Administrator's findings. The notice shall identify the period for filing objections to the application;

(B) If a fixed facility, notify adjacent landowners by first-class mail; and

(C) Provide the Administrator documentation that the notice requirements of this subsection have been followed, including copies of the publisher's affidavits and sworn statement.

(iii) The public comment period shall begin on the first date of publication and shall end at 5:00 pm on the thirtieth day following the last day of publication of the notice.

(iv) Any interested person may submit written objections no later than 5:00 pm on the last day of the public comment period. If substantial written objections are received by the Director within the public comment period a public hearing will be held in accordance with W.S. § 35-11-502(k).

(v) Low hazard or low volume permit issuance: If documentation has been received that the public notice requirements of this section have been met and no substantial objections are received, the Director shall issue an operating permit or within thirty days.

(vi) The operator of a facility with a valid operating permit issued under this subsection, shall submit a permit renewal application no later than 180 days prior to the expiration of said permit unless a closure permit application has been submitted. The renewal application shall contain the information specified in the applicable chapter of these rules.

(h) General Closure Permit for Municipal Solid Waste Landfills:

(i) A general closure permit shall apply to the closure and post-closure activities for municipal solid waste landfills with less than thirty acres of municipal solid waste disposal area.

(ii) Notice of intent for coverage under a general permit shall be made on forms provided by the Department which require a signature of agreement by the applicant to abide by all conditions of the permit.

(iii) All activities shall meet the standards of Chapter 2 of these rules.

(iv) All notice of intent for coverage forms shall be prepared under the supervision of a professional engineer licensed in the State of Wyoming. All notice of intent for coverage forms shall be stamped, signed and dated by a professional engineer. In addition, all portions of the notice of intent for coverage which require geological services or work shall be stamped, signed and dated by a professional geologist licensed in the State of Wyoming.

(v) All notices of intent for coverage under a general permit shall be processed as follows:

(A) The Administrator shall review each notice of intent or resubmittal within sixty days from the date the notice of intent or resubmittal is received.

(B) The Administrator may request additional information if it is determined that the information is inadequate to satisfy the requirements of these rules.

(C) The Department shall issue an Authorization of Coverage within thirty days of finding that the notice of intent or resubmittal is complete.

(D) No closure or post-closure activities shall commence until a written Authorization of Coverage under the general closure permit has been received from the Department.

(vi) Authorizations of Coverage for municipal solid waste landfills shall be issued through the end of the post-closure period specified in Chapter 2 of these rules and shall be extended until the Administrator determines, upon petition by the operator accompanied by submission of relevant information, that the facility has been adequately stabilized in a manner protective of human health and the environment. Petitions to terminate the post-closure period shall include certification from a Wyoming licensed professional engineer that post-closure care has been completed in compliance with the approved post-closure plan and in a manner protective of human health and the environment. No renewals of Authorizations of Coverage shall be required.

(vii) The general permit shall be developed pursuant to the permit issuance procedures of W.S. § 35-11-502(j), (k), and (m).

### **Section 3. Permit Amendments and Transfers.**

(a) Permit amendments constituting a major change for municipal solid waste landfills shall comply with the requirements of Chapter 2 of these rules.

(b) Permit amendments constituting a major change for all non-municipal solid waste facilities and minor changes at all solid waste facilities shall comply with the following:

(i) Within sixty days of receipt of any application for a permit amendment, the Administrator shall conduct a review of the application and provide a written response to the operator.

(A) If the amendment is deemed complete and demonstrates compliance with applicable standards and constitutes a major change, the public notice and comment period in Section 2(c)(ii) of this Chapter shall commence.

(B) If the amendment is deemed complete and demonstrates compliance with applicable standards and constitutes a minor change, the Administrator shall



render a decision.

(ii) If the proposed amendment is determined to be inadequate, the operator shall be required to submit any additional information required by the Administrator, unless there is a basis for denial.

(c) All amendments shall comply with the location, design and construction, operating, monitoring, financial assurance, and closure standards of the applicable chapter of these rules.

(d) Permit transfers:

(i) An operator shall receive written approval from the Director prior to transfer of any permit authorized by these rules.

(ii) Permit transfer applications shall be in writing by the operator. The application shall contain:

(A) The name, address and telephone number of the legal operator of the facility to whom the permit will be transferred, and, at a minimum, a summary, listing of any administrative order, civil or administrative penalty assessment, bond forfeiture, civil, misdemeanor, or felony conviction, or court proceeding for any violations of any local, state or federal law occurring within a minimum of five years of application submittal relating to environmental quality or criminal racketeering, of the solid waste manager, the applicant, or if the applicant is a partnership or corporation, any partners in the partnership or executive officers or corporate directors in the corporation;

(B) The name, address and telephone number of the solid waste manager;

(C) Proposed date of the transfer of the permit; and

(D) 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 chapter of these rules, including the responsibility to perform corrective actions.

(iii) The original operator shall retain responsibility for the facility according to the terms of the original permit until the application for permit transfer has been approved by the Director. The new operator may not operate the facility until the permit transfer has been approved.

(iv) No permit may be transferred from one operator to another unless the new operator demonstrates compliance with the financial assurance requirements of Chapter

7 of these rules.

**Section 4. Permit Denial, Revocation, Modification, or Termination.**

- (a) The Director may deny a permit if:
- (i) Permit issuance would conflict with any provision of the Act or these rules;
  - (ii) The applicant fails to submit the required information;
  - (iii) The facility history indicates continual noncompliance with these rules;
  - (iv) The application indicates that the facility would not comply with the location, design and construction, operating, monitoring, closure or post- closure standards as specified in the applicable sections of these rules;
  - (v) The application misrepresents actual site conditions;
  - (vi) The applicant fails to employ a solid waste manager who meets the qualifications of the applicable chapter of these rules; or
  - (vii) The applicant, or any partners, executive officers, or corporate directors, has been found civilly or criminally liable for violations of environmental quality or criminal racketeering laws or regulations 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.
- (b) Permit revocation:
- (i) The Director may revoke a permit in instances of continual noncompliance, or if it is determined that the permit application misrepresented actual site conditions, or if the continued operation is inconsistent with any provision of the Act or these rules.
  - (ii) The Director shall notify the operator of his or her intent to revoke the permit. The written notification shall contain the basis for revoking the permit. All permit revocation procedures shall be accomplished in accordance with the requirements of the Wyoming Administrative Procedures Act.
  - (iii) The Director may order facility closure following permit revocation. Closure and post-closure activities shall be accomplished in accordance with a plan approved by the Administrator. 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 the applicable chapter of these rules.

(c) Permit modification: The Director may modify an existing permit by notifying the facility operator in writing. The written notification shall contain the basis for modifying the permit.

(d) Permit termination:

(i) Operating permit termination:

(A) Upon completion of closure activities, the operator shall provide a certification, with supporting documentation, from a Wyoming registered professional engineer confirming that the provisions of the closure plan have been carried out and that the facility has been closed in compliance with the closure standards specified in these rules. The operator shall be notified in writing whether the closure certification is deficient or a written termination of the operating permit shall be issued. Operating permits shall not terminate until written authorization has been provided by the Administrator.

(ii) Closure permit termination:

(A) Following the initial minimum post-closure period specified in the applicable chapter of these rules, the owner or operator may submit a petition to the Administrator requesting termination of the facility's closure permit and post-closure period. Petitions shall include supporting documentation and certification from a Wyoming registered engineer that post-closure care has been completed in compliance with the post-closure plan and in a manner protective of human health and the environment. The operator shall be notified in writing whether the post-closure certification is deficient or a written termination of the closure permit shall be issued. Closure permits shall not terminate until written authorization has been provided by the Administrator.

(iii) Release of financial assurance: Following permit termination, financial assurance shall be released as prescribed in Chapter 7 of these rules.

#### **Section 5. One-Time or Emergency Waste Management Authorizations.**

(a) Authorization application procedure:

(i) This section applies to emergency situations, spilled solid wastes and residues from uncontrolled releases. This section does not apply to the land disposal of municipal solid wastes, mixed wastes, hazardous wastes or actions completed under either a hazardous waste permit or a hazardous waste corrective action order.

(ii) The Administrator may choose to issue a one-time or emergency waste management authorization in lieu of the permits specified in Section 2 of this Chapter. This type of waste management authorization shall only be considered under the following conditions:

(A) The proposed waste management activity shall be a single occurrence of limited duration;

(B) The applicant documents that other waste management and reuse options were thoroughly investigated and that no other reasonable alternatives had been identified;

(C) The proposed waste disposal site would meet the applicable location standards specified in Chapter 3, or 4 of these rules or the proposed waste management site would meet the applicable location standards specified in Chapter 8 of these rules;

(D) The proposed waste management activity would not present a significant threat to public health or the environment;

(E) The waste management activity would result in de minimis impacts which would not warrant the initiation of public participation procedures;

(F) The total waste disposal area would be no more than one acre;

(G) The applicant can document that permission has been obtained from the landowner to manage the materials at the proposed waste management location, if that location is not owned by the applicant; and

(H) The applicant commits to promptly record a notarized notice with the county clerk, in the county where the facility is located, which adequately describes the location, nature and extent of any waste disposal activity.

(iv) The waste management authorization request shall document compliance with the conditions specified in subsection (a)(ii) of this section allowing for the Administrator's consideration of a one-time or emergency waste management authorization. The request shall contain information adequate to demonstrate compliance with the standards specified in the applicable chapter of these rules.

(v) The waste management authorization request shall be reviewed by the Administrator within forty-five days after submission.

(b) Authorization issuance:

(i) The Administrator may deny a one-time or emergency waste management authorization for any of the reasons specified in Section 4(a) of this Chapter. The Administrator may also deny a one-time or emergency waste management authorization if it is determined that the proposed waste management activity would not be subject to the provisions described in subsections (a)(i) and (a)(ii) of this section.

(ii) If the waste management authorization request is determined to be

complete and the request demonstrates compliance with the standards in the relevant application requirements section, a waste management authorization will be granted by the Administrator.

(iii) The operator shall notify the Administrator following completion of authorized waste management activities. This notification shall be accompanied by site photographs adequate to demonstrate the site conditions following closure.

(iv) The term of the waste management authorization shall be no longer than one year unless, for good cause, the Administrator approves additional time.

## CHAPTER 7

### FINANCIAL ASSURANCE REQUIREMENTS

#### Section 1. In General.

(a) Chapter is promulgated pursuant to the Wyoming Environmental Quality Act (Act), specifically Wyoming Statute (W.S.) §§ 35-11-504 and -515.

(b) This Chapter governs all solid waste management facilities that are required to demonstrate financial assurance under W.S. § 35-11-504. -Exempt solid waste management facilities include those solid waste management facilities listed in W.S. § 35-11-504(c) and:

(i) Solid waste management facilities other than those regulated under Chapter 2 of these rules that are owned or operated by a municipality;

(ii) Sanitary landfills regulated under Chapter 2 that ceased receipt of wastes before October 9, 1991;

(iii) Municipal solid waste landfills regulated under Chapter 2 of these rules that received waste after October 9, 1991, but ceased receipt of waste before October 9, 1993, and installed an approved final cover system before October 9, 1994;

(iv) Municipal solid waste landfills regulated under Chapter 2 of these rules that received waste after October 9, 1991, but ceased receipt of wastes before October 9, 1997, and installed an approved final cover system before October 9, 1998; and

(v) Mobile transfer, treatment and storage facilities regulated under Chapter 6 of these rules.

(c) Leaking municipal solid waste landfills regulated under Chapter 17 of these rules that conduct remediation in accordance with W.S. § 35-11-533 through -537 are exempt from corrective action financial assurance requirements in Section 3 of this Chapter.

(d) Municipally-owned or operated solid waste landfills regulated under Chapter 2 of these rules shall demonstrate financial assurances for closure, post-closure, and corrective action by following either the requirements of Sections 2 through 14 of this Chapter or the requirements of Section 15 of this Chapter.

(e) Definitions: The definitions in W.S. § 35-11-103(a) and (d) and Chapter 1 of these rules apply to this Chapter.

#### Section 2. Closure and Post-Closure Cost Estimates.

(a) Along with the closure plan and post-closure plan required for a regulated facility, the operator must submit closure and post-closure estimates.

(i) An incinerator, resource recovery facility, compost facility, or storage surface impoundment may omit the post-closure cost estimate if onsite disposal of wastes or residues is not planned or required.

(b) The closure cost estimate shall:

(i) Include an itemized written estimate of the cost, in current dollars of completing all work described in the closure plan;

(ii) Be based on the cost required for a third-party contractor to complete the closure plan at the most expensive point in the life of the facility. The Director may obtain additional cost estimates from a third-party contractor to substantiate the accuracy of the estimated costs; and

(iii) Account for the following factors if applicable:

(A) The size and topography of the site;

(B) The daily or weekly volume of waste to be received at the site;

(C) Availability of cover and fill material needed for site grading;

(D) The type of waste to be received at the site;

(E) Disposal method and sequential disposal plan;

(F) The location of the site and the character of the surrounding area;

(G) Requirements for surface drainage;

(H) Operation and maintenance of the leachate collection and treatment system, and the off-site disposal of leachate;

(I) Environmental quality monitoring system;

(J) Structures and other improvements to be dismantled and removed. Salvage values cannot be used to offset demolition costs;

(K) Site storage capacity for solid waste, incinerator residue and compost material;

(L) Off-site disposal requirements. Salvage values cannot be used to offset waste removal costs;

(M) Vector control requirements;

- (N) Cleaning of all solid waste management units and equipment;
  - (O) A minimum of fifteen percent variable contingency fee to cover other closure costs as determined appropriate by the Director. and
  - (P) Any other relevant site-specific factors.
- (c) The post-closure cost estimate shall:
- (i) Include an itemized written estimate, in current dollars, of the cost of completing all work described in the post-closure plan;
  - (ii) Be based on the cost required for a third-party contractor to complete the work described in the post-closure plan. The Director may obtain additional cost estimates from a third-party contractor to substantiate the accuracy of the estimated cost; and
  - (iii) Account for the following factors if applicable:
    - (A) The size and topography of the site;
    - (B) The type and quantity of waste received;
    - (C) Disposal method and sequential disposal plan;
    - (D) The potential for significant leachate production and the possibility of contaminating water supplies;
    - (E) Environmental quality monitoring systems;
    - (F) Soil conditions;
    - (G) The location of the site and the character of the surrounding area;
    - (H) Planned inspections of facility;
    - (I) A minimum of fifteen percent contingency fee to cover other post-closure costs as determined appropriate by the Director; and
    - (J) Any other relevant site-specific factors.
- (d) Closure and post-closure cost estimates shall be updated, revised, and submitted to the Director as specified in Section 13 of this Chapter.

**Section 3. Corrective Action Cost Estimates.**



(a) If a regulated facility violates a permit, standard, rule, or requirement established under the Act, resulting in a release of pollution or waste to the air, land, or water resources of the state, the Director shall:

(i) Notify the regulated facility of the violation; and

(ii) Order the regulated facility to take corrective action to remedy or abate the violation and provide financial assurance as specified in this Section.

(b) Within thirty days of receiving an order to take corrective action, the operator shall provide notice of the selected correction action remedy and a corrective action cost estimate to the Director.

(i) The corrective action cost estimate shall:

(A) Include an itemized written estimate of the cost, in current dollars, of completing all work described for the selected corrective action remedy;

(B) Be based on the cost required for a third-party contractor to complete the work described for the selected corrective action remedy. The Director may obtain additional cost estimates from a third-party contractor to substantiate the accuracy of the estimated costs; and

(C) Account for the following factors if applicable:

(I) Soils, geologic and hydrogeologic conditions at the site;

(II) The type and quantity of waste received;

(III) Disposal method and sequential disposal plan;

(IV) The potential for significant leachate production and the possibility of contaminating groundwater;

(V) Environmental quality monitoring systems;

(VI) The location of the site and the character of the surrounding area;

(VII) A minimum of fifteen percent contingency fee to cover other corrective action and cleanup costs as determined appropriate by the Director;

(VIII) The ability of the facility to prevent and detect a release and to facilitate cleanup activities. The criteria used to evaluate this ability shall include design, construction, operation, monitoring and contingency plans submitted as part of the permit application;

(IX) The class, use, value and environmental vulnerability of surface and groundwater resources that may be impacted by a release; and

(X) Any other relevant site-specific factors.

(D) Be updated, revised, and submitted to the Director in accordance with Section 13 of this Chapter.

#### **Section 4. Establishment of Financial Assurance Requirements.**

(a) The Director, through the Administrator, shall establish the amount of financial assurance required for regulated facilities based on the cost estimates for closure, post-closure, and corrective action.

(b) If the Administrator determines that a cost estimate meets the requirements of this Chapter:

(i) The Administrator shall establish the amount of financial assurance required and notify the operator in writing of the amount; and

(ii) Within thirty days of receiving notice from the Administrator, the operator shall submit documentation of financial assurance, on forms furnished by the Director, in an amount at least equal to the established financial assurance amount.

(c) If the Administrator determines that a cost estimate does not meet the requirements of this Chapter, the Administrator shall notify the operator of the deficiencies in the cost estimate, and the operator shall revise and resubmit the cost estimate to the Administrator within thirty days of the Administrator's determination unless an alternate schedule is approved by the Administrator for good cause.

#### **Section 5. Acceptable Forms of Financial Assurance.**

An operator of a regulated facility shall provide financial assurance for closure, post-closure, or corrective action in one or more of the following forms: surety bond, self-bond, federally insured certificates of deposit, cash, government securities, or irrevocable letters of credit.

#### **Section 6. Surety Bonds.**

Surety bonds shall comply with the following requirements:

(a) A corporate surety company shall not be considered good and sufficient for purposes of W.S. § 35-11-504 unless:

(i) The company is licensed to do business in the state;

(ii) The bond is made payable to the Department;

(iii) The estimated bond amount does not exceed the limit of risk as provided for in W.S. § 26-5-110, nor raise the total of all bonds held by the applicant under that surety above three times the limit of risk; and

(iv) The surety company agrees to the following:

(A) Not to cancel the bond, except as provided for in W.S. § 35-11-504 or where the Director gives prior written approval of a replacement bond or financial assurance;

(B) To be jointly and severally liable with the operator; and

(C) To provide immediate written notice to the Director and operator once it becomes unable or may become unable due to any action filed against it to fulfill its obligations under the bond.

(b) The provisions applicable to cancellation of the surety's license in W.S. § 35-11-504 shall also apply if for any other reason the surety becomes unable to fulfill its obligations under the bond. Failure to comply with this provision shall result in suspension of the permit. Upon such occurrence it is the operator's responsibility to provide a substitution of financial assurance.

#### **Section 7. Self-bonds.**

Self-bonding shall comply with the following requirements:

(a) An initial application to self-bond shall contain:

(i) Identification of operator:

(A) For corporations, name, address, telephone number, state of incorporation, principal place of business and name, title and authority of person signing application, a corporate resolution authorizing the application, and statement of authority to do business in the State of Wyoming, or

(B) For all other forms of business enterprises, name, address and telephone number and statement of how the enterprise is organized, law of the State under which it is formed, place of business, and relationship and authority of the person signing the application.

(ii) Amount of self-bond proposed. The proposed self-bond maximum amount shall not exceed seventy-five percent of the required bond amount.

(iii) Type of operation and anticipated dates performance is to be commenced

and completed.

(iv) Brief chronological history of business operations that illustrates a continuous operation for five years immediately preceding the time of application. The Director may allow a joint venture or syndicate with less than five years of continuous operation to qualify under this requirement, if each member of the joint venture or syndicate has been in continuous operation for at least five years immediately preceding the time of application.

(v) Information in sufficient detail to show good-faith performance of past operation, closure, post-closure, and corrective action obligations. The compliance information in the permit or annual reports may be referenced to satisfy part of this requirement.

(vi) Financial information in sufficient detail to show that the operator and ultimate parent guarantor meets one of the following criteria:

(A) Have a rating for all bond issuance actions and long term credit rating within the current year of "Aa3" or higher as issued by either Moody's Investor Service, "AA-" or higher as issued by Standard and Poor's Corporation or "AA-" or higher as issued by Fitch Ratings. The operator is eligible for a maximum of seventy-five percent of the approved cost estimate. The self-bond must accompany another acceptable financial assurance instrument for the remaining twenty-five percent of the approved cost estimate;

(B) Have a rating for all bond issuance actions and long-term credit rating within the current year of "A2" or higher as issued by Moody's Investor Service, "A" or higher as issued by Standard and Poor's Corporation or "A" or higher as issued by Fitch Ratings. The operator is eligible for a maximum of seventy percent of the approved cost estimate. The self-bond must accompany another acceptable financial assurance instrument for the remaining thirty percent of the approved cost estimate; or

(C) Have a rating for all bond issuance actions and long-term credit rating within the current year of "Baa2/A-" or higher as issued by Moody's Investor Service, "BBB/A-" or higher as issued by Standard and Poor's Corporation or "BBB/A-" or higher as issued by Fitch Ratings. The operator is eligible for a maximum of fifty percent of the approved cost estimate. The self-bond must accompany another acceptable financial assurance instrument for the remaining fifty percent of the approved cost estimate.

(D) In the event of a split rating, the Director has the discretion to determine which rating will be accepted and applied to (A), (B), or (C) of this subsection.

(vii) A statement listing any notices issued by the Securities and Exchange Commission or proceedings initiated by any party alleging a failure to comply with any public disclosure or reporting requirements under the securities laws of the United States. Such statement shall include a summary of each such allegation, including the date, the requirement alleged to be violated, the party making the allegation, and the disposition or current status thereof.

(viii) A statement identifying by name, address, and telephone number:

(A) A registered office which may be but need not be, the same as the operator's place of business;

(B) A registered agent, which agent must be either an individual resident in this State, whose business office is identical with such registered office, or a domestic corporation authorized to transact business in the State, having a business office identical with such registered office. The registered agent so appointed by the operator shall be an agent to such operator upon whom any process, notice or demand required or permitted by law to be served upon the operator may be served;

(ix) An acknowledgement that:

(A) If the operator fails to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot be reasonably found at the registered office, then the Director shall be an agent for such operator upon whom any process, notice or demand may be served for the purpose of this Chapter. In the event of any such process, the Director shall immediately cause one copy of such process, notice or demand to be forwarded, by certified mail, to the operator at his principle place of business. The Director shall keep a record of all processes, notices, or demands served upon him or her under this paragraph, and shall record therein the time of such service and his or her action with reference thereto.

(B) Should the operator change the registered office or registered agent, or both, a statement indicating such change shall be filed immediately with the Solid and Hazardous Waste Division and the Director.

(C) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon an operator in any other manner now or hereafter permitted by law.

(x) The Director may accept a written guarantee for an operator's self-bond from an ultimate parent guarantor, if the guarantor satisfies the financial criteria of this Chapter as if it were the operator. Such a written guarantee may be accepted by the Administrator and shall be referred to as an "ultimate parent guarantee." The terms of the ultimate parent guarantee shall provide for the following:

(A) If the operator fails to complete closure, post-closure, or corrective action the ultimate parent guarantor shall do so or the ultimate parent guarantor shall be liable under the indemnity agreement to provide funds to the State sufficient to complete the closure, post-closure, or corrective action plans, but not to exceed the actual costs of closure, post-closure, or corrective action; and

(B) The ultimate parent guarantee shall remain in force unless the ultimate parent guarantor sends notice of cancellation by certified mail to the operator and to the Director at least ninety days in advance of the cancellation date, and the Director accepts the

cancellation. The cancellation shall be accepted by the Director if the operator obtains a suitable replacement bond before the cancellation date, if the lands for which the self-bond, or portion thereof, was accepted have not been disturbed, or if the lands have been released under W.S. § 35-11-504.

(xi) For the Director to accept a regulated facility operator's self-bond, the total amount of the outstanding and proposed self-bond of the operator shall not exceed twenty-five percent of the operator's tangible net worth in the United States. For the Director to accept a corporate guarantee, the total amount of the ultimate parent guarantor's present and proposed self-bonds and guaranteed self-bonds shall not exceed twenty-five percent of the guarantor's tangible net worth in the United States.

(b) Approval or denial of operator's self-bond application:

(i) The Director, within sixty days of the operator's submission of all materials necessary to base a decision on the application shall:

(A) Approve or reject such application and declare in writing its reasons for such action to the operator or his registered agent.

(B) If a rejection is based on inadequate information or failure of the operator to supply all necessary material, the Director shall allow the operator thirty days to remedy the deficiencies. Such corrections shall be made to the satisfaction of the Director. The Director shall have an additional sixty days to approve or reject the corrected application.

(c) If the Director accepts the operator's self-bond, an indemnity agreement shall be submitted subject to the following requirements:

(i) The indemnity agreement shall be executed by all persons and parties who are to be bound by it, including the ultimate parent entity guarantor, and shall bind each jointly and severally.

(ii) Corporations applying for a self-bond or ultimate parent corporations guaranteeing an operator's self-bond shall submit an indemnity agreement signed by two corporate officers who are authorized to bind their corporations. A copy of such authorization shall be provided to the Director along with an affidavit certifying that such an agreement is valid under all applicable Federal and State laws. In addition, all corporate guarantors shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self-bond and execute the indemnity agreement.

(iii) If the applicant is a partnership, joint venture or syndicate, the agreement shall bind each partner or party who has a beneficial interest directly or indirectly, in the operator.

(iv) The indemnity agreement shall provide that the persons or parties bound shall pay all litigation costs incurred by the State in any successful effort to enforce the

agreement against the operator.

(d) Self-Bond Renewal:

(i) Any operator seeking to renew a self-bond shall provide, along with the annual report:

(A) Amount of bond required, which shall be determined in accordance with W.S. § 35-11-504 and Section 4 of this Chapter, and the amount proposed to be covered by a self-bond renewal; and

(B) Financial information in sufficient detail to show that the operator and ultimate parent guarantor still meets one of the criteria in Section 7(a)(vi), and the limitation in Section 7(a)(xi). The operator and ultimate parent guarantor shall submit the full report from the credit reporting agency or agencies supporting its rating for the current year. Additional information may be requested by the Director when a split rating occurs.

(ii) A self-bond may be renewed so long as the above listed information demonstrates that all parties remain qualified under Section 7(a) of this Chapter and there is a minimum five-year life of operation remaining.

(e) Self-Bond Substitution:

(i) The Director may require the operator to substitute a good and sufficient bond instrument if the Director determines in writing that the self-bond of the operator fails to provide the protection consistent with the objectives and purposes of the Act. The Director shall require full or partial substitution if the financial information submitted under Section 7(a)(xiv)(A)(II) indicates that the operator or ultimate parent guarantor no longer qualifies under the self-bonding program. Substitution of an alternate bond shall be made within thirty days. The operator may also request substitution. This request is contingent upon the operator meeting all the requirements of the bond provisions in this Chapter. If these requirements are met, the Director shall accept substitution.

(ii) If the operator fails within thirty days to make a substitution for the revoked self-bond with a corporate surety, cash, governmental securities, or federally insured certificates of deposit, or irrevocable letters of credit in accordance with the bonding provisions of W.S. § 35-11-504 and this Chapter, the Director shall suspend or revoke the facility's permit until such substitution is made.

(f) Reporting requirements:

(i) If a devaluation in the credit rating occurs, the operator shall notify the Director within thirty days of the change and provide a copy of the rating report to the Director.

(ii) If the operator or ultimate parent guarantor receives any new notice from the Securities and Exchange Commission or any party initiates proceedings against the operator

or ultimate parent guarantor alleging a failure to comply with any public disclosure or reporting requirements under the securities laws of the United States, the operator shall notify the Director within thirty days and shall include a summary of the allegations, including the date, the requirement alleged to be violated, the party making the allegation, and the disposition or current status thereof.

**Section 8. Federally Insured Certificate of Deposit.**

The Director shall not accept certificate of deposit in an amount in excess of the maximum insurable amount as determined by the Federal Deposit Insurance Corporation. The certificate must be payable solely to the Wyoming Department of Environmental Quality. The Director shall require the banks issuing these certificates to waive all rights of set off or liens against the certificates. The financial assurance amount may be calculated to include any amount that would be deducted as a penalty for payment before maturity.

**Section 9. Cash.**

The operator or its principal may submit a check payable to the Wyoming Department of Environmental Quality.

**Section 10. Government Securities.**

(a) Government securities shall be endorsed to the order of the Department, placed in the possession of the Department, and backed by the full faith and credit of the United States.

(b) Possession of government securities may be in the form of the cash value of an irrevocable trust for the full amount of the closure, post-closure, or corrective action obligation, payable to the Department. An irrevocable trust shall conform to the requirements below:

(i) The Wyoming Department of Environmental Quality Irrevocable Trust Form shall be signed by the operator or guarantor as principal and the financial institution as Trustee;

(ii) The Trustee must be a bank organized to do business in the United States and have the authority to act as a trustee whose trust operations are regulated and examined by a Federal or State Agency;

(iii) The irrevocable trust must be funded for the full amount of the closure, post-closure, or corrective action obligation, except for the amount reduced by other approved bond instruments or financial assurances;

(iv) Cancellation of an irrevocable trust shall follow the procedures detailed in W.S. § 35-11-504(f); and

(v) Forfeiture proceedings for an irrevocable trust shall follow the same procedures detailed in W.S. § 35-11-504(h).



## **Section 11. Irrevocable Letters of Credit.**

Irrevocable letters of credit shall comply with the following requirements:

- (a) The letter must be payable to the Department in part or in full upon demand and receipt from the Director of a notice of forfeiture issued in accordance with W.S. § 35-11-504(h);
- (b) The letter shall not be in excess of ten percent of the issuing or supporting bank's capital surplus account as shown on a balance sheet certified by a certified public accountant;
- (c) The Director shall not accept standby letters of credit;
- (d) The Director shall not accept letters of credit from a bank for any person, on all permits held by that person, in excess of the limitation imposed by W.S. § 13-3-402; and
- (e) The letter of credit shall provide that:
  - (i) The bank will give prompt notice to the operator and the Director of any notice received or action filed alleging the insolvency or bankruptcy of the bank, or alleging any violations of regulatory requirements that could result in suspension or revocation of the bank's charter or license to do business;
  - (ii) In the event the bank becomes unable to fulfill its obligations under the letter of credit for any reason, notice shall be given immediately to the operator and the Director; and
  - (iii) Upon the incapacity of a bank by reason of bankruptcy, insolvency, or suspension or revocation of its charter or license, the permittee shall be deemed to be without financial assurance in violation of the Act. The Director shall issue a notice of violation against any operator who is without bond coverage, specifying a reasonable period to replace bond coverage, not to exceed ninety days. During this period the Director or their designated representative shall conduct weekly inspections to ensure continuing compliance with other permit requirements, these rules and the Act. If the notice is not abated in accordance with the schedule, a cessation order shall be issued.
  - (iv) The irrevocable letter of credit may be cancelled by the issuer only after ninety-days' notice to the Director, and upon receipt of the Director's written consent, which may be granted only when an alternative financial assurance substitution has been approved.
- (f) The letter may only be issued by a bank organized to do business in the U.S. that identifies by name, address, and telephone number an agent upon whom any process, notice or demand required or permitted by law to be served upon the bank may be served.
  - (i) If the bank fails to appoint or maintain an agent in this State, or whenever any such agent cannot be reasonably found, then the Director shall be an agent for such bank

upon whom any process, notice or demand may be served for the purpose of this Chapter. In the event of any such process, the Director shall immediately cause one copy of such process, notice or demand to be forwarded by registered mail to the bank at its principal place of business. The Director shall keep a record of all processes, notices, or demands served upon them under this paragraph, and shall record therein the time of such service and their action with reference thereto.

(ii) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon the bank in any other manner now or hereafter permitted by law.

### **Section 12. Release of Financial Assurance.**

(a) The Director shall release the closure or post-closure portion of the bond or financial assurance instrument when closure or post-closure activities have been successfully completed. The operator shall notify the Administrator upon completion of activities specified in the closure or post-closure plan. The Administrator shall inspect the facility and provide written inspection results to the operator. Release of the closure or post-closure portion of a bond or financial assurance does not relieve the operator of their responsibility for corrective action to prevent or abate violations caused by the regulated facility that are subsequently discovered, or relieve the operator of their responsibility to meet closure or post-closure standards.

(b) The Director shall release the corrective action portion of the bond or financial assurance instrument when a violation has been remedied or the damage abated. The operator shall notify the Administrator upon completion of activities specified in the corrective action plan. The Administrator shall inspect the facility and provide written inspection results to the operator. Release of the corrective action portion of a bond or financial assurance does not relieve the operator of their responsibility for further corrective action to prevent or abate violations caused by the regulated facility that are subsequently discovered, or relieve the operator of their responsibility to meet closure or post-closure standards.

### **Section 13. Recalculation of Financial Assurance.**

(a) Financial assurance cost estimates for closure, post-closure, and corrective action shall be recalculated annually, within thirty days after the permit issuance anniversary date, and account for inflation.

(b) In addition to annual recalculations, the owner or operator shall revise the cost estimate whenever a change in the approved permit increases the cost of closure, post-closure, or corrective action.

### **Section 14. Forfeiture of Financial Assurance.**

Bond or other financial assurance forfeiture proceedings shall occur in accordance with W.S. § 35-11-504(h), (j), and (k).

**Section 15. Closure and Post-Closure Account for Municipally-Owned Solid Waste Disposal Facilities.**

(a) This section is applicable to municipally-owned or operated solid waste landfills regulated under Chapter 2 of these rules electing to participate in the state guarantee trust account provided under W.S. § 35-11-515. Such facilities shall be known as participating facilities.

(b) Each facility participating in the account shall, upon their initial election to participate and every four years thereafter:

(i) Either prepare a closure and post-closure plan complying with Chapter 2 of these rules, and prepare a closure and post-closure cost estimate complying with Section 2 of this Chapter, or calculate the facility closure and post-closure costs using a standard cost estimate prepared by the Director;

(ii) Calculate the remaining usable disposal capacity of the facility, expressed as years, using information from the facility permit application; and

(iii) Calculate the annual amount to be paid to the account using the following procedure:

(A) Calculate three percent of the sum of closure and post-closure costs using the following formula:

Three percent of the sum of closure and post-closure costs =  $(0.03(\text{Closure cost} - \text{the operator's accumulated net assets earmarked for payment of the operator's closure costs})) + (0.03(\text{Post-closure cost} - \text{the operator's accumulated net assets earmarked for payment of the operator's post-closure costs}))$

(I) The facility owner or operator shall account for closure and post-closure liabilities and costs in accordance with generally accepted accounting principles as provided by W.S. § 16-4-121(c) and certify to the earmarking of the accumulated net assets, subject to audit.

(B) Calculate the balance due to the account by deducting the total of previous payments to the account from three percent of the sum of closure and post-closure costs using the following formula:

Balance due = three percent of the sum of closure and post-closure costs – the total of previous payments to the account

(C) Calculate annual payments to the account by dividing the balance due by the years of remaining disposal capacity using the following formula:

Annual payment = Balance due / years of remaining disposal capacity in disturbed

areas

(c) Compliance with the financial assurance requirements of this section is required on July 1 of each year, unless an alternate date is approved by the Administrator.

(d) A refund of the closure guarantee costs shall follow procedures outlined in W.S. § 35-11-515(g) and (j).

(e) A refund of the post-closure guarantee costs shall follow procedures outlined in W.S. § 35-11-515(h) and (j).

(f) The facility owner may elect to withdraw from participation in the account and shall notify the Director of said intent prior to the financial assurance compliance date. Upon withdrawal from participation, or upon completing closure or post-closure requirements, the owner may apply to the Director for a refund of the annual fees paid to the account. The Director shall, approve a refund from the account equal to ninety percent of the total amount paid by the owner, less any expenditures from the account made on behalf of the participating facility under W.S. § 35-11-515(k) that have not been recovered under W.S. § 35-11-515(m). Prior to the Director approving a refund for a withdrawing facility, the facility owner shall demonstrate compliance with the financial assurance requirements of this Chapter.

(g) An owner may elect to participate in the account for purposes of demonstrating compliance only with the closure cost financial assurance requirement, only with the post-closure cost financial assurance requirement, or both. Any owner electing to participate in the account only for the purposes of satisfying the closure or post-closure cost financial assurance requirement shall use another financial assurance mechanism to complete his or her obligation to demonstrate adequate financial assurance for both closure and post-closure costs.

(h) The Director may authorize expenditures from the account if the facility owner, after receiving a notice of violation and order directing the performance of closure or post-closure obligation under this Chapter or Chapter 2 of these rules, has failed to adequately perform such obligation. The Director shall provide in any such order that failure to perform the closure or post-closure obligation will result in the Director's authorizing an expenditure from the account. The amount to be expended shall be specified by the Director in the order. The availability of an opportunity to appeal the order under W.S. § 35-11-701(c) shall be considered the owner's opportunity to appeal the amount to be expended, under W.S. § 35-11-515(k).

# CHAPTER 1

## GENERAL PROVISIONS

### Section 1. In General.

(a) ~~Authority: This Chapter is The authority for the rules and regulations promulgated pursuant to the in this chapter is the Wyoming Environmental Quality Act, specifically Wyoming Statute (W.S.) §§ 35-11-101 et seq. 503. These regulations are effective immediately upon filing with the Secretary of State.~~

(b) Definitions: In addition to the definitions in the Wyoming Environmental Quality Act, for the purpose of these rules ~~and regulations~~ and unless the context otherwise requires:

(i) "Act" means the Wyoming Environmental Quality Act, W.S. §§ 35-11-101 et seq.

(ii) "Active life" means the period of operation beginning with the initial receipt of solid waste and ending at completion of closure activities.

(iii) "Active portion" means that part of a facility or unit that has received or is receiving wastes and that has not been closed or reclaimed.

(iv) "Applicant" means that person, as defined in the Act, submitting an application to the Administrator for a permit for a solid waste management facility, who shall be:

(A) For a city owned facility, the city;<sub>2</sub>

(B) For a county owned facility, the county;<sub>2</sub>

(C) For a facility owned by any other public entity, that public entity;<sub>2</sub>

(D) For an individual, the individual;<sub>2</sub>

(E) For a corporation, the corporation;<sub>2</sub> and

(F) For a sole proprietorship or partnership, the partnership or proprietorship.

(v) "Aquifer" means, in relation to all solid waste facilities except municipal solid waste landfills, a geologic formation, group of formations, or portion of a formation capable of yielding significant quantities of groundwater to wells or springs. For municipal solid waste landfills, "aquifer" means an underground geologic formation:

- inferred;
- (A) Which has boundaries that may be ascertained or reasonably inferred;
  - (B) In which water stands, flows, or percolates;
  - (C) Which is capable of yielding to wells or springs significant quantities of groundwater that may be put to beneficial use; and
  - (D) Which is capable of yielding to wells or springs which produce a sustainable volume of more than one-half ( $1/2$ ) gallon of water per minute.

(vi) "Asbestos-containing solid wastes" or "asbestos" means solid wastes containing greater than one percent ( $1\%$ ) by weight asbestos in any of the asbestiform varieties of:—chrysotile (serpentine), amosite (cummingtonite, grunerite), crocidolite (riebeckite), anthophyllite, actinolite, or tremolite, and which may be considered friable asbestos.

(vii) "Buffer zone" means that portion of the solid waste management facility which is not used for waste management activities but is reserved for the placement and operation of monitoring equipment or for preventing public access during specific waste disposal events, such as the disposal of friable asbestos. The fire lane may be within the buffer zone.

(viii) "Cell" means compacted solid wastes that are enclosed by natural soil or other cover material within a trench, unit, or area-fill in a land disposal facility.

(ix) "Cease Disposal" for the purposes of the Cease and Transfer Program created pursuant to W.S. §§ 35-11-528 through 532, ~~shall~~ means ceasing disposal of municipal solid waste.

(x) "Clean fill" means fill consisting solely of uncontaminated natural soil and rock, hardened asphalt rubble, bricks, and concrete rubble.

(xi) "Clean wood" means untreated wood which has not been painted, stained, or sealed. Clean wood does not include treated railroad ties, treated posts, paper, or construction/demolition wastes containing non-wood materials.

(xii) "Closed facility" means a regulated facility at which operations have been properly terminated in accord with an approved facility closure plan on file with the Solid and Hazardous Waste Division or the Water Quality Division and complying with all applicable ~~regulations~~ rules and requirements concerning its stabilization.

(xiii) "Closure" in the context of a facility means the act of securing and stabilizing a regulated facility pursuant to the requirements of these ~~regulations~~ rules. Closure of an individual unit means securing and stabilizing an individual unit of a facility,

including the construction of final cover over disposal units that have reached their permitted capacity and may also be referred to as intermediate or phased reclamation.

(xiv) "Closure period" means the period of time during which a facility is completing closure. —The closure period begins when the facility ceases receipt of wastes. The closure period ends when the Administrator approves certification from a registered professional engineer confirming that the provisions of the closure plan have been carried out and that the facility has been closed in compliance with the closure standards specified in these rules and regulations.

~~————— (xv) "Collateral" means as related to self-bonding the actual or constructive deposit, as appropriate, with the Director of one or more of the following kinds of property to support a self-bond:~~

~~————— (A) A perfected, first lien security interest in real property located within the State of Wyoming, in favor of the Wyoming Department of Environmental Quality (Department) which meets the requirements of Chapter 7,~~

~~————— (B) Securities backed by the full faith and credit of the United States government or state government securities acceptable to the Director. These securities must be endorsed to the order of, and placed in the possession of the Director, or~~

~~————— (C) Personal property located within the state, owned by the operator, which in market value exceeds \$1 million per property unit.~~

(xvi) "Commercial solid waste management facility" means any facility receiving a monthly average greater than ~~five hundred (500)~~ short tons per day of unprocessed household refuse or mixed household and industrial refuse for management or disposal excluding lands and facilities subject to W.S. § 35-11-402(a)(xiii);

~~————— (xvii) "Comparative balance sheet" means item amounts from a number of the operator's successive yearly balance sheets arranged side by side in a single statement;~~

~~————— (xviii) "Comparative income statement" means an operator's income statement amounts for a number of successive yearly periods arranged side by side in a single statement.~~

(xvix) "Complete application" means a permit application that the Administrator has determined to contain all the information required to be submitted by the ~~regulations~~rules, in sufficient detail to allow a technical review of the information to commence.

(xvix) "Constituent"; when used in the context of groundwater monitoring, generally means inorganic substances and organic compounds that may be found in groundwater and in particular the constituents that must be monitored in groundwater samples collected under the applicable chapter of the Solid Waste Rules and Regulations.

(~~xyxiii~~) "Construction/demolition landfill" means a solid waste management facility that accepts only inert construction waste, demolition waste, street sweepings, brush, or other material specifically approved by the Administrator. This excludes garbage, liquids, sludges, friable asbestos, and hazardous or toxic wastes.

(~~xixxii~~) "Construction/demolition waste" includes but is not limited to stone, clean and treated wood, concrete, asphaltic concrete, cinder blocks, brick, plaster and metal or other material specifically approved by the Administrator.

(~~xxiii~~) "Container" means any portable device in which a material is stored, transported, treated, disposed of or otherwise handled.

(~~xxiv~~) "Corrective action" means all actions necessary to eliminate the public health threat or environmental threat from a release to the environment of pollutants from an operating or closed regulated facility and to restore the environmental conditions as required;

(~~xxiv~~) "Cover material" means soil or other suitable material that is used to cover compacted solid wastes in a land disposal facility.

~~(xxvi) "Current assets" means cash and assets that are reasonably expected to be realized in cash or sold or consumed within one (1) year or within the normal identified operating cycle of the business;~~

~~(xxvii) "Current liabilities" means debts or other obligations that must be paid or liquidated within one (1) year or within the normal identified operating cycle of the business. This shall also include dividends payable on preferred stock within one (1) quarter if declared, or one (1) year if a pattern of declaring dividends each quarter is apparent from the business' past practices;~~

(~~xxviii~~) "Decommissioning" means removing all liquids and accumulated sludges, and cleaning a storage tank for its intended reuse or disposal;

(~~xxivx~~) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste material into or on any land or water so that such waste material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

(~~xxvx~~) "Existing facility" means any facility that was receiving solid wastes on or before September 13, 1989.

(~~xxvxi~~) "Existing unit" means any municipal solid waste landfill unit receiving solid waste as of October 9, 1993.

(~~xxvxi~~) "Facility" means the total contiguous area described in the



permit application and which is occupied by any solid waste management area, unit, site, process, or system and the operation thereof including, but not limited to, equipment, buildings, solid waste treatment, storage, transfer, processing, and disposal areas, buffer zones, monitor well systems, fire lanes, working area litter and access fences, systems for the remediation of releases to the environment, and perimeter access control fences. The term "facility" does not include contiguous or noncontiguous lands which may be owned or leased by the applicant which are not disturbed by solid waste management operations and which are external to the contiguous area occupied by the solid waste management area, unit, site, process, or system.

~~(xxviii)~~ "Farming and ranching operation" means agricultural operations whose principal function is the growing of crops and the raising of livestock, but does not include large concentrated animal feeding operations (CAFOs) as defined by the Water Quality Rules, Chapter 2, Appendix G and Regulations.

~~(xxixiv)~~ "Final cover" means cover material that is used to completely cover the top of a land disposal facility or unit, including, but not limited to, compacted soils, drainage layers, synthetic membranes, soil-cement admixtures, and topsoils.

~~(xxxv)~~ "Fire lane" means an area which does not contain combustible materials, including vegetation, and which can be utilized to provide access to firefighting equipment.

~~(xxxvi)~~ "Fixed assets" means plants and equipment.

~~(xxxvii)~~ "Floodplain" means low land and relatively flat areas adjoining inland and coastal waters, including flood-prone areas of offshore islands that are inundated by the 100-year flood.

~~(xxxviii)~~ "Friable asbestos"; means asbestos that, when dry, can be crumbled, pulverized or reduced to powder by hand pressure, and includes previously nonfriable asbestos after such previously nonfriable asbestos becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

~~(xxxix)~~ "Garbage" means any putrescible solid or semi-solid animal and/or vegetable waste material resulting from the handling, preparation, cooking, serving and consumption of food.

~~(xxxiv)~~ "Green waste" means organic plant materials, such as yard trimmings, grass clippings, house and garden plants, tree trimmings, and brush. Green waste does not include other putrescible waste including, but not limited to food waste, animal waste, and manure.

~~(xxxviii)~~ "Groundwater" means, in relation to all solid waste facilities except municipal solid waste landfills, water below the land surface in a saturated zone of soil or rock. For municipal solid waste landfills, "groundwater" means any water, including

hot water and geothermal steam, under the surface of the land or the bed of any stream, lake, reservoir or other body of surface water, including water that has been exposed to the surface by an excavation such as a pit which:

(A) Stands, flows or percolates; and

(B) Is capable of being produced to the ground surface in sufficient quantity to be put to beneficial use.

~~(xxxviii)~~—"Incineration" means the controlled process by which combustible solid wastes are burned and altered to noncombustible gases and other residues. A solid waste incineration facility is considered to be a solid waste management facility.

~~(xxxvix)~~ "Incorporated city or town" shall mean a "first class city" or a "town" as defined in W.S. § 15-1-101(a).

~~(xxxviiiiv)~~ "Industrial landfill" means a solid waste management facility utilizing an engineered method of land disposal primarily for industrial solid waste.

~~(xxxliivx)~~ "Industrial solid waste" means solid waste resulting from, or incidental to, any process of industry, manufacturing, mining or development of any agricultural or natural resources.

~~(xlvii)~~ "Irrevocable letter of credit" means ~~an engagement, however named or described, by a bank made at the request of a customer (the operator and/or financially responsible parties for a permit or site), that the issuer will honor drafts or other demands for payment from the beneficiary (the State of Wyoming) upon compliance with the conditions specified in the letter of credit. The issuing party (a bank) guarantees that it will not withdraw the credit or cancel the letter before the expiration date. The customer cannot modify, revoke or repeal this letter of credit unless specified by the beneficiary.~~ a negotiated financial instrument that is used to pay a beneficiary issued by a banking institution to guarantee payment.

~~(xlvii)~~ "Landfill" means a solid waste management facility for the land burial of solid wastes, utilizing an engineered method of controls to avoid creating a hazard to the public health, the environment, plants, or animals.

~~(xlviii)~~ "Lateral expansion" of a facility means the horizontal enlargement of the boundaries of a solid waste management facility. Lateral expansion of a disposal unit means the horizontal enlargement of the permitted waste boundaries of a disposal unit.

~~(xliix)~~ "Liabilities" means obligations to transfer assets or provide services to other entities in the future as a result of past transactions including off-balance sheet liabilities.

~~(xliiv)~~ "Lower explosive limit (LEL)" means the lowest percent by volume of

a mixture of explosive gases in air that will propagate a flame at 25° Celsius and atmospheric pressure.

(~~xlvi~~) "Low hazard or low volume treatment, processing, storage, and transfer facility" means a solid waste management facility which accepts only solid wastes as described in this subsection. This provision does not apply to facilities whose owner or operator simultaneously owns or operates more than one such solid waste management facility within one (~~1~~) mile of each other.

(A) Mobile transfer, treatment, and storage facilities.

(B) Clean wood waste storage facilities: Facilities storing clean wood waste in storage piles with a combined base surface area larger than 10,000 square feet or containing greater than 100,000 cubic feet of clean wood waste. So long as ~~C~~clean wood waste at such facilities ~~shall be~~ stored no less than 100 feet from off-site structures, storm water ~~shall be~~ properly managed, and the pile ~~shall~~ does not create a public or private nuisance.

(C) Solid waste transfer, treatment, storage, and processing facilities: Solid waste transfer, treatment, storage, and processing facilities receiving ~~50~~ fifty cubic yards or less of solid waste per day and occupying no more than ten (~~10~~) acres, including a ~~twenty-foot~~ twenty-foot buffer zone within a fenced facility boundary, which individually or in combination manage no more than the specified types and quantities of the following wastes:

(I) Paper, cardboard, plastic, aluminum cans, glass, and metal, or other nonputrescible municipal solid wastes which may be specifically authorized by the Administrator, for the primary purposes of transfer to a recycling facility or beneficial reuse in a manner approved by the Administrator. This provision applies to the sorting, shredding, grinding, crushing, baling, and storage of these wastes, except CRTs as noted below, prior to transfer to a recycling facility or approved beneficial reuse site; and

(II) 5,000 gallons of used oil; and

(III) 5,000 gallons of used antifreeze; and

(IV) 1,000 scrap tires stored in compliance with standards in Chapter 8 of these rules ~~and regulations~~, if the scrap tires are stored to be recycled, reclaimed, reused, or are destined for disposal at a permitted facility; and

(V) Green waste and clean wood waste storage piles, and

(VI) Compost piles for green waste and manure operated in a manner that does not create odors, constitute a nuisance, or attract vectors; and

(VII) Household hazardous waste (~~HHW~~) collected no more

frequently than quarterly collection days, provided that the ~~HHW~~ household hazardous waste collected is removed from the site and transported to a permitted facility within thirty ~~(30)~~ days of receipt; and

(VIII) 50 cubic yards of electronic waste, other than CRTs, stored in containers; and

(IX) 50 cubic yards of CRTs stored intact in containers and kept whole without any shredding, grinding, crushing, or baling. ~~Devices containing CRTs, such as televisions and computer monitors, may be disassembled, but the CRTs shall remain intact. If inadvertently broken, CRTs must be promptly containerized for proper management; and~~

(X) 500 lead acid batteries, if the batteries are stored in an upright position and are not leaking, for the purpose of transfer to a recycling facility; and

(XI) 100 cubic yards of construction and demolition waste stored in containers; and

(XII) 150 cubic yards of mixed solid wastes stored in containers; ~~with and~~ ~~A~~ animal mortality managed at low hazard and low volume solid waste transfer, treatment, storage, and processing facilities shall be managed in mixed municipal solid waste or separate containers.

(D) Commercially operated used oil management facilities: Used oil collection centers, aggregation points, transfer facilities, processors, re-refiners, burners, and used oil fuel marketers that store greater than 10,000 gallons of used oil to be recycled or burned for energy recovery, subject to the used oil management requirements contained in the Wyoming Hazardous Waste Rules and Regulations.

(E) Facilities storing waste, other than construction/demolition waste, for transfer to a recycling facility: Facilities occupying no more than ~~10~~ ten acres and used only for the transfer, treatment, and storage of less than 500 short tons received per day of paper, cardboard, plastic, aluminum cans, glass, metal, clean wood, and other nonputrescible municipal solid wastes which may be specifically authorized by the Administrator, for the primary purposes of transfer to a recycling facility or beneficial reuse in a manner approved by the Administrator. ~~Unless all waste management occurs indoors, the facility shall have a twenty foot buffer zone/fire lane within a fenced facility boundary.~~ ——— This provision applies to the sorting, shredding, grinding, crushing, baling, and storage of these wastes prior to transfer to a recycling facility or approved beneficial reuse site. This provision does not apply to facilities that manage scrap tires or CRTs.

(F) Facilities storing construction/demolition waste for transfer to a recycling facility: — Facilities occupying no more than ~~10~~ ten acres and used only for the transfer, treatment, and storage of less than 500 short tons received per day of construction/demolition waste authorized by the Administrator, for the primary purposes of

transfer to a recycling facility or beneficial reuse in a manner approved by the Administrator. ~~Unless all waste management occurs indoors, the facility shall maintain a twenty foot buffer zone/fire lane separating waste from a fenced facility boundary.~~ This provision applies to the sorting, shredding, grinding, crushing, baling, and storage of these wastes prior to transfer to a recycling facility or approved beneficial reuse site. This provision applies only if all waste management activities occur either indoors or outdoors in containers. This provision does not apply to scrap tire or electronic waste management facilities.

(G) Facilities not considered low hazard or low volume: Transfer, treatment, storage, and processing facilities managing wastes or materials having or exhibiting one or more of the following criteria or characteristics are not low hazard and low volume waste management facilities. Exceptions may be granted by the Administrator based on consideration of concentration and volumes of wastes to be managed:

(I) Toxicity, Carcinogenicity, Ignitability, Flammability, Explosivity, Instability, Corrosivity, Incompatibility;<sub>2</sub>

(II) Special wastes as defined in this subsection;<sub>2</sub>

(III) Medical/infectious wastes, PCB-containing wastes;<sub>2</sub>

(IV) Excluded hazardous wastes as defined in 40 CFR part 261, or the Department's Hazardous Waste Rules and Regulations;<sub>2</sub>

(V) Wastes that have the potential to create odor, vector, dust, or other nuisances;<sub>2</sub>or

(VI) Wastes that in the evaluation of the Administrator have a significant potential to impact public health ~~and/or~~ the environment, unless the operator of a proposed facility can demonstrate by submittal of a waste analysis ~~and/or~~ characterization plan that the waste treatment, processing, storage, or transfer activity can be considered a low hazard and low volume waste management activity consistent with the Act.

(xlvii) "Major Change" means a change to any solid waste management facility location, design or construction, or to any operating, monitoring, closure or post-closure activities, involving one or more of the following items:

(A) The total permitted volumetric capacity of the facility is to be increased by more than five percent ~~(5%)~~;

(B) The effectiveness of any liner, leachate collection or detection system, gas detection or migration system, or pollution control or treatment system may be reduced; or

(C) The facility modification will, in the judgment of the Administrator, be likely to alter the fundamental nature of the facility's activities.

(xlviii) "Mixed household and industrial refuse" means any mixture of municipal solid wastes, industrial solid wastes, or sludge.

(xlviii) "Mixed solid waste" means municipal solid waste and industrial solid waste.

(xlix) "Mobile transfer, treatment and storage facility" means a facility which is mobilized to conduct transfer, treatment or storage of a solid waste at or near the point of generation.

(lvi) "Monitoring" means all procedures and techniques used to systematically collect, analyze and inspect data on operational parameters of the facility or on the quality of the air, groundwater, surface water and soil.

(lvii) "Municipal solid waste" means solid waste resulting from or incidental to residential, community, trade or business activities, including garbage, rubbish, dead animals, abandoned automobiles and all other solid waste other than construction and demolition, industrial or hazardous waste.

(lviii) "Municipal solid waste landfill" (MSWLF) means a solid waste management facility for the land burial of municipal solid waste that utilizes an engineered method of controls to avoid creating a hazard to the public health, the environment, plants, or animals.

(lii) "Municipal solid waste landfill unit" means a discrete area of land or an excavation that receives municipal solid waste and that is not a land application unit, surface impoundment, injection well, or waste pile. A MSWLF unit may also receive other types of Resource Conservation and Recovery Act (RCRA) Subtitle D waste such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste, and industrial solid waste. Such a landfill unit may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit, or a lateral expansion of an existing MSWLF unit. A construction and demolition landfill that receives residential lead-based paint waste and does not receive any other household waste is not a MSWLF unit.

(liv) "Net worth" means total assets minus total liabilities including on and off-balance sheet liabilities. ~~and is equivalent to owner's equity.~~

(lvi) "New facility" means:

(A) Any facility that did not receive solid waste on or before September 13, 1989; or

(B) Any modification or lateral expansion of an original permit boundary for the purpose of increasing capacity ~~and~~ or site life by more than five percent-

(5%). An incidental facility boundary enlargement for the development of, but not limited to fire lanes, buffer zones, surface water diversion systems, and monitoring systems which are not in conflict with local zoning, land use, and/or land ownership is not considered to be a new facility.

(lvi~~xii~~) "New municipal solid waste landfill unit" means any municipal solid waste landfill unit that did not receive waste prior to October 9, 1993.

(lviii~~iii~~) "Occupied dwelling house" means a permanent building or fixed mobile home that is currently being used on a permanent or temporary basis for human habitation.

(lxiv~~iii~~) "100-year floodplain" means an area where a flood has a one~~1~~-percent (1%) or greater chance of recurring in any given year or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period.

(lix~~v~~) "On-site decommissioning" means decommissioning performed within a facility's property boundary.

(lxvi~~i~~) "Open burning" means uncontrolled burning of solid waste in the open.

(lxiv~~ii~~) "Open dump" means an uncontrolled solid waste management facility at which solid wastes are placed on the land in such a manner that they present a real or potential hazard to public health and the environment. Open dump includes any solid waste management facility subject to the permitting requirements of these rules ~~and regulations~~ which does not have a current, valid permit.

(lxviii) "Operator" means the applicant who has been granted a permit, who may manage and operate the solid waste management facility or who may hire another person, who shall be known as the solid waste manager, for these responsibilities.

~~(lxix) "Parent corporation" means a United States corporation which owns or controls the applicant.~~

(lxiii~~x~~) "Petroleum-contaminated soils" means solid waste consisting of any natural or manmade soil or rock material into which petroleum product has been added, excluding hardened asphalt rubble.

(lxxiv) "Petroleum product" means any crude oil or any liquid petroleum fraction including but not limited to gasoline, diesel fuels, and used and unused motor oils.

(lxv~~ii~~) "Pile" means any noncontainerized accumulation of solid, nonflowing waste that is used for treatment or storage.

(lxviii) "Plans" means maps, specifications, drawings and narrative

description, prepared to describe the solid waste management facility and its operation.

(lxivii) "Population"; when used in the context of statistical evaluations of groundwater data, means the total set of all possible concentration measurements for any given constituent.

(~~lxxviii~~) "Post-closure period" means the period of time during which a closed facility is maintained and monitored. The post-closure period begins when the Administrator approves certification from a registered professional engineer confirming that the provisions of the closure plan have been carried out and that the facility has been closed in compliance with the closure standards specified in these rules ~~and regulations~~. ~~The post-closure period ends when the Administrator determines, upon petition by the operator, that the facility has been adequately stabilized and that the environmental monitoring or control systems have demonstrated that the facility closure is protective of public health and the environment consistent with the purposes of the act.~~

(~~lxxix~~) "Principal officer" means an officer described in the bylaws of a corporation or appointed by the board of directors in accordance with the bylaws who serves at least at the level of vice president.

(~~lxxxii~~) "Private industrial solid waste disposal facility" means any industrial solid waste disposal facility used solely for the disposal of solid waste generated by the owner of the facility; where wastes are not transported over public roadways for delivery to the facility; and access by persons other than employees of the facility owner is restricted.

(~~lxxxiii~~) "Processing plant" means a solid waste management facility used or designed to transfer, shred, grind, bale, compost, salvage, separate, reclaim or provide other treatment of solid wastes.

(~~lxxxix~~) "Recycling facility" means a facility where used or waste materials are processed or broken down into raw materials which are then used to make or produce new items or products.

(~~lxxxix~~) "Release" includes, but is not limited to, any spilling, leaking, pumping, pouring, emptying, emitting, discharging, dumping, addition, escaping, leaching, or unauthorized disposal of any oil or hazardous substance which enters, or threatens to enter, waters of the state.

(~~lxxxiv~~) "Routine cover" means cover material that is applied to the top and side slopes of compacted solid wastes at the end of each operating day.

(~~lxxxvi~~) "Salvaging" means the controlled removal by the operator or his or her agent of solid waste from a solid waste management facility for the purpose of reuse.

(~~lxxxvii~~) "Sanitary landfill" means a municipal solid waste landfill.



(~~lxxxiv~~ii)"Scavenging" means the removal by persons other than the operator or his agent of solid wastes from any solid waste management facility.

(~~lxxxv~~iii)"Scrap tire" means a tire that is no longer used for its original purpose. ~~One scrap tire equals twenty pounds of scrap tire or processed scrap tire.~~

(~~lxxxix~~vi)"Seismic impact zone" means an area with a ~~ten~~10 percent (~~10%~~) or greater probability that the maximum horizontal acceleration in hard rock, expressed as a percentage of the earth's gravitational pull (g), will exceed 0.10g in 250 years.

(~~lxxxvii~~iv)"Self-bond" means an indemnity agreement in a sum certain made payable to the State, executed by the permittee and/or the parent company or federal agency guarantor and made payable to the state, with or without separate surety. The indemnity agreement is signed by the operator and, if applicable, the operator's ultimate parent guarantor.

(~~lxxxviii~~)"Silviculture waste" means any wood wastes generated during the management and development of forests. This includes but is not limited to all wood wastes that are generated during the operation of a sawmill.

(~~lxxxix~~i)"Sludge" means the accumulated semisolid mixture of solid wastes and water, oils, or other liquids.

(~~lxxxiii~~æ) "Solid waste manager" means any person designated by the applicant who has primary responsibility for the daily management and operation of the solid waste management facility.

(~~lxxxiv~~e)——"Solid waste management unit" means a contiguous area of land on or in which solid waste is placed, or the largest area in which there is significant likelihood of mixing solid waste constituents in the same area of a solid waste management facility. Examples of solid waste management units include a surface impoundment at a solid waste management facility, a waste pile, a land treatment area, a municipal, construction/demolition, or industrial landfill unit, an incinerator, a tank and its associated piping and underlying containment systems at a solid waste management facility and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

(~~lxxxv~~iv)——"Solid waste petroleum storage tank" means any underground or aboveground storage tank that has been taken out of service and which contained any - petroleum substance, including but not limited to motor fuels, jet fuels, distillate fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

(~~lxxxv~~vii)——"Special wastes" are those wastes which require special handling as described in Chapter 8 of these rules ~~and regulations.~~

(~~lxxxvii~~)—"Storage" means the holding of solid waste for a temporary period, at the end of which time the solid waste is treated, disposed of, or stored elsewhere.

(~~lxxxviii~~) "Storage facility" means any facility that stores solid waste for a temporary period, at the end of which time the solid waste is treated, disposed, or stored elsewhere.

(~~lxxxvix~~) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments include, but are not limited to holding, storage, settling, and aeration pits, ponds and lagoons.

(~~xcvii~~) "Tangible net worth" means net worth minus intangibles such as goodwill, patents or royalties.

(~~xcviii~~) "Tank" means a stationary device designed to contain an accumulation of waste that is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) that provide structural support and integrity.

(~~xcix~~) "Topsoil" means all surface soil usually including the organic layer in which plants have most of their roots, or in the case where no topsoil is present, the top six (6) inches of in-place native material.

(~~xciii~~) "Transfer of waste" means the temporary holding of solid waste pending transportation of the solid waste for treatment, storage, ~~and~~ or disposal.

(~~xciv~~) "Transfer facility" means any solid waste transportation related facility including loading docks, parking areas, storage areas and ancillary features.

(~~xcv~~) "Treatment" means any method, technique, or process designed to change the physical, chemical, or biological character or composition of any solid waste so as to recover energy or material resources from the waste or so as to render it safer to transport, store, or dispose of, or to make it amenable for recovery, use, or storage, or for reduction in volume. Treatment includes but is not limited to baling, chipping, composting, distilling, incinerating, processing, reconditioning, recovering, recycling, re-refining, reclaiming, and shredding.

(~~xcvi~~) "Treatment facility" means any facility that treats solid waste. Types of treatment facilities include but are not limited to solid waste incinerators, tire shredding/chipping facilities, tire pyrolysis plants, solid waste shredding or baling facilities, drum and barrel reconditioning/recycling facilities, composting facilities, and facilities used to distill, re-refine, recover, recycle, or incinerate used antifreeze, oils or solvents.

(xcvii) "Ultimate parent guarantor" means an entity not controlled by any

other entity and is the topmost responsible entity which owns or controls the operator and is the guarantor for a self-bond.

(~~xciv~~iii) "Unprocessed household refuse" means municipal solid wastes which have not been treated, processed, or recycled at a facility subject to the requirements of these rules ~~and regulations~~.

(~~xcix~~v) "Unstable area" means a location that is susceptible to natural or human-induced events or forces capable of impairing the integrity of some or all of the landfill structural components responsible for preventing releases from a landfill. Unstable areas can include poor foundation conditions, areas susceptible to mass movements, and karst terrains.

(~~cvi~~) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically connected with this aquifer within the facility's property boundary.

(~~cvi~~ii) "Used antifreeze" means any antifreeze that has been used ~~and as a result of such use is contaminated by physical or chemical impurities. Used antifreeze also includes~~ new antifreeze which has not been used for its intended purpose but is being discarded.

(~~cvi~~iii) "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and new oil which has not been used for its intended purpose but is being discarded ~~and as a result of such use is contaminated by physical or chemical impurities~~. Used oil does not include animal or vegetable oil.

(~~cix~~ix) "Used tire" means a tire that cannot be described as new, but which is structurally intact and, for passenger tires, has a tread depth greater than two thirty-seconds (2/32) of an inch. A used tire can be mounted on a vehicle's rim without repair.

(~~civ~~x) "Vadose zone" means the unsaturated zone between the land surface and the water table.

(~~cvi~~i) "Vector" means a carrier capable of transmitting a pathogen from one organism to another, including flies, mosquitoes, skunks, or rodents.

(~~cvi~~ii) "Waste management unit boundary" Ffor the purpose of establishing a relevant point of compliance for municipal solid waste landfills, "waste management unit boundary" means a vertical surface located at the hydraulically downgradient limit of the municipal solid waste landfill unit. This vertical surface extends down to the uppermost aquifer.

(~~cvi~~iii) "Waste pile" means any noncontainerized accumulation of solid waste used for treatment or storage of solid waste.

(cxiviii) "Water table" means the seasonally high surface of groundwater which is subject to atmospheric pressure in an unconfined aquifer. Water table does not mean the piezometric surface of a confined aquifer.

(cixv) "Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal conditions do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include, but are not limited to, swamps, marshes, bogs and similar areas.

(cxvi) "Working face" means that portion of the land disposal site where solid wastes are being deposited and are being spread and compacted prior to the placement of cover materials.

(c) Permit required for new and existing facilities:

(i) A permit or a one-time or emergency disposal authorization is required for the location, construction, operation or closure of any new or existing solid waste management facility. All facilities shall be located, designed, constructed, operated and closed in accordance with the permit or disposal authorization issued by the Director or Administrator.

(ii) A permit or disposal authorization may not be required for the facilities or activities specified in subsection (fg) of this section.

(iii) Any facility that is regulated under more than one ~~of the permitting~~ ~~e~~Chapters of these rules ~~and regulations~~ can apply for and receive a single solid waste management permit if the operator demonstrates compliance with each ~~of the applicable~~ ~~e~~Chapters ~~of these rules and regulations~~.

(d) Recordkeeping, monitoring and reporting requirements:

(i) Operators of any solid waste management facility, ~~including those operators of open dumps,~~ will be required to establish and maintain monitoring equipment or methods, sample effluent discharges or emissions, or provide such other information as may be reasonably required and specified by the Administrator.

(ii) All records required by these rules ~~and regulations~~ shall be maintained by the operator of the facility for a minimum of three ~~(3)~~ years from the date of recording, except for those records required to be kept through the life and post-closure period of the facility as specified in these rules ~~and regulations~~. All records shall be available for inspection and copying by Department personnel during reasonable business hours. Copies of these records shall be submitted to the Administrator when requested.

(e) ~~Prohibited acts:~~ The following acts are prohibited:

- (i) Open dumping;
- (ii) Scavenging and animal feeding at active solid waste management facilities;
- (iii) Dumping bulk liquid wastes at solid waste management facilities unless specifically authorized by the Administrator;
- (iv) Dumping hazardous wastes (other than hazardous wastes generated by residential households and conditionally exempt small quantity waste generators) in any facility other than a facility authorized as a hazardous waste disposal facility by these rules ~~and regulations~~ unless specifically authorized by the Administrator;
- (v) Open burning of any wastes not exempted in subsection ~~(fg)~~ of this section; and
- (vi) ~~No solid wastes shall be s~~Speculatively accumulated of solid wastes at a facility intended for use as a solid waste management facility without a permit.

~~(f) Inspections:~~

~~(i) Inspections shall be conducted at the discretion of the Administrator and may consist of:~~

~~(A) Pre-application inspections;~~

~~(B) Preconstruction inspections;~~

~~(C) Construction inspections;~~

~~(D) Closure, post-closure, and annual operational compliance inspections; and~~

~~(E) Routine or complaint-related inspections, at the Administrator's discretion.~~

~~(ii) Neither advance notice nor a waiver of liability shall be required to be provided by Department personnel as a condition of entry to any facility for the purpose of conducting any solid waste management facility compliance inspection. The operator shall allow Department personnel entry to the facility for the purpose of inspection.~~

~~(iii) The Administrator shall provide copies of all inspection reports to the operator following completion of the inspection.~~

~~(iv) The inspection requirements for municipal solid waste landfills with lifetime permits are in Chapter 2.~~

~~(v) Following any inspection by Department personnel, the operator will be notified in writing of any deficiencies within forty five (45) days from the date of the inspection unless the Department is waiting to receive additional information from the operator.~~

~~(f)~~ Exemptions: The Administrator may exempt the following from a permit or any requirement to obtain a waste management authorization under these ~~regulations~~rules, provided that persons engaged in such activities ~~which are otherwise exempted~~ may be required to supply information to the Administrator which demonstrates that the act, practice, or facility is exempt, and shall allow entry of Department inspectors for purposes of verification of such information:

(i) Auto salvage yards and scrap metal dealers: Baling of used motor vehicles or scrap metals, and operation of metal smelters regulated by the Air Quality Division and storage for sale or reuse of used motor vehicles, motor vehicle parts, or scrap metals at auto salvage yards or scrap metal dealers as authorized under W.S. § 31-13-114, provided that for used oil, used antifreeze, tires, and lead acid batteries the following storage accumulation limits are not exceeded:

(A) 1,000 scrap tires, excluding any scrap tires remaining on wheels attached to vehicles;

(B) 1,000 gallons of used motor oil;

(C) 1,200 used lead acid batteries, excluding any used lead acid batteries remaining in vehicles, if the batteries are being stored in an upright position and are not leaking, for the purpose of being transferred to a recycling facility; and

(D) 500 gallons of used antifreeze, if the antifreeze is being stored to be recycled, and the owner or operator only stores used antifreeze they generate or receive from do-it-yourself antifreeze changers or other similar sources.

(ii) Single family units or households: ~~—~~The collection, storage and disposal of household wastes generated by a single family unit or household on their own property in such a manner that does not create a health hazard, public or private nuisance, or detriment to the environment.

(iii) Clean fill: The disposal or beneficial use of clean fill in such a manner that does not create a health hazard, public or private nuisance or detriment to the environment.

(iv) Clean wood waste storage facilities: Facilities storing clean wood waste in storage piles with a base surface area no larger than 10,000 square feet containing no greater than 100,000 cubic feet of clean wood waste. Clean wood waste at such facilities shall be stored no less than 100 feet from off-site structures, ~~storm water shall be properly managed~~, and the pile shall not create a public or private nuisance.

(v) De minimis waste management activities: The management of solid wastes, which in the judgement of the Administrator, constitute de minimis quantities which are managed in a manner that does not create a health hazard, public or private nuisance, or detriment to the environment.

(vi) Retail business facilities: Retail business facilities which have fewer than 1,000 scrap tires on the premises at any one time.

(vii) Facilities that store lead acid batteries: A retail business facility or a solid waste storage or transfer facility used only for the storage or transfer of no more than 1,200 used lead acid batteries for the purpose of transfer to a recycling facility, if the batteries are stored in an upright position and are not leaking.

(viii) Commercially operated used oil management facilities: Used oil collection centers, aggregation points, transfer facilities, processors, re-refiners, burners, and used oil fuel marketers that store no more than 10,000 gallons of used oil to be recycled or burned for energy recovery, provided the storage tanks are properly labeled, and subject to the used oil management requirements contained in the Wyoming Hazardous Waste Rules and Regulations.

(ix) Used oil generators: Used oil generators are subject to the used oil management requirements contained in the Wyoming Hazardous Waste Rules and Regulations.

(x) Facilities storing waste-, other than construction/demolition waste, for transfer to a recycling facility: A solid waste storage, treatment, or transfer facility occupying no more than five (5) acres and used only for the storage, treatment, or transfer of paper, cardboard, plastic, aluminum cans, glass, metal, clean wood, construction/demolition waste, and other nonputrescible municipal solid wastes which may be specifically authorized by the Administrator, for the primary purposes of transfer to a recycling facility or beneficial reuse in a manner approved by the Administrator. Unless all waste management occurs indoors, the facility shall maintain a ~~twenty foot~~ twenty-foot buffer zone/fire lane separating waste from a fenced facility boundary. This exemption applies to the sorting, shredding, grinding, crushing, baling and storage of these wastes prior to transfer to a recycling facility or approved beneficial reuse site. This exemption does not apply to facilities that manage scrap tires, CRTs, or that decommission petroleum storage tanks.

(xi) Facilities storing construction/demolition waste for transfer to a recycling facility: A solid waste storage, treatment, or transfer facility occupying no more than one (1) acre and used only for the storage, treatment, or transfer of construction/demolition waste as authorized by the Administrator for the primary purposes of transfer to a recycling facility or beneficial reuse in a manner approved by the Administrator. Unless all waste management occurs indoors, the facility shall maintain a ~~twenty foot~~ twenty-foot buffer zone/fire lane separating waste from a fenced facility boundary. This exemption applies to the sorting, shredding, grinding, crushing, baling, and storage of these wastes prior

to transfer to a recycling facility or approved beneficial reuse site. This exemption does not apply to facilities that manage scrap tires, electronic waste, or that decommission petroleum storage tanks.

(xii) Solid waste transfer, treatment, storage, and processing facilities:

Solid waste transfer, treatment, storage, and processing facilities receiving ~~twenty~~20 cubic yards or less of solid waste per day and occupying no more than five ~~(5)~~ acres, including a ~~twenty-foot~~twenty-foot buffer zone within a fenced facility boundary, which individually or in combination manage no more than the quantities of wastes specified in this subsection. This exemption does not apply to facilities whose owner or operator simultaneously owns or operates more than one transfer facility within one ~~(1)~~ mile of each other.

- (A) 50 cubic yards of mixed solid wastes stored in containers; ~~and~~
- (B) 50 cubic yards of construction and demolition waste stored in containers; ~~and~~
- (C) Green waste and clean wood waste storage ~~and~~/or compost piles; ~~and~~
- (D) Compost piles for green waste and manure operated in a manner that does not create odors, constitute a nuisance, or attract vectors; ~~and~~
- (E) 500 scrap tires stored in a manner that prevents fires and vector habitat; ~~and~~
- (F) 20 cubic yards of electronic waste, except CRTs, stored in containers for shipment to a recycling facility; ~~and~~
- (G) 20 cubic yards of CRTs stored intact in containers and kept whole without any shredding, grinding, crushing, or baling. Devices containing CRTs, such as televisions and computer monitors, may be disassembled, but the CRTs shall remain intact. If inadvertently broken, CRTs must be promptly containerized for proper management; ~~and~~
- (H) 1,000 gallons of used oil; ~~and~~
- (I) 1,000 gallons of used antifreeze, if the used antifreeze is stored to be recycled, reclaimed, or reused; ~~and~~
- (J) 250 used lead acid batteries, if the batteries are stored in an upright position and are not leaking, for the purpose of transfer to a recycling facility; ~~and~~
- (K) 150 cubic yards of paper, cardboard, plastic, aluminum cans, glass, and metal, or other nonputrescible municipal solid wastes which may be specifically authorized by the Administrator, for the primary purposes of transfer to a recycling facility



or beneficial reuse in a manner approved by the Administrator. This provision applies to the sorting, shredding, grinding, crushing, baling, and storage of these wastes prior to transfer to a recycling facility or approved beneficial reuse site; and

(L) Household hazardous waste (~~HHW~~) collected no more frequently than semiannual collection days, provided that the ~~HHW~~ household hazardous waste collected is removed from the site and transported to a permitted facility within thirty (~~30~~) days.

(xiii) Vehicle service and maintenance facilities: In addition to used oil stored pursuant to this subsection, used antifreeze storage tanks located at vehicle service facilities, provided the storage tanks are properly labeled, have a used antifreeze storage capacity of no more than 500 gallons, and are used only to contain used antifreeze that the owner or operator generates or receives from do-it-yourself antifreeze changes.

(xiv) Medical waste management facilities: Medical waste storage units, incinerators, autoclaves, or other treatment devices, used to store or treat only medical wastes which are generated by the owner or operator of the medical facility or by doctor's offices, medical clinics, dental offices and other medical waste generators within the county or local area where the medical waste storage units, incinerators, autoclaves, or other treatment devices are located.

(xv) Beneficial use: -The reuse of wastes in a manner which is both beneficial and protective of human health and the environment, ~~as~~ and conducted in a manner approved by the Administrator.

(xvi) Household hazardous waste collection events: -The collection of household hazardous waste (~~HHW~~) on no more than a quarterly basis by the operator of a permitted solid waste facility or by a person at a site where landowner consent has been obtained. Collected ~~HHW~~ household hazardous waste must be removed from the collection site within thirty (~~30~~) days and transported to a permitted facility for proper management.

(xvii) An exemption or solid waste management permit are not required for facilities which are not solid waste facilities as defined by W.S. § 35-11-103(d)(ii).

(g) Inspections:

(i) No permit, authorization or exemption shall be issued unless the owner of the facility provides written authorization for the Department's authorized representative, upon the presentation of credentials and other documents as may be required by law, to access and enter upon the operator's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of a permit, authorization or exemption; have access to and copy, at reasonable times, any records that must be kept under the conditions of any permit, authorization or exemption; inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the Act; and collect resource data, sample or monitor

at reasonable times, for the purposes of ensuring compliance or as otherwise authorized by the appropriate rules of the Department, any substances or parameters at any location.

(ii) Inspections shall be conducted at the discretion of the Administrator and may consist of:

\_\_\_\_\_ (A) Pre-application inspections;

\_\_\_\_\_ (B) Preconstruction inspections;

\_\_\_\_\_ (C) Construction inspections;

\_\_\_\_\_ (D) Closure, post-closure, and annual operational compliance inspections; and

\_\_\_\_\_ (E) Routine or complaint-related inspections.

(iii) The operator shall allow Department personnel entry to the facility for the purpose of inspection. Department personnel shall not be required to provide advance notice or a waiver of liability as a condition of entry to any facility for the purpose of conducting any solid waste management facility compliance inspection.

(iv) The Administrator shall provide copies of all inspection reports to the operator following completion of the inspection.

(v) The inspection requirements for municipal solid waste landfills with lifetime permits are in Chapter 2 of these rules.

(vi) Following any inspection by Department personnel, the operator will be notified in writing of any deficiencies within forty-five days from the date of the inspection unless the Department is waiting to receive additional information from the operator.

(h) Financial assurance: No permit or permit amendment shall be issued for any regulated facility unless the operator provides financial assurance, in accordance with Chapter 7 of these rules, that ensures there are adequate sources of funds to provide for closure, post-closure, and corrective action.

## **Section 2. Permit Application Procedure.**

(a) Application requirements: Each application for a solid waste management facility permit ~~described in this section~~ shall contain information adequate to demonstrate compliance with the minimum standards for location, design and construction, operating, monitoring, closure and post-closure as specified in the applicable chapter of these rules ~~and regulations~~. Permit application procedures are set out in W.S. § 35-11-502, except general permit procedures for closure of municipal solid waste landfills with less than thirty ~~(30)~~

acres of municipal solid waste disposal area, which are set forth in Section 2(~~h~~k) of this ~~e~~Chapter.

(b) Permit application format: For all permit applications, amendments, transfers, and one-time or emergency waste management authorizations, shall be submitted in a format the applicant shall provide the Administrator with one complete paper copy and one complete electronic copy of the permit application unless an alternative is approved by the Administrator. The information in the application shall be presented in an order that conforms to the order set forth in the applicable sections of these rules, unless the Administrator approves an alternate format for the organization of the application.

(i) For permit amendments, the application shall include a description of the amendment sought, including additional plates or drawings as necessary to completely describe the proposed amendment.

(ii) For resubmittal of permit applications or submittal of supplemental information, the applicant shall have the option to submit copies of only the updated and revised portion of the application, if the revised and updated pages and drawings are appropriately numbered and dated to facilitate incorporation into the previous permit document and the revisions are clearly identified using strikethrough and underline presentation of words unless the Administrator approves an alternate format.

~~(c)~~ Public notice and comment: ~~Prior to the issuance of a permit by the Director,~~ Each application for a new, renewal, or closure permit shall be submitted for public notice and comment as follows:

(i) Upon receipt of notification that the application has been determined to be complete, the applicant shall comply with the following requirements:

(A) Within fifteen (~~15~~) days of being notified that the application is complete:

(I) Provide written notice to landowners with property located within a half mile of the site, using certified, return receipt requested mail for disposal facilities and first-class mail for other solid waste management facilities;

(II) Provide written notice to each member of the interested parties mailing list maintained by the Administrator, 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, using first-class mail;

(III) Cause a written 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; and

(IV) Specific text for the written notice shall be provided to

the applicant by the Administrator. The notice shall contain information about the permit application including the identity of the applicant, the proposed facility location and size, the wastes types intended for management, the method of waste management, and the operating life. The notice shall identify the last date for filing comments on the application;

(B) Provide the Administrator with documentation that the notice requirements of subsection ~~(b)(i)(A)~~ of this section have been followed. Documentation shall consist of copies of return receipt cards, publisher's affidavits and other documentation, as appropriate; and

(C) The public comment period shall begin on the first date of publication and shall end at 5:00 pm on the thirtieth-~~(30th)~~ day following the last date of publication.

(D) The Administrator may, at his or her discretion, conduct a public hearing on the application submission.

(ii) For each new, renewal, or closure permit application or any application for a major change, the Administrator shall issue a proposed permit following completion of the Administrator's permit analysis, unless the permit is denied pursuant to Section 4 of this Chapter. Upon receipt of a proposed permit, the applicant shall comply with the following requirements:

(A) Within fifteen ~~(15)~~ days of receiving a proposed permit:

(I) Provide written notice to landowners with property located within a half mile of the site, the mayor of each city or town within fifty ~~(50)~~ miles of the proposed facility, the local county commission and any solid waste district for the county in which the potential facility is located, using certified, return receipt requested mail for disposal facilities and ~~first-class~~ first-class mail for other solid waste management facilities;

(II) Provide written notice to each member of the interested parties mailing list maintained by the Administrator using first-class mail;

(III) Cause a written 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; and

(IV) Specific text for the written notice shall be provided to the applicant by the Administrator. The notice shall contain information about the permit application including the identity of the applicant, the proposed facility location and size, the wastes types intended for management, the method of waste management, the operating life, and the Administrator's findings. The notice shall identify the period for filing objections to the application;

~~(V) Deliver, in person or via certified, return receipt~~

~~requested mail, a copy of the permit application, the Administrator's review and the Administrator's proposed permit to a local public library and the county clerk of the county of the proposed facility. The permit application and proposed permit shall be maintained for public viewing at a local public library and at the county clerk's office for the duration of the public comment period specified in Section 2(b)(ii)(C) of this chapter; and~~

(B) Provide the Administrator with documentation that the notice and filing requirements of subsection (b)(ii)(A) of this section have been followed. Documentation shall consist of copies of return receipt cards, and publisher's affidavits or affidavits of personal delivery as appropriate.

(C) The public comment period shall begin on the first date of publication and shall end at 5:00 pm on the thirtieth (30<sup>th</sup>) day following the last date of publication.

(D) Any interested person may submit written objections no later than 5:00 pm Mountain Time on the last day of the public comment period. If substantial written objections are received by the Director ~~by 5:00 pm on the last day of the public comment period,~~ a public hearing will be held in accordance with W.S. § 35-11-502(k), within twenty (20) days after the last day of the public comment period, unless a different schedule is deemed necessary by the Environmental Quality Council (Council). ~~The Council or 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. The hearing shall be conducted as a contested case in accordance with the Wyoming Administrative Procedures Act, and right of judicial review shall be afforded as provided in that Act.~~

(e) ~~Permit application procedure:~~

~~(i) The applicant shall provide the Administrator with three (3) complete paper copies and one (1) complete electronic copy of the permit application unless an alternative is approved by the Administrator. The application shall be organized in three-ring binders, and the information presented in an order that conforms to the order set forth in the applicable sections of these rules and regulations, unless the Administrator approves an alternate format for the organization of the application.~~

~~(ii) The Administrator shall conduct a completeness review of each application and notify the applicant of the results within sixty (60) days of receipt of the application. If the Administrator deems the application incomplete, he or she shall so advise and state in writing to the applicant the information required. All items not specified as incomplete at the end of the first sixty (60) day period shall be deemed complete for the purposes of this subsection.~~

~~(iii) If the applicant resubmits an application or further information, the Administrator shall review the application or additional information within sixty (60) days of~~

each submission and advise the applicant in writing if the application or additional information is complete.

~~\_\_\_\_\_ (iv) After the application is determined complete, the applicant shall give written notice of the application as required in Section 2(b)(i) of this chapter.~~

~~\_\_\_\_\_ (v) The Administrator shall review the application and unless the applicant requests a delay, advise the applicant in writing within ninety (90) days from the date of determining that the application is complete, that a proposed permit is suitable for publication under Section 2(b)(ii), or that the application is deficient, or that the application is denied. All reasons for deficiency or denial shall be stated in writing to the applicant. All items not specified as being deficient at the end of the first ninety (90) day period shall be deemed sufficient for the purposes of this subsection.~~

~~\_\_\_\_\_ (vi) If the applicant submits additional information in response to any deficiency notice, the Administrator shall review such additional information within thirty (30) days of submission and advise the applicant in writing if a proposed permit is suitable for publication under Section 2(b)(ii), or that the application is still deficient, or that the application is denied.~~

~~\_\_\_\_\_ (d) Permit issuance:~~

~~\_\_\_\_\_ (i) If the application is determined to be complete and demonstrates compliance with the applicable standards, the Administrator shall prepare a proposed permit. Public notice as specified in Section 2(b)(i) and 2(b)(ii), will occur. No permit, authorization or exemption shall be issued unless the owner of the facility provides written authorization for the Department's authorized representative, upon the presentation of credentials and other documents as may be required by law, to access and enter upon the operator's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of a permit, authorization or exemption; have access to and copy, at reasonable times, any records that must be kept under the conditions of any permit, authorization or exemption; inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the Act; and collect resource data, sample or monitor at reasonable times, for the purposes of ensuring compliance or as otherwise authorized by the appropriate rules and regulations of the Department, any substances or parameters at any location.~~

~~\_\_\_\_\_ (ii) The Director shall render a decision on the proposed permit within thirty (30) days after completion of the notice period if no hearing is requested. If a hearing is held, the Council shall issue findings of fact and a decision on the proposed permit within thirty (30) days after the final hearing. The Director shall issue or deny the permit no later than fifteen (15) days from receipt of any findings of fact and decision of the Council. In granting permits, the Director may impose such conditions as may be necessary to accomplish the purpose of the act and which are not inconsistent with the existing rules, regulations, and standards.~~

(de) Permit renewal applications:

(i) In addition to the following requirements, permit renewal applications are subject to the application procedures set forth in W.S. § 35-11-502 and subsections (a), (b), and (c), and (d) of this section.

(ii) The operator subject to solid waste management facility permit requirements shall provide the Administrator with a renewal application. The ~~renewal permit renewal application~~ shall contain the information specified in the relevant chapter(s) of these rules ~~and regulations~~ and be submitted in accordance with the time frames specified.

(iii) Except for municipal solid waste landfills with lifetime permits, ~~the operator of a facility with a valid permit issued under Section 2(d) of this Chapter 2 of these rules or a valid renewal permit issued under Section 2(f) of this chapter,~~ shall submit a permit renewal application no less than ~~twelve~~<sup>12</sup> months prior to the expiration of said permit unless a closure permit application has been submitted. Municipal solid waste landfills with lifetime permits shall submit a renewal application no later than three ~~(3)~~ years prior to the expiration of the lifetime municipal solid waste landfill permit. The renewal application shall contain the information specified in the applicable chapter of these rules ~~and regulations~~.

~~Three (3) complete paper copies and one (1) complete electronic copy of the permit renewal application shall be submitted unless an alternative is approved by the Administrator. The application shall be organized in three ring binders, and the information presented in an order that conforms to the order set forth in the applicable application requirements sections of these rules and regulations, unless the Administrator approves an alternate format for the organization of the application. The applicant shall have the option to submit copies of only the updated and revised portion of the previous application, if the revised and updated pages and drawings are appropriately numbered and dated to facilitate incorporation into the previous permit document and the revisions are clearly identified.~~

~~(f) Renewal permit issuance:~~

~~(i) Renewal permits are issued pursuant to subsection (d) of this section.~~

~~(ii) The term of the renewal permit shall be as specified in the applicable chapter of these rules and regulations.~~

(eg) Closure permit applications:

(i) In addition to the following requirements, closure permit applications are subject to the application procedures set forth in W.S. § 35-11-502 and subsections (a), (b), and (c), and (d) of this section.

(ii) The operator shall provide the Administrator with a closure permit application if required by the applicable chapter of these rules ~~and regulations~~ in accordance

with the time frames specified therein.

(iii) Anticipated closure: The operator of a facility with a valid permit shall submit a closure permit application to the Administrator no less than twelve (12) months prior to the anticipated facility closure.

(iv) Unanticipated closure: In the event any solid waste management facility ceases operation, as determined by nonreceipt of solid wastes for any continuous nine (9) month period or any continuous one (1) year period for landfarm facilities or petroleum-contaminated soils land treatment facilities, the facility operator shall provide written notification to the Administrator no later than thirty (30) days after the end of such nine (9) month (or one (1) year) period. This notification shall be accompanied by a closure permit application unless the Administrator approves interim measures with delayed final closure for good cause upon application by the operator.

~~(v) Three (3) complete paper copies and one (1) complete electronic copy of the closure permit application shall be submitted unless an alternative is approved by the Administrator. The application shall be organized in three ring binders, and the information presented in an order that conforms to the order set forth in the applicable application requirements sections of these rules and regulations, unless the Administrator approves an alternate format for the organization of the application.~~

~~(h) Closure permit issuance:~~

~~(i) Closure permit issuance: Closure permits are issued pursuant to subsection (d) of this section.~~

~~(ii) The term of any closure permit shall be set to coincide with the duration of any closure/post closure maintenance and monitoring period specified in the applicable chapter of these rules and regulations. No renewals of closure permits shall be required.~~

(f) Variance application procedure for location standards specified in W.S. § 35-11-502(c):

(i) For solid waste disposal facilities which do not meet the location standards specified in paragraphs (i) through (iv) of W.S. § 35-11-502(c), the applicant may apply to the Director for a variance from the standards by submitting a written variance application. The variance application shall contain the following information:

(A) For proposed facilities which do not meet the location standards for proximity to towns, schools or any occupied dwelling house in W.S. § 35-11-502(c)(i) or (ii), the applicant shall:

(I) Present an analysis of additional traffic which would result from the proposed facility, and demonstrate that additional traffic caused by operation



of a disposal facility will not pose a safety threat to the public;

(II) Demonstrate that the operation of the proposed facility will not present odor, dust, litter, insect, noise, health (human and animal) or aesthetic problems, and will not present a public nuisance by its proximity to the town, schools and/or dwellings. This demonstration may be made through analysis of the facility design and operation practices; and

(III) Provide design features and monitoring specifications used to preclude methane migration from affecting any buildings within one (1) mile of the proposed facility, if the facility is used for the disposal of wastes which may form methane as a decomposition product.

(B) For proposed facilities which do not meet the location standard for proximity to, and visual screening from, state or federal highways in W.S. § 35-11-502(c)-(iii), the applicant shall provide information describing how the design and operation of the facility will minimize visual impacts to the highway(s).

(C) For proposed facilities, excluding incinerators, which do not meet the location standard for proximity to water wells in W.S. § 35-11-502(c)(iv), the applicant shall provide:

(I) A detailed description of the site's geologic and hydrologic characteristics, supported by data from on-site soil borings and groundwater monitoring wells;

(II) A detailed description of the proposed facility's containment system (cap and liner systems) and surface water diversion structures;

(III) A detailed description of the groundwater monitoring program (including location of wells, sampling frequency and sampling parameters) which would be instituted when the facility begins operations; and

(IV) An analysis of the potential for contaminants which may leak from the disposal facility to adversely affect the nearby water well(s). This analysis may be in the form of contaminant transport modeling results, an evaluation of hydrologic conditions or aquifer properties, or other applicable information.

(D) In addition to the other information requested in this subsection, all variance applications made under this subsection shall be accompanied by the following information:

(I) The proposed size of the facility;

(II) The name, address and telephone number of the applicant;

(III) The legal description of the property;

(IV) A detailed description of the facility which includes information on the amount, rate (tons per day), type (including chemical analyses if other than household refuse) and source of incoming wastes, a narrative describing the facility operating procedures, and the estimated site capacity and site life;

(V) The names and addresses of the property owners of all lands within one-~~(1)~~ mile of the proposed facility boundary;

(VI) A USGS topographic map (scale of 1:24,000 or 1: 62,500) which shows the boundaries of the proposed landfill site or other suitable topographic map may be submitted if a 1:24,000 map is unavailable; and

(VII) Information sufficient to evaluate the conditions specified in paragraph (i)(ii) of this section.

(ii) In granting any variance as provided by this paragraph, the Director shall issue written findings that the variance will not injure or threaten to injure the public health, safety, or welfare. The Director shall only make such a finding if the evidence presented in the application and obtained at a public hearing demonstrates that:

(A) There are no available alternative locations which meet the location standards to meet the disposal needs of the applicant, within a reasonable distance of the boundary of the service area of the facility;

(B) It is not possible to use existing facilities owned by another person within a reasonable distance of the boundary of the service area of the facility; and

(C) Special or unique conditions or circumstances apply to the applicant and justify granting the variance.

(iii) In granting any variance the Director shall condition the variance such that it applies only to the facility described in the application. Changes to the facility size, type or source of waste, rate at which waste is received, or any other aspect of the facility may render the variance invalid as determined by the Director.

(iv) The Administrator shall review the variance application within ninety ~~(90)~~ days of the receipt of the application. If the application is incomplete ~~and~~ or technically inadequate, the Administrator shall so advise and state in writing to the applicant the information required. Additional information submitted in response to any deficiency notification shall be reviewed by the Administrator within ninety ~~(90)~~ days.

(v) If the application is complete and technically adequate the Administrator shall provide draft findings and recommendations to the Director and the

applicant. The draft findings shall state whether or not the Administrator has found that the variance will not injure or threaten to injure the public health, safety or welfare and the basis for the draft findings.

(vi) Unless a delay is requested by the applicant, the Director shall schedule a public hearing on the draft findings within forty-five ~~(45)~~ days. Notice of the hearing shall be published at least thirty ~~(30)~~ days prior to the date of the hearing. Notice shall be published once a week for two ~~(2)~~ consecutive weeks in a paper of general circulation within the county where the facility is located. The notice shall contain the identity of the applicant, summary information on the variance application, the location where the public can view copies of the application and the Administrator's review, the Administrator's draft decision regarding granting or denying the variance application, and the date, time and location of the hearing.

(vii) A public comment period shall begin on the first date of publication and shall end at the conclusion of the hearing. The Director shall make a final decision regarding the variance within sixty ~~(60)~~ days from the date of the hearing.

(g†) Permit application procedures for low hazard or low volume treatment, processing, storage, and transfer facilities:

~~(i) — The applicant shall submit three (3) complete paper copies and one (1) complete electronic copy of the permit application unless an alternative is approved by the Administrator. The application shall be organized in three ring binders and the information presented in an order that conforms to the order set forth in the applicable sections of these rules and regulations, unless the Administrator approves an alternate format for the organization of the application;~~

(ii) The Administrator shall conduct a completeness and technical review of each application submittal within thirty ~~(30)~~ days of receipt of the application. If the Administrator deems the application incomplete and/or technically inadequate, the Administrator shall so advise and state in writing to the applicant the information required.;

(iii) Public notice for low hazard or low volume facilities: For each new low hazard or low volume treatment, processing, storage, and transfer facility permit application or application for a major amendment to an existing facility permit, the Administrator shall issue a proposed permit following completion of the Administrator's permit analysis, unless the permit is denied pursuant to Section 4 of this eChapter. Upon receipt of a proposed permit the applicant shall within fifteen ~~(15)~~ days:

(A) Cause a written notice to be published once a week for two ~~(2)~~ consecutive weeks. If the facility is mobile, notice shall be published in a newspaper of general circulation within the state. If the facility is not mobile, notice shall be published in a newspaper of general circulation within the county where the applicant plans to locate the facility. Specific text of the notice shall be provided to the applicant by the Administrator. The notice shall contain information about the permit application including the identity of

the applicant, the proposed facility service area, location, if not mobile, size, the waste types intended for management, the method of waste management, the operating life, and the Administrator's findings. The notice shall identify the period for filing objections to the application;

(B) If a fixed facility, notify adjacent landowners by first-class mail; and

(C) Provide the Administrator documentation that the notice requirements of this subsection have been followed, including copies of the publisher's affidavits and sworn statement.;

~~(iii)~~ (iv) The public comment period shall begin on the first date of publication of the notice and shall end at 5:00 pm on the thirtieth (30th) day following the last day of publication of the notice.;

~~(iv)~~ (v) Any interested person may submit written objections no later than 5:00 pm on the last day of the public comment period. If substantial written objections are received by the Director within the public comment period a public hearing will be held in accordance with W.S. § 35-11-502(k). ~~within twenty (20) days after the last day of the public comment period, unless a different schedule is deemed necessary by the Council. The Council or 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. The hearing shall be conducted as a contested case in accordance with the Wyoming Administrative Procedures Act, and right of judicial review shall be afforded as provided in that act.~~

(vi) Low hazard or low volume permit ~~or renewal permit~~ issuance: If documentation has been received that the public notice requirements of this section have been met and no substantial objections are received, the Director shall issue an operating permit or ~~renewal permit~~ within thirty (30) days.

(vii) The operator of a facility with a valid operating permit ~~or renewal permit~~ issued under ~~Section 2(j) of this chapter~~ this subsection, shall submit a permit renewal application no later than 180 days prior to the expiration of said permit unless a closure permit application has been submitted. The renewal application shall contain the information specified in the applicable chapter of these rules ~~and regulations~~.

~~(viii) Three (3) complete paper copies and one (1) complete electronic copy of the permit renewal application shall be submitted unless and alternative is approved by the Administrator. The application shall be organized in three ring binders, and the information presented in an order that conforms to the order set forth in the applicable application requirements sections of these rules and regulations, unless the Administrator approves an alternate format for the organization of the application. The applicant shall have the option to submit copies of only the updated and revised portion of the previous application, if the~~

~~revised and updated pages and drawings are appropriately numbered and dated to facilitate incorporation into the previous permit document and the revisions are clearly identified.~~

(hk) General Closure Permit for Municipal Solid Waste Landfills:

(i) A general closure permit shall apply to the closure and post-closure activities for municipal solid waste landfills with less than thirty (30) acres of municipal solid waste disposal area.

~~—————(ii)—— Notice of intent for coverage under a general permit must be accompanied by three (3) complete paper copies and one (1) complete electronic copy of the form, plans, specifications, design data or other pertinent information concerning the project unless an alternative is approved by the Administrator.~~

(ii)——(A) Notice of intent for coverage under a general permit shall be made on forms provided by the Department which require a signature of agreement by the applicant to abide by all conditions of the permit.

(iii)——(B) All activities shall meet the standards of Chapter 2 of these rules regulations.

(iv)——(C) All notice of intent for coverage forms shall be prepared under the supervision of a professional engineer licensed in the State of Wyoming. All notice of intent for coverage forms shall be stamped, signed and dated by a professional engineer. In addition, all portions of the notice of intent for coverage which require geological services or work shall be stamped, signed and dated by a professional geologist licensed in the State of Wyoming.

(viii) All notices of intent for coverage under a general permit shall be processed as follows:

(A) The Administrator shall review each notice of intent or resubmittal within sixty (60) days from the date the notice of intent or resubmittal is received.

(B) The Administrator may request additional information if it is determined that the information is inadequate to satisfy the requirements of these regulations rules.

(C) The Department shall issue an Authorization of Coverage within thirty (30) days of finding that the notice of intent or resubmittal is complete.

(D) No closure or post-closure activities shall commence until a written Authorization of Coverage under the general closure permit has been received from the Department.

(viiiv) Authorizations of Coverage for municipal solid waste landfills shall be

issued through the end of the post-closure period specified in Chapter 2 of these ~~regulations-~~  
~~rules~~ and shall be extended until ~~such time when~~ the Administrator determines, upon petition  
by the operator accompanied by submission of relevant information, that the facility has been  
adequately stabilized in a manner protective of human health and the environment. Petitions  
to terminate the post-closure period shall include certification from a Wyoming licensed  
professional engineer that post-closure care has been completed in compliance with the  
approved post-closure plan and in a manner protective of human health and the environment.  
No renewals of Authorizations of Coverage shall be required.

(vii) The general permit shall be developed pursuant to the permit issuance  
procedures of W.S. § 35-11-502(j), (k), and (m).

### **Section 3. Permit Amendments and Transfers.:**

~~This section applies to all permits, renewal permits and closure permits previously  
described in Chapter 1, Section 2, as follows:~~

(a) Permit amendments constituting a major change for municipal solid waste  
landfills shall comply with the requirements of Chapter 2 of these rules ~~and regulations.~~

(b) Permit amendments constituting a major change for all non-municipal solid  
waste facilities and minor changes at all solid waste facilities shall comply with the  
following:

~~(i) This subsection applies to minor changes of municipal solid waste  
landfill permits and to all permit amendments for other solid waste facilities.~~

~~(ii) Unless an alternative is approved by the administrator, the operator  
shall submit three (3) complete paper copies and one (1) complete electronic copy of the  
application, describing the amendments sought, including additional plates and/or drawings  
as necessary to completely describe the proposed amendment.~~

~~(i)(iii)~~ Within sixty (60) days of receipt of any application for a permit  
amendment, the Administrator shall conduct a review of the application and provide a  
written response to the operator.

(A) If the amendment is deemed ~~to be~~ complete and demonstrates  
compliance with applicable standards and constitutes a major change, the public notice and  
comment period in ~~Chapter 1, Section 2(b)(ii)~~ of this Chapter shall commence.

(B) If the amendment is deemed complete and demonstrates  
compliance with applicable standards and constitutes a minor change, the Administrator shall  
render a decision.

(ii) If the proposed amendment is determined to be inadequate, the  
operator shall be required to submit any additional information required by the  
Administrator, unless there is a basis for denial.

~~(c)~~—(iv) All amendments shall comply with the location, design and construction, operating, monitoring, financial assurance, and closure standards of the applicable chapter of these rules ~~and regulations~~.

(de) Permit transfers:

(i) An operator shall receive written approval from the Director prior to transfer of any permit authorized by these ~~regulations~~rules.

(ii) Permit transfer applications shall be in writing by the operator.  
~~Applications for the approval of the transfer of any permit shall be made in writing by the operator. The operator shall submit three (3) complete paper copies and one (1) complete electronic copy of the application unless an alternative is approved by the administrator. The application shall contain:~~

(A) The name, address and telephone number of the legal operator of the facility to whom the permit will be transferred, and, at a minimum, a summary, listing of any administrative order, civil or administrative penalty assessment, bond forfeiture, civil, misdemeanor, or felony conviction, or court proceeding for any violations of any local, state or federal law occurring within a minimum of five ~~(5)~~ years of application submittal relating to environmental quality or criminal racketeering, of the solid waste manager, the applicant, or if the applicant is a partnership or corporation, any partners in the partnership or executive officers or corporate directors in the corporation;

(B) The name, address and telephone number of the solid waste manager;

(C) Proposed date of the transfer of the permit; and

(D) 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 chapter of these rules ~~and regulations~~, including the responsibility to perform corrective actions.

(iii) The original operator shall retain responsibility for the facility according to the terms of the original permit until the application for permit transfer has been approved by the Director. The new operator may not operate the facility until the permit transfer has been approved.

(iv) No permit may be transferred from one operator to another unless the new operator demonstrates compliance with the financial assurance requirements of Chapter 7 of these rules.

#### Section 4. Permit Denial, Revocation, Modification, or Termination.

- (a) ~~Permit denials:~~—The Director may deny a permit if:
- (i) Permit issuance would conflict with any provision of the Act or these rules; the policy and purpose of the act; or
  - (ii) The applicant fails to submit the required information; ~~or~~
  - (iii) The facility history indicates continual noncompliance with these rules-~~and regulations; or~~
  - (iv) The application indicates that the facility would not comply with the location, design and construction, operating, monitoring, closure or post- closure standards as specified in the applicable sections of these ~~regulations~~rules; or
  - (v) The application misrepresents actual site conditions; ~~or~~
  - (vi) The applicant fails to employ a solid waste manager who meets the qualifications of the applicable chapter of these rules-~~and regulations; or~~
  - (vii) The applicant, or any partners, executive officers, or corporate directors, has been found civilly or criminally liable for violations of environmental quality or criminal racketeering laws or regulations 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-~~and regulations.~~
- (b) Permit revocation:
- (i) The Director may revoke a permit in instances of continual noncompliance, or if it is determined that the permit application misrepresented actual site conditions, or if the continued operation is inconsistent with any provision of the Act or these rules. the policy and purpose of the act.
  - (ii) The Director shall notify the operator of his or her intent to revoke the permit. The written notification shall contain the basis for revoking the permit. All permit revocation procedures shall be accomplished in accordance with the requirements of the Wyoming Administrative Procedures Act.
  - (iii) The Director may order facility closure following permit revocation. Closure and post-closure activities shall be accomplished in accordance with a plan approved by the Administrator. 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 the applicable chapter of these rules-~~and regulations.~~
- (c) Permit modification: The Director may modify an existing permit by



notifying the facility operator in writing. The written notification shall contain the basis for modifying the permit.

(d) Permit termination:

(i) Operating, ~~renewal, and closure~~ permit termination:

(A) Upon completion of closure activities, the operator shall provide a certification, with supporting documentation, from a Wyoming registered professional engineer confirming that the provisions of the closure plan have been carried out and that the facility has been closed in compliance with the closure standards specified in these rules ~~and regulations~~. The operator shall be notified in writing whether the closure certification is deficient or a written termination of the operating permit shall be issued. Operating permits shall not terminate until written authorization has been provided by the Administrator.

(ii) Closure permit termination:

(A) Following the initial minimum post-closure period specified in the applicable chapter of these rules ~~and regulations~~, the owner or operator may submit a petition to the Administrator requesting termination of the facility's closure permit and post-closure period. Petitions shall include supporting documentation and certification from a Wyoming registered engineer that post-closure care has been completed in compliance with the post-closure plan and in a manner protective of human health and the environment. The operator shall be notified in writing whether the post-closure certification is deficient or a written termination of the closure permit shall be issued. Closure permits shall not terminate until written authorization has been provided by the Administrator.

(iii) ~~Return~~ Release of financial assurance: Following permit termination, financial assurance shall be released as prescribed in Chapter 7 of these rules ~~and regulations~~.

**Section 5. One-Time or Emergency Waste Management Authorizations.**

(a) Authorization application procedure:

(i) This section applies to emergency situations, spilled solid wastes and residues from uncontrolled releases. This section does not apply to the land disposal of municipal solid wastes, mixed wastes, hazardous wastes or actions completed under either a hazardous waste permit or a hazardous waste corrective action order.

(ii) The Administrator may choose to issue a one-time or emergency waste management authorization in lieu of the permits specified in ~~Chapter 4, Section 2 of this Chapter~~. This type of waste management authorization shall only be considered under the following conditions:

(A) The proposed waste management activity shall be a single

occurrence of limited duration;

(B) The applicant documents that other waste management and/or reuse options were thoroughly investigated and that no other reasonable alternatives had been identified;

(C) The proposed waste disposal site would meet the applicable location standards specified in Chapter 3, or 4 of these rules ~~and regulations~~ or the proposed waste management site would meet the applicable location standards specified in Chapter 8 of these rules ~~and regulations~~;

(D) The proposed waste management activity would not present a significant threat to public health or the environment;

(E) The waste management activity would result in de minimis impacts which would not warrant the initiation of public participation procedures;

(F) The total waste disposal area would be no more than one ~~(1)~~ acre;

(G) The applicant can document that permission has been obtained from the landowner to manage the materials at the proposed waste management location, if that location is not owned by the applicant; and.

(H) The applicant commits to promptly record a notarized notice with the county clerk, in the county where the facility is located, which adequately describes the location, nature and extent of any waste disposal activity.

~~\_\_\_\_\_ (iii) Three (3) complete paper copies and one complete electronic copy of the waste management authorization request shall be submitted unless an alternative is approved by the Administrator. The request shall be organized in a three ring binder and the information presented in an order that conforms to the relevant application requirements section of these rules and regulations, unless the Administrator approves an alternate format for the organization of the request.~~

(iv) The waste management authorization request shall document compliance with the conditions specified in subsection (a)(ii) of this section allowing for the Administrator's consideration of a one-time or emergency waste management authorization. The request shall contain information adequate to demonstrate compliance with the standards specified in the applicable chapter of these rules ~~and regulations~~.

(v) The waste management authorization request shall be reviewed by the Administrator within forty-five ~~(45)~~ days after submission.

(b) Authorization issuance:

(i) The Administrator may deny a one-time or emergency waste

management authorization for any of the reasons specified in Section 4(a) of this Chapter. The Administrator may also deny a one-time or emergency waste management authorization if it is determined that the proposed waste management activity would not be subject to the provisions described in subsections (a)(i) and (a)(ii) of this section.

(ii) If the waste management authorization request is determined to be complete and the request demonstrates compliance with the standards in the relevant application requirements section, a waste management authorization will be granted by the Administrator.

(iii) The operator shall notify the Administrator following completion of authorized waste management activities. This notification shall be accompanied by site photographs adequate to demonstrate the site conditions following closure.

(iv) The term of the waste management authorization shall be no longer than one-~~(1)~~ year unless, for good cause, the Administrator approves additional time.

## CHAPTER 7

### FINANCIAL ASSURANCE REQUIREMENTS

#### Section 1.       —In General.

(a) ~~Authority: The authority for the rules and regulations~~This Chapter is promulgated in this chapter pursuant to the Wyoming Environmental Quality Act (Act), W.S. 35-11-306 and specifically Wyoming Statute (W.S.) §§ 35-11-504 and -515.

(b) ~~Applicability:~~

~~\_\_\_\_\_ (i) — This eChapter governs all solid waste management facilities that are required to demonstrate financial assurance under W.S. § 35-11-504. -Exempt solid waste management facilities include those solid waste management facilities listed in W.S. § 35-11-504(c) and:~~

~~\_\_\_\_\_ (A) — Solid waste landfills regulated under Chapter 2 of these rules and regulations which are owned or operated by a municipality provided that the facility is a participating facility under W.S. 35-11-515(o)(iii);~~

~~\_\_\_\_\_ (B) — Owned and operated by the person disposing of solid waste generated at the facility who annually demonstrates to the director compliance with the financial assurance requirements of the Resource Conservation and Recovery Act, P.L. 94-580, as amended as of January 1, 1989;~~

~~\_\_\_\_\_ (C) — Which are also subject to bonding or financial assurance requirements under Article 2, 3, or 4 of the act if the director determines that the bond or financial assurance under Articles 2, 3, or 4 satisfies the requirements of this chapter;~~

~~\_\_\_\_\_ (D) — Which are subject to bonding or financial assurance requirements under W.S. 30-5-104(d)(i)(D) or 30 U.S.C. 226(g) as amended as of January 1, 1989;~~

~~\_\_\_\_\_ (E) — Owned or operated by an electric utility disposing of solid waste generated by an electric generation facility pursuant to a permit or license issued by the department, provided that the exemption may be revoked by the council upon petition of the director for a period of time established by the council to secure remedial action in the event of any discharge of pollution to the air, land or to waters of the state which is in violation of a permit, standard, rule or requirement established under the provisions of the act;~~

~~(i) — (F) Solid waste management facilities other than those regulated under Chapter 2 of these rules, which that are owned or operated by a municipality;~~

~~(ii) — (G) Type I and Type II sSanitary landfills regulated under Chapter 2 which that ceased receipt of wastes before October 9, 1991;~~

~~(iii) — (H) Type I sanitary Municipal solid waste landfills regulated under Chapter 2 of these rules which that received waste after October 9, 1991, but ceased receipt of waste before October 9, 1993, and installed an approved final cover system before October 9, 1994;~~

~~(iv) — (I) Type II sanitary Municipal solid waste landfills regulated under Chapter 2 of these rules which that received waste after October 9, 1991, but ceased receipt of wastes before October 9, 1997, and installed an approved final cover system before October 9, 1998; and~~

~~(v) — (J) Mobile transfer, treatment and storage facilities regulated under Chapter 6 of these rules and regulations.~~

~~(c) Leaking municipal solid waste landfills regulated under Chapter 17 of these rules that conduct remediation in accordance with W.S. § 35-11-533 through -537 are exempt from corrective action financial assurance requirements in Section 3 of this Chapter.~~

~~(e) Objective: The objective of these rules and regulations is to provide financial assurance for the purposes specified in W.S. 35-11-504(a) and to establish the procedures for participating facilities as provided in W.S. 35-11-515.~~

~~(d) Severability: If any section or provision of this chapter, 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 regulations 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 this chapter without the invalid part, and to this end the provisions of this chapter are declared to be severable.~~

## ~~Section 2. Requirements to Demonstrate Financial Assurance.~~

~~(a) Financial assurance requirement for new nonmunicipally owned solid waste management facilities: Financial assurance and compliance with the department's rules and regulations will be required of all new nonmunicipally owned facilities, as specified by Section 1(b) of this chapter, prior to issuance of a permit.~~

~~(b) Financial assurance requirement for existing nonmunicipally owned solid waste management facilities: Compliance with these financial assurance rules and regulations will be required of all existing nonmunicipally owned solid waste management facilities as specified by Section 1(b) of this chapter no later than June 8, 1991.~~

~~(c) Financial assurance requirement for conditionally exempt facilities: Financial assurance will be required of all existing, conditionally exempt solid waste management facilities specified in Section 1(b)(i)(E):~~

~~(i) If the director determines the facility is in violation of the department's~~

rules and regulations resulting in the release of contamination to the air, land or water resources of the state, the director shall issue an order to the operator of the regulated facility to show cause why financial assurance is not required. Opportunity for a public hearing before the council shall be provided. If a hearing is requested the director shall inform all interested parties of the time and place of the hearing. Upon failure of the operator to show cause why financial assurance should not be required, the council shall require financial assurance for a period of time needed to secure remedial action. The financial assurance requirement may be removed when the violations have been corrected to the director's satisfaction. No financial assurance requirement shall be unreasonably prolonged.

\_\_\_\_\_ (ii) — The financial assurance requirement specified in paragraph (c) of this section shall become effective upon thirty (30) days notice to the applicant.

(d) Municipally-owned or operated solid waste landfills regulated under Chapter 2 of these rules shall demonstrate financial assurances for closure, post-closure, and corrective action by following either the requirements of Sections 2 through 14 of this Chapter or the requirements of Section 15 of this Chapter. Financial assurance requirements for municipally owned or operated solid waste landfills regulated under Chapter 2 of these rules and regulations: Compliance with these financial assurance rules and regulations will be required of all new and existing municipally owned or operated Type I solid waste landfills regulated under Chapter 2 of these rules and regulations effective April 9, 1997. Compliance for Type II solid waste landfills regulated under Chapter 2 of these rules and regulations will be required effective October 9, 1997. Notwithstanding these effective dates, if the effective date for compliance with financial assurance requirements for any category of existing sanitary landfills contained in 40 CFR part 258 is modified by the U.S. Environmental Protection Agency, then the effective dates for compliance specified by this subsection shall be the modified USEPA date, for the applicable category of landfills. Compliance shall be demonstrated as follows:

\_\_\_\_\_ (i) — For financial assurance for the costs of closure and post-closure care, operators shall demonstrate compliance using either the requirements of Sections 3 through 8 of these rules and regulations, or the requirements of Section 9;

\_\_\_\_\_ (ii) — For financial assurance for the costs of corrective action requirements, if needed, operators shall demonstrate compliance using the requirements of Sections 3 through 8 of these rules and regulations.

\_\_\_\_\_ (e) Definitions: The definitions in W.S. § 35-11-103(a) and (d) and Chapter 1 of these rules apply to this Chapter.

**Section 3. — Coverage.**

\_\_\_\_\_ (a) — General purpose and scope: Permits for regulated facilities require closure, post-closure and corrective action financial assurance plans as prescribed in this chapter for the purpose of assuring that operators of these facilities are financially responsible for protection of public health and the environment. This chapter contains general requirements governing closure, post-closure care and corrective action for violations of a permit, standard, rule or requirement. These requirements may be supplemented by site specific closure, post-closure

care and corrective action permit conditions. Together with the factors used to produce cost estimates, these maintenance requirements form the basis of the financial assurance standards included in this chapter.

~~\_\_\_\_\_ (b) Closure and post-closure requirements:~~

~~\_\_\_\_\_ (i) Notification:~~

~~\_\_\_\_\_ (A) An operator intending to close a regulated facility shall notify the administrator of the intention to do so at least 180 days prior to the anticipated date for initiation of closure. Simultaneous notice shall be made by the operator to the governing body of each locality and adjacent property owners by certified or registered mail.~~

~~\_\_\_\_\_ (B) If the facility has been open to the general public, the operator shall publish notice of closure in an area newspaper, as well as post one sign at each facility access point notifying all persons of the closing and prohibition against further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.~~

~~\_\_\_\_\_ (ii) Closure and post-closure standards:~~

~~\_\_\_\_\_ (A) Closure and post-closure maintenance shall occur in accord with approved plans. A closure plan and a post-closure plan shall be submitted with the permit application. The operator shall submit a revised closure plan and post-closure plan to the administrator for review and approval as necessary to describe any plan changes.~~

~~\_\_\_\_\_ (B) The operator shall close the facility in a manner that minimizes the need for post-closure maintenance and controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, the post-closure escape of leachate, surface run-off or waste decomposition products to the groundwater, surface water or the atmosphere. The post-closure monitoring period shall continue for a minimum of thirty (30) years after the date of completing closure of the regulated facility, unless shortened by the director under Chapter 2, Section 7(b) of these rules and regulations. The minimum post-closure monitoring period shall be extended if the director determines it is needed to protect human health and the environment.~~

~~\_\_\_\_\_ (iii) Inspection:~~

~~\_\_\_\_\_ (A) The administrator shall inspect all closed regulated facilities to determine if the closure is complete and adequate in accordance with the approved plan after being notified by the operator that closure has been completed. The administrator shall provide written inspection results to the operator of a closed facility after the inspection. If the closure is not satisfactory, the administrator shall specify necessary construction or such other steps as may be appropriate to bring unsatisfactory sites into compliance with closure requirements.~~

~~\_\_\_\_\_ (B) Notification by the administrator that the closure is satisfactory does not relieve the operator of responsibility for corrective action in accordance with~~

regulations of the department to prevent or abate problems caused by the regulated facility which are subsequently discovered.

~~\_\_\_\_\_ (c) Corrective action requirements.~~

~~\_\_\_\_\_ (i) Notification:~~

~~\_\_\_\_\_ (A) The administrator shall notify the operator of the need to take corrective action to remedy a violation of a permit condition, standard, rule or requirement relating to a regulated facility. The notification shall describe the nature of the violation.~~

~~\_\_\_\_\_ (B) If deemed necessary by the administrator, the operator will be required to close the facility and cease further receipt of waste materials.~~

~~\_\_\_\_\_ (C) If the facility is closed, the operator shall post one sign notifying all persons of the closing and prohibition against further receipt of waste materials. Further, suitable barriers shall be installed at former accesses to prevent new waste from being deposited.~~

~~\_\_\_\_\_ (ii) Remediation activities: In the event of a release, the operator shall:~~

~~\_\_\_\_\_ (A) Initiate immediate measures to:~~

~~\_\_\_\_\_ (I) Prevent further release to the environment.~~

~~\_\_\_\_\_ (II) Prevent further migration of the released substance into surrounding soils and waters of the state.~~

~~\_\_\_\_\_ (III) Identify, monitor and mitigate any safety hazards or health risks associated with the violation.~~

~~\_\_\_\_\_ (B) Prepare a plan to conduct an investigation of the release, the release site and any surrounding area which may be affected by the release. The plan shall include:~~

~~\_\_\_\_\_ (I) A comprehensive subsurface investigation to define the extent and degree of contamination.~~

~~\_\_\_\_\_ (II) A schedule for conducting the investigation.~~

~~\_\_\_\_\_ (III) A cost estimate for a third party to perform the tasks identified by the plan.~~

~~\_\_\_\_\_ (C) Submit the investigation plan to the administrator within thirty (30) days. The extent of contamination study should begin as soon as the plan has been approved and all necessary permits obtained.~~



~~\_\_\_\_\_ (D) Conduct the extent of contamination study in accordance with the approved plan and submit a written report of the findings to the administrator.~~

~~\_\_\_\_\_ (E) If required by the administrator, develop a comprehensive plan for mitigation and cleanup. The remediation plan shall be submitted to the administrator for approval. The remediation plan shall be implemented as soon as the administrator has approved the plan and all necessary permits have been obtained. The remediation plan shall contain an estimate of the costs for a third party to perform the tasks identified by the plan.~~

~~\_\_\_\_\_ (d) Financial assurance: In order to assure that the costs associated with protecting the public health and safety from the consequences of an abandonment, or a failure to properly execute closure, post-closure care or required corrective action and cleanup of a regulated facility are recovered from the operator of such a facility, the operator shall provide financial assurance in one, or a combination of the forms described in this chapter including a self bond, a surety bond, a federally insured certificate of deposit, government-backed securities, an irrevocable letter of credit, or cash. Such financial assurance shall be in the amount calculated as the cost estimate using the procedures set forth in Sections 3(e)(i), 3(e)(ii) and 3(e)(iii) of this chapter. Evidence of the selected forms of financial assurance shall be filed with the director as part of the permit application procedures and prior to the issuance of an operating permit. The director may reject the proposed forms of assurance of financial responsibility if the evidence submitted does not adequately assure that funds will be available as required by these rules. The operator shall be notified in writing within sixty (60) days of receipt of the evidence of financial assurance of the decision to accept or reject the proposed forms of financial assurance.~~

## Section 2. Closure and Post-Closure Cost Estimates.

(a) Along with the closure plan and post-closure plan required for a regulated facility, the operator must submit closure and post-closure estimates.

(i) An incinerator, resource recovery facility, compost facility, or storage surface impoundment may omit the post-closure cost estimate if onsite disposal of wastes or residues is not planned or required.

(b) The closure cost estimates shall:

(i) Cost estimate for facility closure:

~~\_\_\_\_\_ (A) In submitting a closure plan as required by these regulations, the operator of a regulated facility shall include therein an itemized written estimate of the cost, in current dollars of completing all work described in the closure plan, of closing the facility.~~

(ii) Be based on the cost. The estimated closing cost shall be determined by the director on a case-by-case basis, considering information supplied by the operator. Such costs shall be based on the work required for a third-party contractor to complete the closure plan at the most expensive point in the life of the facility. If written bids are used to estimate costs, the director may obtain additional bids cost estimates from a third-party contractor to substantiate

the accuracy of the estimated costs; ~~and~~

~~(iii) (B) The estimated closing cost shall be based on the work required for a third party contractor to effect proper closure at the most expensive point in the life of the facility. Those Account for the following factors if applicable to be considered in estimating the closure cost shall include:~~

- ~~(A) (I) The size and topography of the site;~~
- ~~(B) (II) The daily or weekly volume of waste to be received at the site;~~
- ~~(C) (III) Availability of cover and fill material needed for site grading;~~
- ~~(D) (IV) The type of waste to be received at the site;~~
- ~~(E) (V) Disposal method and sequential disposal plan;~~
- ~~(F) (VI) The location of the site and the character of the surrounding area;~~
- ~~(G) (VII) Requirements for surface drainage;~~
- ~~(H) (VIII) Operation and maintenance of the leachate collection and treatment system, and the off-site disposal of leachate;~~
- ~~(I) (IX) Environmental quality monitoring system;~~
- ~~(J) (X) Structures and other improvements to be dismantled and removed. Salvage values cannot be used to offset demolition costs;~~
- ~~(K) (XI) Site storage capacity for solid waste, incinerator residue and compost material;~~
- ~~(L) (XII) Off-site disposal requirements. Salvage values cannot be used to offset waste removal costs;~~
- ~~(M) (XIII) Vector control requirements;~~
- ~~(N) Cleaning of all solid waste management units and equipment;~~
- ~~(O) (XIV) A minimum of fifteen percent (15%) variable contingency fee to cover other closure costs as determined appropriate by the ~~d~~Director; and~~
- ~~(P) (XV) Any ~~O~~ther relevant site-specific factors.~~

~~(C) Revised closure cost estimates will be submitted to the director as specified in this subsection. When the revised estimates are approved by the director, the operator shall submit revised financial assurance for the revised closure costs.~~

~~(I) If written bids are used to estimate closure costs, the operator shall provide revised closure cost estimates on an annual basis.~~

~~(II) If written bids are not used to estimate closure costs, the operator shall provide revised closure cost estimates every four years or with the permit renewal application, whichever comes first.~~

(c)(ii) The Cost estimate for facility post-closure cost estimate shall:

~~(A) In submitting a closure plan as required by these regulations, the operator of a regulated facility shall include therein a written estimate of the cost of post-closure care, monitoring and maintenance. Unless on-site disposal of wastes or residues from the treatment or storage of wastes is planned or required, an incinerator, resource recovery facility, compost facility or storage surface impoundment will not be required to include a post-closure cost estimate in its closure plan. The estimated post-closure cost shall be determined by the director on a case-by-case basis considering information supplied by the operator. Such costs shall be based on the work required for a third party contractor. If written bids are used to estimate costs, the director may obtain additional bids to substantiate the accuracy of the estimated costs.~~

(i) Include an itemized written estimate, in current dollars, of the cost of completing all work described in the post-closure plan;

(ii) Be based on the cost required for a third-party contractor to complete the work described in the post-closure plan. The Director may obtain additional cost estimates from a third-party contractor to substantiate the accuracy of the estimated cost; and

(iii)(B) Account for the following ~~Those factors~~ if applicable to be considered in estimating post-closure maintenance costs shall include:

(A)(I) The size and topography of the site;

(B)(II) The type and quantity of waste received;

(C)(III) Disposal method and sequential disposal plan;

(D)(IV) The potential for significant leachate production and the possibility of contaminating water supplies;

(E)(V) Environmental quality monitoring systems;

~~(F) — (VI)~~ Soil conditions;:-

~~(G) — (VII)~~ The location of the site and the character of the surrounding area;

~~(H)~~ Planned inspections of facility;:-

~~(I) — (VIII)~~ A minimum of fifteen percent (15%) contingency fee to cover other post-closure costs as determined appropriate by the ~~d~~Director; and:-

~~(J) — (IX)~~ Any ~~o~~ther relevant site-specific factors.

~~(d) — (C)~~ Estimated costs of post-closure activities shall be determined on a case-by-case basis. Revised Closure and post-closure cost estimates shall be updated, revised, and will be submitted to the dDirector as specified in Section 13 of this Chapter. on an annual basis as specified in this subsection. When the revised estimates are approved, the operator shall submit revised financial assurance for the revised post-closure costs.

~~(I) —~~ If written bids are used to estimate post-closure costs, the operator shall provide revised post-closure cost estimates on an annual basis.

~~(II) —~~ If written bids are not used to estimate post-closure costs, the operator shall provide revised post-closure cost estimates every four years or with the permit renewal application whichever comes first.

~~Section 3. — (iii)~~ **Corrective Action Cost eEstimates. for corrective action:**

~~(a) — (A)~~ IfFor solid waste management facilities a regulated facility violates a permit, standard, rule, or requirement established under the Act, resulting in a release of pollution or waste to the air, land, or water resources of the state, the Director shall: under W.S. 35-11-504, the operator shall provide a supplemental financial assurance in an amount sufficient to meet the requirements of Section 3(c) of this chapter no later than thirty (30) days after the director approves the investigation or mitigation plan under Section 3(c)(ii)(C) or (E).

~~(i)~~ Notify the regulated facility of the violation; and

~~(ii)~~ Order the regulated facility to take corrective action to remedy or abate the violation and to provide financial assurance as specified in this Section.

~~(b)~~ Within thirty days of receiving an order to take corrective action, the operator shall provide notice of the selected correction action remedy and a corrective action cost estimate to the Director.

~~(i)~~ The corrective action cost estimate shall:

(A) Include an itemized written estimate of the cost, in current dollars, of completing all work described for the selected corrective action remedy;

(B) Be based on the cost required for a third-party contractor to complete the work described for the selected corrective action remedy. The Director may obtain additional cost estimates from a third-party contractor to substantiate the accuracy of the estimated costs; and

~~(CB) Account for the following. The factors if applicable to be considered in estimating the cost of corrective actions and cleanup of a release shall include the following:~~

- (I) Soils, geologic and hydrogeologic conditions at the site;:-
- (II) The type and quantity of waste received;:-
- (III) Disposal method and sequential disposal plan;:-
- (IV) The potential for significant leachate production and the possibility of contaminating groundwater;:-
- (V) Environmental quality monitoring systems;:-
- (VI) The location of the site and the character of the surrounding area;:-
- (VII) A minimum of fifteen percent ~~(15%)~~ contingency fee to cover other corrective action and cleanup costs as determined appropriate by the ~~d~~Director;:-
- (VIII) The ability of the facility to prevent and detect a release and to facilitate cleanup activities. The criteria used to evaluate this ability shall include design, construction, operation, monitoring and contingency plans submitted as part of the permit application package;:-
- (IX) The class, use, value and environmental vulnerability of surface and groundwater resources ~~which~~ that may be impacted by a release;:- and
- (X) Any Other relevant site-specific factors.

(D) Be updated, revised, and submitted to the Director in accordance with Section 13 of this Chapter.

~~(f) Financial assurance for facility closure, post-closure and corrective action:~~

~~(i) General:~~

~~\_\_\_\_\_ (A) For each regulated facility for which a permit is applied, financial assurance shall be provided for closure and post-closure activities, and for corrective action if required under Section 3(e)(iii).~~

~~\_\_\_\_\_ (B) Determination of the financial assurance requirements for corrective action and cleanup of commercial oil field waste disposal facilities will be made by the Water Quality Division when the construction permit application is evaluated.~~

~~\_\_\_\_\_ (ii) Forms of financial assurance: Financial assurance may be provided in one or a combination of the following forms executed in the amount calculated as the estimated closure and post-closure costs in accordance with W.S. 35-11-504(a)(i). These forms may also be available for financial assurance for corrective actions at a regulated facility.~~

~~\_\_\_\_\_ (A) Self bond;~~

~~\_\_\_\_\_ (B) Surety bond;~~

~~\_\_\_\_\_ (C) Federally insured certificates of deposit;~~

~~\_\_\_\_\_ (D) Government-backed securities;~~

~~\_\_\_\_\_ (E) Cash;~~

~~\_\_\_\_\_ (F) Letters of credit.~~

~~\_\_\_\_\_ (g) Transfer of permits: Permits may be transferred from one operator to another only if the new operator can demonstrate compliance with the financial assurance requirements of this chapter.~~

~~\_\_\_\_\_ **Section 4. Establishment of Financial Assurance Requirements.**~~

~~\_\_\_\_\_ (a) The Director, through the Administrator, shall establish the amount of financial assurance required for regulated facilities based on the cost estimates for closure, post-closure, and corrective action.~~

~~\_\_\_\_\_ (b) If the Administrator determines that a cost estimate meets the requirements of this Chapter:~~

~~\_\_\_\_\_ (i) The Administrator shall establish the amount of financial assurance required and notify the operator in writing of the amount; and~~

~~\_\_\_\_\_ (ii) Within thirty days of receiving notice from the Administrator, the operator shall submit documentation of financial assurance, on forms furnished by the Director, in an amount at least equal to the established financial assurance amount.~~

~~\_\_\_\_\_ (c) If the Administrator determines that a cost estimate does not meet the~~

requirements of this Chapter, the Administrator shall notify the operator of the deficiencies in the cost estimate, and the operator shall revise and resubmit the cost estimate to the Administrator within thirty days of the Administrator's determination unless an alternate schedule is approved by the Administrator for good cause.

**Section 54. Acceptable Forms of Financial Assurance.**

An operator of a regulated facility shall provide financial assurance for closure, post-closure, or corrective action in one or more of the following forms: surety bond, self-bond, federally insured certificates of deposit, cash, government securities, or irrevocable letters of credit.

**Section 6. Surety Bonds.**

Surety bonds shall comply with the following requirements:

(a) A corporate surety company shall not be considered good and sufficient for purposes of W.S. § 35-11-504 ~~or~~ unless:

(i) The company is licensed to do business in the state;

(ii) The bond is made payable to the Department;

(iii) The estimated bond amount does not exceed the limit of risk as provided for in W.S. § 26-5-110, nor raise the total of all bonds held by the applicant under that surety above three times the limit of risk; and

(iv) The surety company agrees to the following:

(A) Not to cancel the bond, except as provided for in W.S. § 35-11-504 or where the Director gives prior written approval of a replacement bond or financial assurance;

(B) To be jointly and severally liable with the operator; and

(C) To provide immediate written notice to the Director and operator once it becomes unable or may become unable due to any action filed against it to fulfill its obligations under the bond.

(b) The provisions applicable to cancellation of the surety's license in W.S. § 35-11-504 shall also apply if for any other reason the surety becomes unable to fulfill its obligations under the bond. Failure to comply with this provision shall result in suspension of the permit. Upon such occurrence it is the operator's responsibility to provide a substitution of financial assurance.

**Section 7. Self-bonds.**

~~\_\_\_\_\_ (a) — Self-bonding shall comply with the following requirements:~~

~~(a) — (i) Initial application to self bond: An initial application to self-bond shall be made at the time the operator makes written application to the director to construct, operate or modify a regulated facility. The application shall be on forms furnished by the director and shall contain:~~

~~(i) — (A) Identification of operator by:~~

~~(A) — (I) For corporations, name, address, telephone number, state of incorporation, principal place of business and name, title and authority of person signing application, a corporate resolution authorizing the application, and statement of authority to do business in the State of Wyoming, or~~

~~(B) — (II) For all other forms of business enterprises, name, address and telephone number and statement of how the enterprise is organized, law of the sState under which it is formed, place of business, and relationship and authority of the person signing the application.~~

~~(ii) — (B) Amount of self-bond required proposed, to be determined in accordance with W.S. 35-11-504(a)(i) or W.S. 35-11-306(d). If the self bond amount is The proposed self-bond maximum amount shall not exceed seventy-five percent of the required bond amount. to be less than the full bond amount, the amount which is proposed to be under a self bond is the bond required.~~

~~(iii) — (C) Type of operation and anticipated dates performance is to be commenced and completed.~~

~~(iv) — (D) Brief chronological history of business operations that conducted within the last five (5) years which would illustrates a continuous operation for five (5) years immediately preceding the time of application. The Director~~

~~\_\_\_\_\_ (I) — The director may allow a joint venture or syndicate partnership with less than five (5) years of continuous operation to qualify under this requirement, if each member of the joint venture or partnership syndicate has been in continuous operation for at least five (5) years immediately preceding the time of application.~~

~~\_\_\_\_\_ (II) — When calculating the period of continuous operation, the director may exclude past periods of interruption to the operation of the business entity that were beyond the applicant's control and that do not affect the applicant's likelihood of remaining in business during the proposed operation of the regulated facility.~~

~~(v) — (E) Information in sufficient detail to show good-faith performance of past operation, and closure, post-closure, and corrective action obligations. The compliance information in the permit or annual reports may be referenced to satisfy part of this requirement.~~



~~\_\_\_\_\_ (F) A statement, in detail, to show a history of financial solvency. For an initial bond, each operator must provide audited financial statements supporting the following comparative documents, prepared and certified by an independent Certified Public Accountant who, by reason of education, experience or special training, and disinterest, is competent to analyze and interpret the operator's financial solvency. All statements shall be prepared following generally accepted principles of accounting.~~

~~\_\_\_\_\_ (I) A comparative balance sheet which shows assets, liabilities and owner equity for five (5) years. The operator may provide common size documents for confidentiality.~~

~~\_\_\_\_\_ (II) A comparative income statement which shows all revenues and expenses for five (5) years. The operator may provide common size documents for confidentiality.~~

~~\_\_\_\_\_ (III) A report for the most recently completed fiscal year containing the accountant's audit opinion or review opinion of the balance sheet and income statement with no adverse opinion.~~

~~\_\_\_\_\_ (IV) Notwithstanding the language in (F) above, unaudited financial statements may be submitted to support the comparative documents where current fiscal year quarters have ended but a CPA opinion has not yet been obtained because the fiscal year has not yet ended.~~

~~(vi) (G) Financial information in sufficient detail to show that the operator and ultimate parent guarantor meets one of the following criteria (the specific criterion relied upon shall be identified):~~

~~(A) (I) The operator has Have a rating for all bond issuance actions and long term credit rating within the current year of "Aa3" over the past five (5) years of "A" or higher as issued by either Moody's Investor Service, "AA-" or higher as issued by Standard and Poor's Corporation or "AA-" or higher as issued by Fitch Ratings. The operator is eligible for a maximum of seventy-five percent of the approved cost estimate. The self-bond must accompany another acceptable financial assurance instrument for the remaining twenty-five percent of the approved cost estimate (the rating service should be identified together with any further breakdown of specific ratings);~~

~~(B) (II) Have a rating for all bond issuance actions and long-term credit rating within the current year of "A2" or higher as issued by Moody's Investor Service, "A" or higher as issued by Standard and Poor's Corporation or "A" or higher as issued by Fitch Ratings. The operator is eligible for a maximum of seventy percent of the approved cost estimate. The self-bond must accompany another acceptable financial assurance instrument for the remaining thirty percent of the approved cost estimate; or The operator has a tangible net worth of at least \$10 million, and a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to current liabilities of 1.2 times or greater. The two ratio requirements must be met for the past year, and documented for the four (4) years preceding the past year.~~

~~Explanations should be included for any year where the ratios fall below the stated limits.~~

~~(C)—(III) The operator's fixed assets in the United States total at least \$20 million, and the operator has a ratio of total liabilities to net worth of 2.5 times or less, and a ratio of current assets to current liabilities of 1.2 times or greater. The two ratio requirements must be met for the past year and documented for the four (4) years preceding the past year. Explanations should be included for any year where the ratios fall below the stated limits. Have a rating for all bond issuance actions and long-term credit rating within the current year of "Baa2/A-" or higher as issued by Moody's Investor Service, "BBB/A-" or higher as issued by Standard and Poor's Corporation or "BBB/A-" or higher as issued by Fitch Ratings. The operator is eligible for a maximum of fifty percent of the approved cost estimate. The self-bond must accompany another acceptable financial assurance instrument for the remaining fifty percent of the approved cost estimate.~~

~~(D)—(IV) In the event of a split rating, the Director has the discretion to determine which rating will be accepted and applied to (A), (B), or (C) of this subsection. If the operator chooses (II) or (III), the two ratios shall be calculated with the proposed self bond amount added to the current or total liabilities for the current year. The operator may deduct the costs currently accrued for reclamation which appear on the balance sheet.~~

~~(vii)—(H) A statement listing any notices issued by the Securities and Exchange Commission or proceedings initiated by any party alleging a failure to comply with any public disclosure or reporting requirements under the securities laws of the United States. Such statement shall include a summary of each such allegation, including the date, the requirement alleged to be violated, the party making the allegation, and the disposition or current status thereof.~~

~~(viii)—(I) A statement which identifying by name, address, and telephone number:~~

~~(A)—(I) Identifies by name, address and telephone number, a A registered office which may be but need not be, the same as the operator's place of business;:~~

~~(B)—(II) Identifies by name, address and telephone number, a A registered agent, which agent must be either an individual resident in this sState, whose business office is identical with such registered office, or a domestic corporation, or a foreign corporation authorized to transact business in the Sstate, having a business office identical with such registered office. The registered agent so appointed by the operator shall be an agent to such operator upon whom any process, notice or demand required or permitted by law to be served upon the operator may be served;:~~

~~(ix) An acknowledgement that:~~

~~(A)—(III) Acknowledges that if l the operator fails to appoint or maintain a registered agent in this state, or whenever any such registered agent cannot be reasonably found at the registered office, then the Wyoming Secretary of State Director shall be~~

an agent for such operator upon whom any process, notice or demand may be served for the purpose of this Chapter. In the event of any such process, the ~~Wyoming Secretary of State~~ Director shall immediately cause one copy of such process, notice or demand to be forwarded, by ~~registered or certified mail~~, to the operator at his principle place of business. The ~~Wyoming Secretary of State~~ Director shall keep a record of all processes, notices, or demands served upon him or her under this paragraph, and shall record therein the time of such service and his or her action with reference thereto.

~~(B)~~—(IV) ~~Acknowledges that s~~Should the operator change the registered office or registered agent, or both, a statement indicating such change shall be filed immediately with the Solid and Hazardous Waste Division and the Director.

~~(C)~~—(V) ~~Acknowledges that n~~Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon an operator in any other manner now or hereafter permitted by law.

~~(x)~~—(J) The ~~d~~Director may accept a written guarantee for an operator's self-bond from an ultimate parent corporation guarantor ~~or from a federal agency~~, if the guarantor ~~or federal agency~~ satisfies the financial criteria of this ~~e~~Chapter as if it were the operator. ~~The operator must only supply information addressing requirements not met by the parent corporation guarantor.~~ Such a written guarantee may be accepted by the Administrator and shall be referred to as an "ultimate parent guarantee." The terms of the ultimate parent corporate guarantor ~~or federal agency guarantee~~ shall provide for the following:

(A)—(I) If the operator fails to complete ~~the closure, post-closure, or corrective action plan~~ the ultimate parent guarantor shall do so or the ultimate parent guarantor shall be liable under the indemnity agreement to provide funds to the sState sufficient to complete the ~~reclamation plan~~ closure, post-closure, or corrective action plans, but not to exceed the ~~bond amount~~ actual costs of closure, post-closure, or corrective action; and

(B)—(H) The ultimate parent ~~parent corporate or federal agency~~ guarantee shall remain in force unless the ultimate parent guarantor sends notice of cancellation by ~~registered or certified mail~~ to the operator and to the ~~d~~Director at least ninety ~~(90)~~ days in advance of the cancellation date, and the ~~d~~Director accepts the cancellation. The cancellation shall be accepted by the ~~d~~Director if the operator obtains a suitable replacement bond before the cancellation date, if the lands for which the ~~self bond~~ self-bond, or portion thereof, was accepted have not been disturbed, or if the lands have been released under W.S. § 35-11-504.

(xi)—(K) For the ~~d~~Director to accept a regulated facility operator's self-bond, the total amount of the outstanding and proposed self-bond of the operator shall not exceed 25 twenty-five percent (25%) of the operator's tangible net worth in the United States. For the ~~d~~Director to accept a corporate guarantee, the total amount of the ultimate parent ~~corporation~~ guarantor's present and proposed self-bonds and guaranteed self-bonds shall not exceed 25 twenty-five percent (25%) of the guarantor's tangible net worth in the United States.

—(bii) Approval or denial of operator's self-bond application:

———(iA) The ~~d~~Director, within sixty-(60) days of the operator's submission of all materials necessary to base a decision on the application shall:

———(A) Approve or reject such application and declare in writing its reasons for such action to the operator or his registered agent. ~~The decision shall be based on the information submitted and shall be sufficient to meet the demonstrations required by W.S. 35-11-504(a).~~

———(BH) If a rejection is based on inadequate information or failure of the operator to supply all necessary material, the ~~d~~Director shall allow the operator thirty-(30) days to remedy the deficiencies. Such corrections shall be made to the satisfaction of the ~~d~~Director. The ~~d~~Director shall have an additional sixty-(60) days to approve or reject the corrected application.

———(cxiii) If the Director accepts the operator's self-bond, an indemnity agreement shall be submitted subject to the following requirements:

(i) The indemnity agreement shall be executed by all persons and parties who are to be bound by it, including the ultimate parent entity guarantor, and shall bind each jointly and severally.

(ii) Corporations applying for a self-bond or ultimate parent corporations guaranteeing an operator's self-bond shall submit an indemnity agreement signed by two corporate officers who are authorized to bind their corporations. A copy of such authorization shall be provided to the Director along with an affidavit certifying that such an agreement is valid under all applicable Federal and State laws. In addition, all corporate guarantors shall provide a copy of the corporate authorization demonstrating that the corporation may guarantee the self-bond and execute the indemnity agreement.

(iii) If the applicant is a partnership, joint venture or syndicate, the agreement shall bind each partner or party who has a beneficial interest directly or indirectly, in the operator.

(iv) The indemnity agreement shall provide that the persons or parties bound shall pay all litigation costs incurred by the State in any successful effort to enforce the agreement against the operator.

———(B) ~~If the director accepts an uncollateralized self bond, an indemnity agreement shall be submitted subject to the following requirements:~~

———(I) ~~The indemnity agreement shall be executed by all persons and parties who are to be bound by it, including the parent corporation or federal agency guarantor, and shall bind each jointly and severally.~~

———(II) ~~Corporations applying for a self bond or parent corporation guaranteeing a subsidiary's self bond shall submit an indemnity agreement signed by two~~

~~corporate officers who are authorized to bind the corporation. A copy of such authorization shall be provided to the director. A federal agency guaranteeing an operator's self bond shall submit an indemnity agreement signed by two officers of the agency who are authorized to bind the agency and a copy of their authorization. The agency shall also submit documents supporting the availability of a cause of action against the federal agency for performance under the indemnity agreement.~~

~~\_\_\_\_\_ (III) If the applicant is a partnership or joint venture, the agreement shall bind each partner or party who has a beneficial interest directly or indirectly, to the operator.~~

~~\_\_\_\_\_ (IV) The indemnity agreement shall provide that the persons or parties bound shall pay all litigation costs including reasonable attorney fees incurred by the state in any successful effort to enforce the agreement against the operator.~~

~~\_\_\_\_\_ (C) If the application is rejected based on the information required in Section 4(a)(i), or based on the limitation set in Section 4(a)(i)(K) then the operator may offer collateral and an indemnity agreement to support the self bond application. The indemnity agreement shall be subject to the requirements of (B) above.~~

~~\_\_\_\_\_ (I) For any collateral offered to support a self bond, the following information shall be provided:~~

~~\_\_\_\_\_ (1.) The value of the property. The property shall be valued at the difference between 75 percent (75%) of the fair market value and any reasonable expense anticipated by the director in selling the property. The fair market value shall be determined by an appraiser or appraisers appointed by the director and mutually acceptable to both the director and the operator. The appraisal shall be expeditiously made, and copies thereof furnished to the director and the operator. The expense of the appraisal shall be borne by the operator.~~

~~\_\_\_\_\_ (2.) A description of the property satisfactory for deposit to further assure that the operator shall faithfully perform all requirements of Act. The director shall have full discretion in accepting any such offer.~~

~~\_\_\_\_\_ a. Real property shall not include any lands in the process of being used for the transfer, treatment, processing, storage or disposal of solid wastes, reclaimed or subject to this application. The operator may offer any lands the bonds for which have been released or lands within a permit area which will not be affected. In addition, any land used as a security shall not be used for disposal, treatment, processing or storage while it is a security.~~

~~\_\_\_\_\_ b. Securities shall only include those which are United States government securities or those state government securities acceptable to the director. Securities shall meet the requirements specified in the definition of "Collateral" found in Chapter 1, Section 1(e).~~

\_\_\_\_\_ c. \_\_\_\_\_ Personal property shall be in possession of the operator, shall be unencumbered, and shall not include:

\_\_\_\_\_ 1. \_\_\_\_\_ Property which is already being used as collateral, or

\_\_\_\_\_ 2. \_\_\_\_\_ Goods which the operator sells in the ordinary course of his business, or

\_\_\_\_\_ 3. \_\_\_\_\_ Fixtures, or

\_\_\_\_\_ 4. \_\_\_\_\_ Certificates of deposit which are not federally insured or where the depository is unacceptable to the director.

\_\_\_\_\_ (3.) \_\_\_\_\_ Evidence of ownership submitted in one of the following forms:

\_\_\_\_\_ a. \_\_\_\_\_ If the property offered for deposit is real property, the operator's interest must be evidenced by:

\_\_\_\_\_ 1. \_\_\_\_\_ In the case of a federal or state lease, a status report prepared by an attorney, satisfactory to the director as disinterested and competent to so evaluate the asset, and an affidavit from the owner in fee establishing that the leasehold could be transferred upon default.

\_\_\_\_\_ 2. \_\_\_\_\_ In the case of a fee simple interest, a title certificate or similar evidence of title and encumbrances prepared by an abstract office authorized to transact business within the state and satisfactory to the director.

\_\_\_\_\_ b. \_\_\_\_\_ If the property offered for deposit is a security, the operator's interest must be evidenced by possession of the original or a notarized copy of the certificate or a certified statement of account from a brokerage house.

\_\_\_\_\_ c. \_\_\_\_\_ If the property offered for deposit is personal property as defined in Chapter 1, Section 1(e)(i)(K), evidence of ownership shall be submitted in the form satisfactory to the director to establish unquestionable title to the property to the operator.

\_\_\_\_\_ (II) \_\_\_\_\_ In addition to submitting the above information, if the operator offers personal property as collateral to support a self bond, he must meet the financial criteria contained in (1.) or (2.) following:

\_\_\_\_\_ (1.) \_\_\_\_\_ The operator must have a tangible net worth of at least \$10 million, a ratio of total liabilities to net worth of 3.0 times or less, and a ratio of current assets to current liabilities of 1.0 times or greater. The two ratios shall be calculated with the

~~proposed self bond amount added to the current or total liabilities for the current year. The operator may deduct the costs currently accrued for reclamation which appear on the balance sheet.~~

~~(2.) The operator must have fixed assets in the United States that total at least \$20 million, a ratio of total liabilities to net worth of 3.0 times or less, and a ratio of current assets to current liabilities of 1.0 times or greater. The two ratios shall be calculated with the proposed self bond amount added to the current or total liabilities for the current year. The operator may deduct the costs currently accrued for closure/post closure which appear on the balance sheet.~~

~~(III) If the director accepts personal property as collateral to support a self bond, the director shall require:~~

~~(1.) Quarterly maintenance reports prepared by the operator, and~~

~~(2.) A perfected, first lien security interest in the property used, in favor of the Wyoming Department of Environmental Quality. This security interest shall be perfected by filing a financial statement or taking possession of the collateral in accordance with (IV)(1.) below.~~

~~(3.) In addition, the department may also require quarterly inspections of the personal property by a qualified representative of the department.~~

~~(IV) If the director accepts any property as collateral to support a self bond, the director shall, as applicable, require possession by the director of the personal property, or a mortgage or security agreement executed by the operator in favor of the Department of Environmental Quality. The requirement shall be that which is sufficient to vest such interest in the property in the director to secure the right and power to sell or otherwise dispose of the property by public or private proceedings so as to insure reclamation of the affected lands in accordance with the act. Personal property collateral to support a self bond shall be secured under the provisions of the Uniform Commercial Code as required by (2.) below.~~

~~(1.) Any mortgage shall be executed and duly recorded as required by law so as to be superior to all other liens, mortgages or encumbrances pertaining to the real property in question.~~

~~(2.) Any security interest created by a security agreement shall be perfected by filing a financing statement or taking possession of the collateral in accordance with W.S. 34-21-950 through W.S. 34-21-955 (1977). The director shall have all rights and duties set forth in W.S. 34-21-926 (1977) when the collateral is in its possession as a secured party, as defined in W.S. 34-21-905(a)(ix). Any money received from the collateral during this period of time shall be remitted to the operator. When the collateral is left in the possession of the operator, the security agreement shall require that, upon default, the operator~~

shall assemble the collateral and make it available to the director at a place to be designated by the director which is reasonably convenient to both parties.

~~\_\_\_\_\_ (V) The operator may, with written consent from the director, substitute for any of the property held hereunder other property upon submittal of all information required under this subsection and compliance with all requirements of this subsection so as to secure all obligations under all periods of time as they relate to disposal operations.~~

~~\_\_\_\_\_ (VI) For collateral posted to support a self bond, all persons with an interest in the collateral shall be notified by the operator of the posting, and of all other actions affecting the collateral.~~

~~\_\_\_\_\_ (diii) Self-Bond Renewal bonds:~~

~~\_\_\_\_\_ (iA) Information for the Any operator seeking to renew a self-bond under the self bonding program which shall accompany provide, along with the annual report shall include:~~

~~\_\_\_\_\_ (A) Amount of bond required, which shall be determined in accordance with W.S. § 35-11-504 and Section 4 of this Chapter, and the If the self bond amount is proposed to be less than the full bond amount, the amount which is proposed to be under covered by a self-bond renewal; and is the bond required.~~

~~\_\_\_\_\_ (BH) Financial information in sufficient detail to show that the operator and ultimate parent guarantor still meets one of the criteria in Section 4(a)(i)(G)7(a)(vi), and the limitation in Section 4(a)(i)(K)7(a)(xi). The director requires financial statements for the most recently completed fiscal year together with an independent Certified Public Accountant's audit opinion or review opinion of the financial statements with no adverse opinion. Additional unaudited information may be required by the director.The operator and ultimate parent guarantor shall submit the full report from the credit reporting agency or agencies supporting its rating for the current year. Additional information may be requested by the Director when a split rating occurs.~~

~~\_\_\_\_\_ (H) If the director has accepted a mortgage, any evidence of change in value, title and possession of the property shall be submitted.~~

~~\_\_\_\_\_ (IV) If the director deems it necessary to revalue any asset, it may appoint the appraiser or appraisers mutually acceptable to the director and the operator. Any such reappraisal shall be expeditiously made, and copies thereof furnished to the director and the operator. The expense of the appraisal shall be borne by the operator. The findings of the appraisal shall be final and binding unless both parties agree to a reappraisal.~~

~~\_\_\_\_\_ (V) For regulated facility operators using personal property as collateral to support a self bond, the operator's current financial information showing continuing compliance with Section 4(a)(ii)(C)(II) of this chapter.~~



~~\_\_\_\_\_ (B) If the director has authorized a parent corporate guarantee, the parent corporation shall supply all information required under subsection (iii)(A)(II) of this section.~~

~~\_\_\_\_\_ (iiC) Any valid initial self-bond shall may carry the right of successive renewal be renewed so as long as the above listed information is submitted which demonstrates that all parties the guarantor remains qualified under W.S. 35-11-504. Section 7(a) of this Chapter and there is a minimum five-year life of operation remaining.~~

~~\_\_\_\_\_ (eiv) Self-Bond Substitution of the operator's self bond:~~

~~\_\_\_\_\_ (iA) The dDirector may require the operator to substitute a good and sufficient bond instrument corporate surety licensed to do business in the state if the dDirector determines in writing that the self-bond of the operator fails to provide this the protection consistent with the objectives and purposes of W.S. 35-11-504 the Act. The dDirector shall require this full or partial substitution if the financial information submitted or requested under Section (4)(a)(ii)7(a)(xiv)(A)(II) indicates that the operator or ultimate parent guarantor no longer qualifies under the self-bonding program. Substitution of an alternate bond shall be made within thirty (30) days. The operator may also request substitution. This request is contingent upon the operator meeting all the requirements of the bond provisions in this Chapter, W.S. 35-11-504. If these requirements are met, the dDirector shall accept substitution.~~

~~\_\_\_\_\_ (iiB) If the operator fails within sixty thirty (60) days to make a substitution for the revoked self-bond with a corporate surety, cash, governmental securities, or federally insured certificates of deposit, or irrevocable letters of credit in accordance with the bonding provisions of W.S. § 35-11-504 and this Chapter, the dDirector shall suspend or revoke the facility's permit until such substitution is made.~~

~~\_\_\_\_\_ (C) All methods of substitution shall be made in accordance with the bonding provisions in W.S. 35-11-504. The director shall either:~~

~~\_\_\_\_\_ (I) Require substitution of a good and sufficient corporate surety licensed to do business in the state that will stand as surety so as to cover all periods of time as they relate to disposal operations, or~~

~~\_\_\_\_\_ (II) Retain from the operator sufficient assets within the department so as to cover that period of time of the disposal operation which is not covered by the substituted surety. Those assets not retained shall be returned to the operator within sixty (60) days free from the department's encumbrances, liens, mortgages or security interests.~~

~~\_\_\_\_\_ (v) Requirements for forfeiture and release:~~

~~\_\_\_\_\_ (A) All requirements as to bond forfeiture proceedings and the release of bonds shall be consistent with W.S. 35-11-504, excepting the requirements as to notification to the surety. When the director has required a mortgage, and the bond has been forfeited, foreclosure procedures shall be in accordance with W.S. 34-4-101 through 34-4-113 (1977).~~

~~\_\_\_\_\_ (B) For self bonds supported by collateral, upon bond release property return shall be of that form sufficient for the director to release that portion of the interest or mortgage commensurate with the amount of the bond released less any disposed of in accordance with the mortgage or indemnity agreement.~~

~~\_\_\_\_\_ (f)(vi) Reporting requirements:~~

~~\_\_\_\_\_ (i) If a devaluation in the credit rating occurs, the operator shall notify the Director within thirty days of the change and provide a copy of the rating report to the Director.~~

~~\_\_\_\_\_ (ii) If the operator or ultimate parent guarantor receives any new notice from the Securities and Exchange Commission or any party initiates proceedings against the operator or ultimate parent guarantor alleging a failure to comply with any public disclosure or reporting requirements under the securities laws of the United States, the operator shall notify the Director within thirty days and shall include a summary of the allegations, including the date, the requirement alleged to be violated, the party making the allegation, and the disposition or current status thereof.~~

~~\_\_\_\_\_ (b) Surety bonds:~~

~~\_\_\_\_\_ (i) A corporate surety shall not be considered good and sufficient for purposes of W.S. 35-11-504 or unless:~~

~~\_\_\_\_\_ (A) It is licensed to do business in the state;~~

~~\_\_\_\_\_ (B) The estimated bond amount does not exceed the limit of risk as provided for in W.S. 26-5-110, nor raise the total of all bonds held by the applicant under that surety above three times the limit of risk;~~

~~\_\_\_\_\_ (C) The surety agrees:~~

~~\_\_\_\_\_ (I) Not to cancel bond, except as provided for in W.S. 35-11-504 or where the director gives prior written approval of a good and sufficient replacement surety with transfer of the liability that has accrued against the operator on the permit area;~~

~~\_\_\_\_\_ (II) To be jointly and severally liable with the permittee;~~

~~\_\_\_\_\_ (III) To provide immediate written notice to the director and operator once it becomes unable or may become unable due to any action filed against it to fulfill its obligations under the bond.~~

~~\_\_\_\_\_ (ii) The provisions applicable to cancellation of the surety's license in W.S. 35-11-504 shall also apply if for any other reason the surety becomes unable to fulfill its obligations under the bond. Upon such occurrence the operator shall provide the required notice. Failure to comply with this provision shall result in suspension of the permit.~~

**Section 8.(e) Federally insured Certificate of Deposit.**

The Director shall not accept an individual certificate of deposit in an amount in excess of \$100,000 or the maximum insurable amount as determined by the FDIC or the Federal Savings and Loan Insurance Corporation Federal Deposit Insurance Corporation. The certificate must be Such certificates of deposit shall be made payable solely to the Wyoming Department of Environmental Quality, both in writing and upon the records of the bank issuing these certificates. The Director shall require the banks issuing these certificates to waive all rights of set off or liens against the certificates. The bond financial assurance amount may be calculated to include any amount which that would be deducted as a penalty for payment before maturity.

**Section 9. Cash.**

The operator or its principal may submit a check payable to the Wyoming Department of Environmental Quality.

**Section 10. Government Securities.**

(a) Government securities shall be endorsed to the order of the Department, placed in the possession of the Department, and backed by the full faith and credit of the United States.

(b) Possession of government securities may be in the form of the cash value of an irrevocable trust for the full amount of the closure, post-closure, or corrective action obligation, payable to the Department. An irrevocable trust shall conform to the requirements below:

(i) The Wyoming Department of Environmental Quality Irrevocable Trust Form shall be signed by the operator or guarantor as principal and the financial institution as Trustee;

(ii) The Trustee must be a bank organized to do business in the United States that has and have the authority to act as a trustee and whose trust operations is are regulated and examined by a Federal or State Agency;

(iii) The irrevocable trust must be funded for the full amount of the closure, post-closure, or corrective action obligation, except for the as this amount is reduced by other approved bond instruments or financial assurances;

(iv) Cancellation of an irrevocable trust shall follow the procedures detailed in W.S. § 35-11-504(f); and

(v) Forfeiture proceedings for an irrevocable trust shall follow the same procedures detailed in W.S. § 35-11-504(h).

(d) Government backed securities: In lieu of a bond, the operator or its principal may deposit government securities registered solely in the department's name and backed by the full faith and credit of the United States.

~~\_\_\_\_\_ (e) Cash: In lieu of a bond, the operator or its principal may deposit cash in a bank account in the department's name.~~

**Section 11.(f) Irrevocable Letters of Credit:**

~~\_\_\_\_\_ (i) Irrevocable Letters of credit shall be subject to the following conditions comply with the following requirements:~~

~~\_\_\_\_\_ (A) The letter shall be irrevocable during its term, which shall coincide with the annual bonding period. The director may approve the use of letters of credit as security in accordance with a schedule approved with the permit. Any bank issuing a letter of credit shall notify the director in writing at least ninety (90) days prior to the maturity date of such letter or the expiration of the letter of credit agreement. Letters of credit utilized as security in areas requiring continuous bond coverage shall be collected by the director if not replaced by other suitable evidence of financial responsibility at least thirty (30) days before the expiration date of the letter of credit agreement;~~

~~\_\_\_\_\_ (B) The letter must be payable to the department in part or in full upon demand and receipt from the director of a notice of forfeiture issued in accordance with W.S. 35-11-504;~~

~~\_\_\_\_\_ (C) The letter shall not be in excess of 10 percent (10%) of the bank's capital surplus account as shown on a balance sheet certified by a Certified Public Accountant;~~

~~\_\_\_\_\_ (D) The director shall only accept bank letters of credit issued in accordance with W.S. 13-3-402;~~

~~\_\_\_\_\_ (E) The letter of credit shall provide that:~~

~~\_\_\_\_\_ (I) The bank will give written notice within three (3) working days to the permittee and the director of any notice received or action filed alleging the insolvency or bankruptcy of the bank, or alleging any violations of regulatory requirements which could result in suspension or revocation of the bank's charter or license to do business;~~

~~\_\_\_\_\_ (II) In the event the bank becomes unable to fulfill its obligations under the letter of credit for any reason, written notice shall be given immediately to the permittee and the director, and~~

~~\_\_\_\_\_ (III) Upon the incapacity of a bank by reason of bankruptcy, insolvency, or suspension or revocation of its charter or license, the permittee shall be deemed to be without performance bond coverage in violation of the act. The director shall issue a notice of violation against any operator who is without bond coverage, specifying a reasonable period to replace bond coverage, not to exceed sixty (60) days. During this period the director or his or her designated representative shall conduct weekly inspections to ensure continuing compliance with other permit requirements, the regulations and the act. If the notice is not abated in~~

~~accordance with the schedule, a cessation order shall be issued.~~

~~(ii) Agent for service of process: The letter may only be issued by a bank organized to do business in the U.S. which identified by name, address, and telephone number an agent upon whom any process, notice or demand required or permitted by law to be served upon the bank may be served. Letters of credit from U.S. branches of foreign banks are not acceptable.~~

~~(A) If the bank fails to appoint or maintain an agent in this state, or whenever any such agent cannot be reasonably found, then the Wyoming Secretary of State shall be an agent for such bank upon whom any process, notice or demand may be served for the purpose of this chapter. In the event of any such process, the Wyoming Secretary of State shall immediately cause one copy of such process, notice or demand to be forwarded, by certified or registered mail to the bank at its principle place of business. The Wyoming Secretary of State shall keep a record of all processes, notices, or demands served upon him or her under this paragraph, and shall record therein the time of such service and his or her action with reference thereto;~~

~~(B) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon the bank in any other manner now or hereafter permitted by law.~~

(a) The letter must be payable to the Department in part or in full upon demand and receipt from the Director of a notice of forfeiture issued in accordance with W.S. § 35-11-504(h);

(b) The letter shall not be in excess of ten percent of the issuing or supporting bank's capital surplus account as shown on a balance sheet certified by a certified public accountant;

(c) The Director shall not accept standby letters of credit;

(d) The Director shall not accept letters of credit from a bank for any person, on all permits held by that person, in excess of the limitation imposed by W.S. § 13-3-402; and

(e) The letter of credit shall provide that:

(i) The bank will give prompt notice to the operator and the Director of any notice received or action filed alleging the insolvency or bankruptcy of the bank, or alleging any violations of regulatory requirements that could result in suspension or revocation of the bank's charter or license to do business;

(ii) In the event the bank becomes unable to fulfill its obligations under the letter of credit for any reason, notice shall be given immediately to the operator and the Director; and

(iii) Upon the incapacity of a bank by reason of bankruptcy, insolvency, or suspension or revocation of its charter or license, the permittee shall be deemed to be without

financial assurance in violation of the Act. The Director shall issue a notice of violation against any operator who is without bond coverage, specifying a reasonable period to replace bond coverage, not to exceed ninety days. During this period the Director or their~~his~~ designated representative shall conduct weekly inspections to ensure continuing compliance with other permit requirements, these rules and the Act. If the notice is not abated in accordance with the schedule, a cessation order shall be issued.

(iv) The irrevocable letter of credit may be cancelled by the issuer only after ninety-days' notice to the Director, and upon receipt of the Director's written consent, which may be granted only when an alternative financial assurance substitution has been approved.

(f) The letter may only be issued by a bank organized to do business in the U.S. that identifies by name, address, and telephone number an agent upon whom any process, notice or demand required or permitted by law to be served upon the bank may be served.

(i) If the bank fails to appoint or maintain an agent in this State, or whenever any such agent cannot be reasonably found, then the Director shall be an agent for such bank upon whom any process, notice or demand may be served for the purpose of this Chapter. ~~In the event of any such process, the Director shall immediately cause one copy of such process, notice or demand may be served for the purpose of this Chapter. In the event of any such process, the~~ Director shall immediately cause one copy of such process, notice or demand to be forwarded by registered mail to the bank at its principal place of business. The Director shall keep a record of all processes, notices, or demands served upon them~~him~~ under this paragraph, and shall record therein the time of such service and their~~his~~ action with reference thereto.

(ii) Nothing herein contained shall limit or affect the right to serve any process, notice or demand required or permitted by law to be served upon the bank in any other manner now or hereafter permitted by law.

### **Section 125. Bond or Other Forms of Financial Assurance Release of Financial Assurance.**

~~— (a) — Any bond or other form of financial assurance may be canceled by the surety only after ninety (90) days written notice to the director, and upon receipt of the director's written consent, which may be granted only when the requirements of the bond have been fulfilled.~~

(a~~b~~) The Director shall release the closure or post-closure portion of the bond or financial assurance instrument when closure or post-closure activities have been successfully completed. The operator shall notify the Administrator upon completion of activities specified in the closure or post-closure plan. The Administrator shall inspect the facility and provide written inspection results to the operator. Release of the closure or post-closure portion of a bond or financial assurance does not relieve the operator of their~~its~~ responsibility for corrective action to prevent or abate violations caused by the regulated facility that are subsequently discovered, or relieve the operator of their~~its~~ responsibility to meet closure or post-closure standards. When the director determines that the violation has been remedied or the damage abated, the director shall release that portion of the bond or financial assurance instrument being held under W.S.

~~35-11-504(a). When the director determines that closure activities have been successfully completed at any regulated facility, the director shall release that portion of the bond or financial assurance being held to guarantee performance of activities specified in W.S. 35-11-504(a). The remaining portion of the bond or financial assurance shall be held for a period of not less than thirty (30) years after the date of facility closure, or so long thereafter as necessary to assure proper performance of any post-closure and corrective activities specified in W.S. 35-11-504(a) unless the post-closure period is terminated at an earlier date under Chapter 2, Section 7(b).~~

~~(c) Release of the owner or operator from the closure financial assurance requirements of this chapter: Within sixty (60) days after receiving certification from the owner or operator that closure has been accomplished in accordance with the closure plan and the provisions of these regulations, the director shall verify that proper closure has occurred. Unless the director has reason to believe that closure has not been in accordance with the closure plan, the director shall notify the owner or operator in writing that the owner or operator is no longer required to maintain financial assurance for closure of the particular facility. Such notice shall release the owner or operator only from the requirements for financial assurance for closure of the facility; it does not release the owner or operator from legal responsibility for meeting the closure or post-closure standards. If no written notice or termination of financial assurance requirements or failure to properly perform closure is received by the owner or operator within sixty (60) days after certifying proper closure, the owner or operator may petition the director for an immediate decision in which case the director shall respond within ten (10) days after receipt of such petition.~~

~~(bd) Release of the owner or operator from the post-closure financial assurance requirements of this chapter: Within sixty (60) days of the director's determination under Chapter 2, Section 7(b), that the facility has been adequately stabilized, the director shall notify the owner or operator in writing that the owner or operator is no longer required to maintain financial assurance for the post-closure care of the regulated facility. Such notice shall release the owner or operator only from the requirements for financial assurance for post-closure care of the facility; it does not release the owner or operator from legal responsibility to take corrective action as necessary to protect public health or the environment from releases from the facility. The Director shall release the corrective action portion of the bond or financial assurance instrument when a violation has been remedied or the damage abated. The operator shall notify the Administrator upon completion of activities specified in the corrective action plan. The Administrator shall inspect the facility and provide written inspection results to the operator. Release of the corrective action portion of a bond or financial assurance does not relieve the operator of its their responsibility for further corrective action to prevent or abate violations caused by the regulated facility that are subsequently discovered, or relieve the operator of its their responsibility to meet closure or post-closure standards.~~

### **Section 136. ~~Bond or Other Forms of Financial Assurance~~ Recalculations of Financial Assurance.**

~~(a) Financial assurance amounts cost estimates for closure, post-closure, and corrective action shall will be recalculated on a yearly basis annually, within thirty days after the permit issuance anniversary date, and shall account for inflation.~~

(b) In addition to annual recalculations, the owner or operator shall revise the cost estimate whenever a change in the approved permit increases the cost of closure, post-closure, or corrective action.

**Section 147. Bond or Other Forms of Financial Assurance Forfeiture of Financial Assurance.**

~~(a) Bond or other financial assurance forfeiture proceedings shall occur only after the director provides notice to the operator and any surety in accordance with W.S. § 35-11-504(h), (j), and (k), that a violation exists and the council has approved the request of the director to begin forfeiture proceedings.~~

~~(b) With the approval of the council the director may:~~

~~(i) Expend forfeited funds to remedy and abate the circumstances with respect to which any financial assurance was provided; and~~

~~(ii) Expend funds from the trust and agency account under W.S. 35-11-504(a) to remedy and abate any immediate danger to human health, safety and welfare.~~

~~(c) If the forfeited bond or other financial assurance instrument is inadequate to cover the costs to carry out the activities specified in W.S. 35-11-504(a) or in any case where the director has expended trust and agency account monies, the attorney general shall bring suit to recover the cost of performing the activities where recovery is deemed possible.~~

**~~Section 8. — Incapacity of Institution Issuing Financial Assurance. An owner or operator who fulfills the requirements of Section 3 of this chapter by obtaining a surety bond or a certificate of deposit or irrevocable letter of credit will be deemed to be without the required financial assurance in the event of bankruptcy, insolvency or a suspension or revocation of the license or charter of the issuing institution. The owner or operator must establish other financial assurance within sixty (60) days of such event.~~**

**Section 159. Closure and Post-Closure Account for Municipally-Owned Solid Waste Disposal Facilities.**

~~(a) Applicability: This section is applicable to municipally-owned or operated solid waste landfills regulated under Chapter 2 of these rules and regulations electing to participate in the state guarantee trust account [the account] provided under W.S. § 35-11-515. Such facilities shall be known as participating facilities.~~

~~(b) Initial requirements: The requirements of this paragraph apply to participating facilities upon their initial election to participate in the account. Each facility participating in the account shall, upon their initial election to participate and every four years thereafter: The requirements of this paragraph also apply to participating facilities upon the, fourth and subsequent four-year anniversaries, following the initial election to participate in the account.~~



Each facility shall:

(i) Either prepare a closure and post-closure plan complying with ~~Section 3(b)(ii) Chapter 2 of these rules, and containing~~ prepare a closure and post-closure cost estimate complying with Section ~~2 3(e)(i) and (ii) of this Chapter,~~ or calculate the facility closure and post-closure costs using a standard cost estimate prepared by the ~~d~~Director; ~~and~~

(ii) Calculate the remaining usable disposal capacity of the facility, expressed as years, using information from the facility permit application; and

(iii) Calculate the annual amount to be paid to the account using the following procedure:

(A) Calculate three percent (~~3%~~) of the sum of closure and post-closure costs using the following formula:

Three percent3% of the sum of closure and post-closure costs = (0.03(Closure cost – the operator's accumulated net assets earmarked for payment of the operator's closure costs)) + (0.03(Post-closure cost – the operator's accumulated net assets earmarked for payment of the operator's post-closure costs))

(I) The facility owner or operator shall account for closure and post-closure liabilities and costs in accordance with ~~G~~generally ~~A~~accepted ~~A~~accounting ~~P~~principles as provided by W.S. § 16-4-121(c) and certify to the earmarking of the accumulated net assets, subject to audit.

(B) Calculate the balance due to the account by deducting the total of previous payments to the account from three percent3% of the sum of closure and post-closure costs using the following formula:-

Balance due = three percent3% of the sum of closure and post-closure costs – the total of previous payments to the account

(C) Calculate annual payments to the account by dividing the balance due by the years of remaining disposal capacity using the following formula:-

Annual payment = Balance due / years of remaining disposal capacity in disturbed areas

(c) Compliance with the financial assurance requirements of this section is required on July 1 of each year, unless an alternate date is approved by the Administrator.

(iv) ~~For existing Type I facilities, the owner shall pay the amount in paragraph (b)(iii) of this section to the department no later than April 9, 1997 (no later than October 9, 1997 for existing Type II facilities). Existing nonparticipating Type I facilities making an initial election to participate in the account after April 9, 1997 (after October 9, 1997 for existing Type II facilities), shall pay the amount in paragraph (b)(iii) of this section prior to receiving approval~~

from the director to terminate any alternate form of financial assurance approved under Section 3(d) of this chapter;

~~\_\_\_\_\_ (v) For new Type I facilities permitted after April 9, 1997 (after October 9, 1997 for new Type II facilities), the owner shall pay the amount in paragraph (b)(iii) of this section prior to the issuance of a permit from the director.~~

~~\_\_\_\_\_ (e) Subsequent requirements: Each facility shall pay the amount specified in paragraph (b)(iii) of this section to the director no later than the anniversary dates following the initial election to participate in the account.~~

~~\_\_\_\_\_ (d) Estimating closure and post-closure costs:~~

~~\_\_\_\_\_ (i) Closure and post-closure costs may be calculated using a site specific cost estimate prepared by the operator or a standard cost estimate prepared by the director.~~

~~(de) A refund of the closure guarantee costs shall follow procedures outlined in W.S. § 35-11-515(g) and (j). Refunds from the account for closure guarantees: Following certification of closure by a registered professional engineer in accord with the requirements of Chapter 2, Section 7, the owner may apply to the director for a refund of that portion of the annual fee paid by the owner to the account for closure guarantee costs. If the director determines that closure activities have been adequately completed, the department shall, within thirty 30 days, approve a refund from the account equal to ninety percent (90%) of the total amount paid by the owner, less any expenditures from the account under W.S. 35-11-515(k) which have not been recovered under W.S. 35-11-515(m).~~

~~(ef) A refund of the post-closure guarantee costs shall follow procedures outlined in W.S. § 35-11-515(h) and (j). Refunds from the account for post-closure guarantees: Following certification of the proper completion of the post-closure period by a registered professional engineer in accord with the requirements of Chapter 2, Section 7, the owner may apply to the director for a refund of that portion of the annual fee paid by the owner to the account for post-closure guarantee costs. The director shall, within 30 days of the administrator's determination that the facility has been adequately stabilized in accord with the requirements of Chapter 2, Section 7(b), approve a refund from the account equal to ninety percent (90%) of the total amount paid by the owner, less any expenditures from the account under W.S. 35-11-515(k) which have not been recovered under W.S. 35-11-515(m).~~

~~(fg) Election to withdraw as a participating facility: The facility owner may elect to withdraw from participation in the account and shall notify the Director of said intent prior to the financial assurance compliance date. Upon the election by a facility owner to withdraw from participation in the account, Upon withdrawal from participation, or upon completing closure or post-closure requirements, the owner may apply to the dDirector for a refund of the closure and post-closure annual fees paid to the account. -The dDirector shall, within thirty (30) days, approve a refund from the account equal to ninety percent (90%) of the total amount paid by the owner, less any expenditures from the account made on behalf of the participating facility under W.S. § 35-11-515(k) which that have not been recovered under W.S. § 35-11-515(m). Prior to~~

the ~~Director~~ approving a refund for a withdrawing facility, the facility owner shall demonstrate compliance with the financial assurance requirements of this ~~Chapter~~, as specified in Section 3(d).

(g) ~~Use of a combination of financial assurance mechanisms:~~ An owner may elect to participate in the account for purposes of demonstrating compliance only with the closure cost financial assurance requirement, only with the post-closure cost financial assurance requirement, or both. Any owner electing to participate in the account only for the purposes of satisfying the closure or post-closure cost financial assurance requirement shall use another financial assurance mechanism as specified in Section 3(d) of this chapter to complete his or her obligation to demonstrate adequate financial assurance for both closure and post-closure costs.

(h) ~~Expenditures from the account:~~ The ~~Director~~ may authorize expenditures from the account if the facility owner, after receiving a notice of violation and order directing the performance of closure or post-closure obligation under this ~~Chapter~~ or Chapter 2 of these rules and regulations, has failed to adequately perform such obligation. The ~~Director~~ shall provide in any such order that failure to perform the closure or post-closure obligation will result in the ~~Director's~~ authorizing an expenditure from the account. The amount to be expended shall be specified by the ~~Director~~ in the order. The availability of an opportunity to appeal the order under W.S. § 35-11-701(c) shall be considered the owner's opportunity to appeal the amount to be expended, under W.S. § 35-11-515(k).