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ARKANSAS POLLUTION CONTROL AND ECOLOGY COMMISSION

REGULATION No. 23

HAZARDOUS WASTE MANAGEMENT

Presented to the
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DRAFT

TABLE OF CONTENTS

ARKANSAS POLLUTION CONTROL & ECOLOGY COMMISSION

REGULATION No. 23

(HAZARDOUS WASTE MANAGEMENT)

Updated as of ~~December 9, 2005~~

Section 263 — STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

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

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

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

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

Section 268 -- LAND DISPOSAL RESTRICTIONS

Section 270. ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

Section 273 — STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

Section 279. STANDARDS FOR THE MANAGEMENT OF USED OIL

Provisions of APC&EC Regulation No. 23 (Hazardous Waste Management), dated December 9, 2005, are amended as itemized below:

Section 3. AMENDMENT AND UPDATE OF REGULATION No. 23 (HAZARDOUS WASTE MANAGEMENT)

1. **Section 3(b)** is amended to read as follows:

(b) **Incorporations by Reference**. The regulations listed immediately below, promulgated by the U.S. Environmental Protection Agency, are hereby adopted as provisions of this Chapter as though set forth herein line for line and word for word with the exception that all references therein to "Administrator", "Regional Administrator", "Director", or "State Director" shall be considered references to the "Director of the Arkansas Department of Environmental Quality"; and all references to the "U.S. Environmental Protection Agency" or "EPA" shall be considered references to the "Arkansas Department of Environmental Quality". All references elsewhere in this chapter to any of the following regulations shall constitute a reference to the regulation as herein adopted; and provided that the effective date of provisions adopted herein by reference as provisions of this Regulation shall be the date such provisions are specified as being effective by the Commission in its rulemaking and the effective date of the federal regulations adopted herein shall have no bearing on the effective date of any provisions of this Regulation.

Title 40 Code of Federal Regulations:

(1) Appendix IX of Part 261 (with the exception of delisting decisions for Arkansas companies; for analogous provisions, see Reg. 23 § 261 Appendix IX);

(2) Appendix IX of Part 266; and

(3) Subpart A of Part 124 with the following exceptions: 124.1, 124.2, 124.3(b), 124.3(d), 124.3(e), 124.4, 124.5(b), 124.5(e), 124.5(g), 124.6(b), 124.9, 124.10(a)(1)(i), 124.10(a)(1)(iv), 124.10(a)(1)(v), 124.12(e), 124.14, 124.15, 124.16, 124.18, 124.19, and 124.21 (see also APC&EC Regulation No. 8 (Administrative Procedures) for analogous provisions as referenced in § 270 of this Regulation.)

(4) All as adopted as final rules (including "interim final rules" and "technical amendments") published in the *Federal Register* by the U.S. Environmental Protection Agency on or before ~~July 1, 2005~~ **January 1, 2008**.

Section 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

2. **Section 260.10** is amended as follows:

a. In the first sentence of paragraph (2) of the definition of "facility" is revised, and the definitions of "Cathode ray tube," "CRT collector," "CRT glass manufacturer," "CRT processing, " and "Performance Track member facility" is added in alphabetical order to read as follows:

b. In the definition of ''*Incompatible waste,*'' revise the parenthetical phrase ''(See Section 265, appendix V, of this chapter for examples.)'' to read ''(See appendix V of parts 264 and 265 of this chapter for examples.)'';

§ 260.10 Definitions.

* * * * *

Facility * * *

* * * * *

(2) For the purpose of implementing corrective action under § 264.101**or 267.101 of this regulation**, all contiguous property under the control of the owner or operator seeking a permit under Subtitle C of RCRA a*nd/or the Arkansas Hazardous Waste Management Act.* This definition also applies to facilities implementing corrective action under RCRA § 3008(h) *or the Arkansas Remedial Action Trust Fund Act.*

* * * * *

***Cathode ray tube* or *CRT* means a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A used, intact CRT means a CRT whose vacuum has not been released. A used, broken CRT means glass removed from its housing or casing whose vacuum has been released.**

* * * * *

***CRT collector* means a person who receives used, intact CRTs for recycling, repair, resale, or donation.**

***CRT glass manufacturer* means an operation or part of an operation that uses a furnace to manufacture CRT glass.**

***CRT processing* means conducting all of the following activities:**

(1) Receiving broken or intact CRTs; and

(2) Intentionally breaking intact CRTs or further breaking or separating broken CRTs; and

(3) Sorting or otherwise managing glass removed from CRT monitors.

* * * * *

***Performance Track member facility* means a facility that has been accepted by EPA for membership in the National Environmental Performance Track Program**

and is still a member of the Program. The National Environmental Performance Track Program is a voluntary, facility based, program for top environmental performers. Facility members must demonstrate a good record of compliance, past success in achieving environmental goals, and commit to future specific quantified environmental goals, environmental management systems, local community outreach, and annual reporting of measurable results.

* * * * *

"**Incompatible waste**" means a hazardous waste which is unsuitable for:

(1) Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or (2) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

~~(See Section 265, Appendix V, of this regulation for examples.)~~

(See appendix V of parts 264 and 265 of this chapter for examples.)

* * * * *

3. **Section 260.11** is amended by

a. Revising the first sentence in paragraph (a), and

b. Revising paragraph (c)(1), (c)(3)(xxvii), and (d)(1) to read as follows:

§ 260.11 References.

(a) When used in sections 260 through ~~279~~ **268** of this regulation, the following publications are incorporated by reference. These incorporations by reference were approved by the Director of the *Federal Register* pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW. (3403T), Washington, DC 20460, libraryhq@epa.gov; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federalregulations/ibr_locations.html.

* * * * *

(c) * * *

(1) "APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA–450/2–81–005, December 1981, IBR approved for §§ 264.1035, 265.1035, 270.24, 270.25, **270.310(d)(3)**.

* * * * *

(3) * * *

(xxvii) Method 9095B, dated November 2004 and in Update IIIB, IBR approved, section 261, appendix IX, and §§ 264.190, 264.314, 265.190, 265.314, 265.1081, **267.190(a)**, 268.32.

* * * * *

(d) * * *

(1) "Flammable and Combustible Liquids Code" (1977 or 1981), IBR approved for §§ 264.198, 265.198, **267.202(b)**.

* * * * *

4. **Section 260.31** is amended by removing paragraph (b)(2) and redesignating paragraphs (b)(3) through (b)(8) as (b)(2) through (b)(7).

§ 260.31 Standards and criteria for variances from classification as a solid waste.

* * * * *

(b) The Director may grant requests for a variance from classifying as a solid waste those materials that are reclaimed and then reused as feedstock within the original production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

(1) How economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;

~~(2) The prevalence of the practice on an industry-wide basis;~~

~~(3)~~**(2)** The extent to which the material is handled before reclamation to minimize loss;

~~(4)~~**(3)** The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;

~~(5)~~**(4)** The location of the reclamation operation in relation to the production process;

~~(6)~~**(5)** Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;

~~(7)~~**(6)** Whether the person who generates the material also reclaims it;

~~(8)~~**(7)** Other relevant factors.

5. In **Section 260.40**, amend paragraph (a) by revising the citation "§ 261.6(a)(2)(iv)" to read "§ 261.6(a)(2)(iii)".

§ 260.40 Additional regulation of certain hazardous waste recycling activities on a case-by-case basis.

(a) The Director may decide on a case-by-case basis

that persons accumulating or storing the recyclable materials described in ~~§ 261.6(a)(2)(xi)~~***§ 261.6(a)(2) (iii)*** of this regulation should be regulated under § 261.6 (b) and (c) of this regulation. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being accumulated or stored together are incompatible. In making this decision, the Director will consider the following factors:

* * * * *

6. **Section 260.41** introductory text is amended by revising the citation ''§ 261.6(a)(2)(iv)'' to read "§ 261.6(a)(2)(iii)".

§ 260.41 Procedures for case-by-case regulation of hazardous waste recycling activities.

The Director will use the following procedures when determining whether to regulate hazardous waste recycling activities described in ~~§ 261.6(a)(2)(xi)~~**§ 261.6(a)(2)(iii)** under the provisions of § 261.6 (b) and (c), rather than under the provisions of subsection F of section 266 of this regulation.

* * * * *

Section 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

7. **Section 261.2 (c)(1)(i)** is amended by revising the reference to ''Table I'' to read ''Table 1''(i.e., revise the letter ''I'' to be the number ''1'').

§ 261.2 Definition of Solid Waste.

* * * * *

(c) * * *

(1) * * *

(i) Materials noted with an "X" in Column 1 of ~~Table I~~ **Table 1** are solid wastes when they are:

* * * * *

8. **Section 261.3** is amended by revising paragraphs (a)(2)(iv)(A), (a)(2)(iv)(B), (a)(2)(iv)(D), (a)(2)(iv)(F) and (a)(2)(iv)(G) to read as follows:

261.3 Definition of hazardous waste.

(a) * * *

(2) * * *

(iv) * * *

(A) One or more of the following spent solvents listed in § 261.31—benzene, carbon tetrachloride, tetrachloroethylene, trichloroethylene or the scrubber waters derived-from the combustion of these spent solvents—Provided, That the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 1 part per million, **OR the total measured concentration of these solvents entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act, as amended, at 40 CFR Parts 60, 61, or 63, or at facilities subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions), does not exceed 1 part per million on an average weekly basis. Any facility that uses benzene as a solvent and claims this exemption must use an aerated biological wastewater treatment system and must use only lined surface impoundments or tanks prior to secondary clarification in the wastewater treatment system. Facilities that choose to measure concentration levels must file a copy of their sampling and analysis plan with the Director, as the context requires, or an authorized representative ("Director" as defined in § 270.2 of this regulation). A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once they receive confirmation that the sampling and analysis plan has been received by the Director. The Director may reject the sampling and analysis plan if he/she finds that, the sampling and analysis plan fails to include the above information; or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Director rejects the sampling and analy-**

sis plan or if the Director finds that the facility is not following the sampling and analysis plan, the Director shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected; or

(B) One or more of the following spent solvents listed in § 261.31 – methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o- dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents, 2-ethoxyethanol, or the scrubber waters derived-from the combustion of these spent solvents—Provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million, **OR the total measured concentration of these solvents entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act as amended, at 40 CFR parts 60, 61, or 63, or at facilities subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions), does not exceed 25 parts per million on an average weekly basis. Facilities that choose to measure concentration levels must file a copy of their sampling and analysis plan with the Director, or an authorized representative ("Director" as defined in § 270.2). A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once they receive confirmation that the sampling and analysis plan has been received by the Director. The Director may reject the sampling and analysis plan if he/she finds that, the sampling and analysis plan fails to include the above information; or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Director rejects the sampling and analysis plan or if the Director finds that the facility is not following the sampling and analysis plan, the Director shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected; or**

* * * * *

(D) A discarded hazardous waste, commercial chemical product, or chemical intermediate listed in § 261.31 through 261.33, arising from de minimis losses of these materials ~~from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process~~. For purposes of this paragraph (a)(2)(iv)(D), de minimis losses ~~include those from~~ **are inadvertent releases to a wastewater treatment system, including those from** normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers; leaks from well maintained pump packings and seals; sample purgings; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing. **Any manufacturing facility that claims an exemption for de minimis quantities of wastes listed in §§ 261.31 through 261.32, or any nonmanufacturing facility that claims an exemption for de minimis quantities of wastes listed in subsection D of this section must either have eliminated the discharge of wastewaters or have included in its Clean Water Act permit application or submission to its pretreatment control authority the constituents for which each waste was listed (in Section 261, Appendix VII) of this Regulation; and the constituents in the table "Treatment Standards for Hazardous Wastes" in § 268.40 of this Regulation for which each waste has a treatment standard (i.e., Land Disposal Restriction constituents). A facility is eligible to claim the exemption once the permit writer or control authority has been notified of possible de minimis re-**

leases via the Clean Water Act permit application or the pretreatment control authority submission. A copy of the Clean Water permit application or the submission to the pretreatment control authority must be placed in the facility's on-site files; or

* * * * *

(F) One or more of the following wastes listed in § 261.32 of this Regulation — wastewaters from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste No. K157)—Provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be reacted in the process, destroyed through treatment, or is recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilution into the headworks of the facility's wastewater treatment system does not exceed a total of 5 parts per million by weight **OR the total measured concentration of these chemicals entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act as amended, at 40 CFR Parts 60, 61, or 63, or at facilities subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions), does not exceed 5 parts per million on an average weekly basis. Facilities that choose to measure concentration levels must file copy of their sampling and analysis plan with the Director, as the context requires, or an authorized representative ("Director" as defined in § 270.2). A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once they receive confirmation that the sampling and analysis plan has been received by the Director. The Director may reject the sampling and analysis plan if he/she finds that, the sampling and analysis plan fails to include the above information; or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Director rejects the sampling and analysis plan or if the Director finds that the facility is not following the sampling and analysis plan, the Director shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected;** or

G) Wastewaters derived-from the treatment of one or more of the following wastes listed in § 261.32 of this Regulation – organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbamates and carbamoyl oximes (EPA Hazardous Waste No. K156).—Provided, that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 milligrams per liter **OR the total measured concentration of these chemicals entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act as amended, at 40 CFR Parts 60, 61, or 63, or at facilities subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions), does not exceed 5 milligrams per liter on an average weekly basis. Facilities that choose to measure concentration levels must file copy of their sampling and analysis plan with the Director, as the context requires, or an authorized representative ("Director" as defined in § 270.2). A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once they receive confirmation that the sampling and analysis plan has been received by the Director. The Director may reject the sampling and analysis plan if he/she finds that, the sampling and analysis plan fails to include the**

above information; or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Director rejects the sampling and analysis plan or if the Director finds that the facility is not following the sampling and analysis plan, the Director shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected.

* * * * *

9. **Section 261.4** is revised as follows:

a. In paragraph (a)(9)(iii)(E) to read as follows:

b. Adding a new paragraph (a)(22), to read as follows:

c. In paragraph (b)(6)(ii) introductory text, revise ''Specific waste'' to read ''Specific wastes'';

d. In paragraph (b)(6)(ii)(D), revise ''crome'' to read ''chrome'';

e. In paragraph (b)(6)(ii)(F), revise ''sludes'' to read ''sludges'', and revise the word ''chrometan'' to read ''chrome tan'';

f. In paragraph (b)(9), revise ''and wood product'' to read ''and wood products'';

g. Amend paragraph (b)(15)(v) by changing "As of" to read "After".

h. In paragraph (e)(2)(vi), revise the citation ''(e)(v)(C)'' to read ''(e)(2)(v)(C)'';

i. In paragraph (f)(9) introductory text to read as follows:

§ 261.4 Exclusions.

(a) ** *

(9) * * *

(iii) * * *

(E) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: ''I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation.'' The plant must maintain a copy of that document in its on-site records in its on-site records ~~for a period of no less than 3 years from the date specified in the notice~~ **until closure of the facility**. The exclusion applies so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Director for reinstatement. The Director may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that the violations are not likely to recur.

* * * * *

(a) * * *

(22) Used cathode ray tubes (CRTs)

(i) Used, intact CRTs as defined in § 260.10 of this regulation are not solid wastes within the United States unless they are disposed, or unless they are speculatively accumulated as defined in § 261.1(c)(8) by CRT collectors or glass processors.

(ii) Used, intact CRTs as defined in § 260.10 of this regulation are not solid wastes when exported for recycling provided that they meet the requirements of Sec. 261.40.

(iii) Used, broken CRTs as defined in § 260.10 of this regulation are not solid wastes provided that they meet the requirements of § 261.39.

(iv) Glass removed from CRTs is not a solid waste provided that it meets the requirements of § 261.39(c).

* * * * *

(b) * * *

(6) * * *

* * * * *

(ii) ~~Specific waste~~ **Specific wastes** which meet the standard in paragraphs (b)(6)(i) (A), (B), and (C) (so long as they do not fail the test for the toxicity characteristic for any other constituent, and do not exhibit any other characteristic) are:

* * * * *

(D) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/ ~~crome~~ **chrome** tan/retan/wet finish; hair save/ chrome tan/retan/wet finish; retan/ wet finish; no beamhouse; through-the-blue; and shearling.

* * * * *

(F) Wastewater treatment ~~sludes~~ **sludges** generated by the following subcategories of the leather tanning and finishing industry: Hair pulp/chrome tan/retan/wet finish; hair save/~~chrometan~~ **chrome tan** /retan/ wet finish; and through-the-blue.

* * * * *

(9) Solid waste which consists of discarded arsenical-treated wood or wood products which fails the test for the Toxicity Characteristic for Hazard-

ous Waste Codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood ~~and wood product~~ **and wood products** for these materials' intended end use.

* * * * *

(v) ~~As of~~ **After** November 21, 2003, leachate or gas condensate from K176, K177, and K178 is no longer exempt if managed in surface impoundment prior to discharge. After February 26, 2007, leachate or gas

* * * * *

(e) * * *

(2) * * *

(vi) The generator reports the information required under paragraph ~~(e)(v)(C)~~ **(e)(2)(v)(C)** of this section in its annual report.

* * * * *

(f) * **

(9) The facility prepares and submits a report to the Director by March 15 of each year, that ~~estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and~~ includes the following information for the previous calendar year:

* * * * *

10. **Section 261.6** is amended as follows:

a. In paragraph (a)(2)(i), remove the parenthetical phrase ''(subsection C)'' and add ''(Section 266, subsection C)'' in its place;

b. In paragraph (a)(2)(ii), remove the parenthetical phrase ''(subsection H)'' and add ''(Section 266, subsection H)'' in its place;

c. In paragraph (a)(2)(iii), remove the parenthetical phrase ''(subsection F)'' and add ''(Section 266, subsection F)'' in its place;

d. In paragraph (a)(2)(iv), remove the parenthetical phrase ''(subsection G)'' and add ''(Section 266, Subsection G)'' in its place;

e. In paragraph (c)(2), revise the word ''rcycled'' to read ''recycled''.

§ 261.6 Requirements for recyclable materials.

(a) * * *

(2) * * *

(i) Recyclable materials used in a manner constituting disposal ~~(subsection C)~~ **(§ 266, subsection C)**;

* * * * *

(ii) Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under subsection O of section 264 or 265 of this regulation ~~(subsection H)~~ **(§ 266, subsection H)**;

* * * * *

(iii) Recyclable materials from which precious metals are reclaimed ~~(subsection F)~~ **(§ 266, subsection F)**;

* * * * *

(iv) Spent lead-acid batteries that are being reclaimed ~~(subsection G)~~ **(§ 266, subsection G)**.

* * * * *

(c) * * *

(2) Owners or operators of facilities that recycle recyclable materials without storing them before they are ~~recycled~~ **recycled** are subject to the following requirements, except as provided in paragraph (a) of this section:

* * * * *

11. **Section 261.7(a)(1)** is revised to read as follows:

§ 261.7 Residues of hazardous waste in empty containers.

(a)(1) Any hazardous waste remaining in either:

(i) an empty container; or

(ii) an inner liner removed from an empty container, as defined in paragraph (b) of this section, is not subject to regulation under sections 261 through 265, ~~or Section~~ **267**, 268, 270 of this Regulation or 40 CFR 124, or to the notification requirements of section 3010 of RCRA.

* * * * *

12. **Section 261.21** is amended by revising paragraphs (a)(3) and (a)(4) and adding notes 1 through 4 to the end of the section to read as follows:

§ 261.21 Characteristic of ignitability.

(a) * * *

~~(3) It is a flammable compressed gas as defined in 49 CFR 173.115 and as determined by the test methods described in that regulation or equivalent test methods approved by the Director under §§ 260.20 and 260.21.~~

~~(4) It is an oxidizer as defined in 49 CFR 173.127.~~

(3) It is an ignitable compressed gas.

(i) The term "compressed gas" shall designate any material or mixture having in the container an absolute pressure exceeding 40 p.s.i. at 70 ?F or, regardless of the pressure at 70 degrees F, having an absolute pressure exceeding 104 p.s.i. at 130 ?F; or any liquid flammable material having a

vapor pressure exceeding 40 p.s.i. absolute at 100 ?F as determined by ASTM Test D–323.

(ii) A compressed gas shall be characterized as ignitable if any one of the following occurs:

(A) Either a mixture of 13 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall be determined at atmospheric temperature and pressure.

The method of sampling and test procedure shall be acceptable to the Bureau of Explosives and approved by the director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation (see Note 2).

(B) Using the Bureau of Explosives' Flame Projection Apparatus (see Note 1), the flame projects more than 18 inches beyond the ignition source with valve opened fully, or, the flame flashes back and burns at the valve with any degree of valve opening.

(C) Using the Bureau of Explosives' Open Drum Apparatus (see Note 1), there is any significant propagation of flame away from the ignition source.

(D) Using the Bureau of Explosives' Closed Drum Apparatus (see Note 1), there is any explosion of the vapor-air mixture in the drum.

~~(4) It is an oxidizer as defined in 49 CFR 173.127.~~

(4) It is an oxidizer. An oxidizer for the purpose of this subchapter is a substance such as a chlorate, permanganate, inorganic peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter (see Note 4).

(i) An organic compound containing the bivalent -O-O- structure and which may be considered a derivative of hydrogen peroxide where one or more of the hydrogen atoms have been replaced by organic radicals must be classed as an organic peroxide unless:

(A) The material meets the definition of a Class A explosive or a Class B explosive, as defined in § 261.23(a)(8), in which case it must be classed as an explosive, (B) The material is forbidden to be offered for transportation according to 49 CFR 172.101 and 49 CFR 173.21, (C) It is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide, or (D) According to data on file with the Pipeline and Hazardous Materials Safety Administration in the U.S. Department of Transportation (see Note 3), it has been determined that the material does not present a hazard in transportation.

* * * * *

Note 1: A description of the Bureau of Explosives' Flame Projection Apparatus, Open Drum Apparatus, Closed Drum Apparatus, and method of tests may be procured from the Bureau of Explosives.

Note 2: As part of a U.S. Department of Transportation (DOT) reorganization, the Office of Hazardous Materials Technology (OHMT), which was the office listed in the 1980 publication of 49 CFR 173.300 for the purposes of approving sampling and test procedures for a flammable gas, ceased operations on February 20, 2005. OHMT programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

Note 3: As part of a U.S. Department of Transportation (DOT) reorganization, the Research and Special Programs Administration (RSPA), which was the office listed in the 1980 publication of 49 CFR 173.151a for the purposes of determining that a material does not present a hazard in transport, ceased operations on February 20, 2005. RSPA programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

Note 4: The DOT regulatory definition of an oxidizer was contained in § 173.151 of 49 CFR, and the definition of an organic peroxide was contained in paragraph 173.151a. An organic peroxide is a type of oxidizer.

* * * * *

13. In **Section 261.24**, amend paragraph (b) by revising the reference to ''Table I'' to read ''Table 1'' (i.e., replace the letter ''I'' with the number ''1'').

§ 261.24 Toxicity characteristic.

* * * * *

(b) A solid waste that exhibits the characteristic of toxicity has the EPA Hazardous Waste Number specified in ~~Table I~~ **Table 1** which corresponds to the toxic contaminant causing it to be hazardous.

* * * * *

14. In **Sestion 261.31(a)**, amend the Table by adding a footnote at the bottom to read as follows: ''*(I,T) should be used to specify mixtures that are ignitable and contain toxic constituents.''.

§ 261.31 Hazardous wastes from non-specific sources.

(a) * * *

FOOTNOTE: *(I,T) should be used to specify mixtures containing ignitable and toxic constituents.

* * * * *

15. In **Section 261.32**, amend the Table entries for ''K107'', ''1,1-dimethyl-hydrazine'' by deleting the hyphen to read ''1,1-dimethylhydrazine'';

§ 261.32 Hazardous wastes from specific sources.

* * * * *

K107 Column bottoms from product separation from the production of ~~1,1-dimethyl-hydrazine~~ **1,1-dimethylhydrazine** (UDMH) from carboxylic acid hydrazines.(C,T)

* * * * *

16. **Section 261.33** is amended as follows:

a. In paragraph (e), revise the phrase ''are subject to be the'' to read ''are subject to the'';

b. In paragraph (e), amend the bracketed Comment by adding a sentence at the end, within the brackets, to read as set forth below;

c. Amend paragraph (f) by revising ''manfacturing'' to read ''manufacturing''.

d. In paragraph (f), amend the bracketed Comment by adding a sentence to the end, within the brackets, to read as set forth below.

e. In the table of paragraph (f), add an entry just above the entry for ''U227'' (in column 1), ''79–00–5'' (in column 2), and ''1,1,2-Trichloroethane'' (in column 3) to read as set forth below.

§ 261.33 Discarded commercial chemical products, off-specification species, container residues, and spill residues thereof.

* * * * *

(e) The commercial chemical products, manufacturing chemical intermediates or off-specification commercial chemical products or manufacturing chemical inter-mediates referred to in paragraphs (a) through (d) of this section, are identified as acute hazardous wastes (H) and ~~are subject to be the~~ **are subject to** the small quantity exclusion defined in § 261.5(e).

* * * * *

Comment: For the convenience of the regulated community the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), and R (Reactivity). Absence of a letter indicates that the compound only is listed for acute toxicity. **Wastes are first listed in alphabetical order by substance and then listed again in numerical order by Hazardous Waste Number.**

* * * * *

Hazardous waste No.	Chemical Abstracts No	Substance
* * * * *		
P001	**81–81–2**	**2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenylbutyl)-, & salts, when present at concentrations greater than 0.3%**
P001	**81–81–2**	**Warfarin, & salts, when present at concentrations greater than 0.3%**
P002	**591–08–2**	**Acetamide, -(aminothioxomethyl)-**
P002	**591–08–2**	**1-Acetyl-2-thiourea**
P003	**107–02–8**	**Acrolein**
P003	**107–02–8**	**2-Propenal**
P004	**309–00–2**	**Aldrin**
P004	**309–00–2**	**1,4,5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a,-hexahydro-, (1-alpha,4alpha,4abeta-,5alpha,8alpha,8abeta)-**
P005	**107–18–6**	**Allyl alcohol**
P005	**107–18–6**	**2-Propen-1-ol**
P006	**20859–73–8**	**Aluminum phosphide (R,T)**
P007	**2763–96–4**	**5-(Aminomethyl)-3-isoxazolol**
P007	**2763–96–4**	**3(2H)-Isoxazolone, 5-(aminomethyl)-**
P008	**504–24–5**	**4-Aminopyridine**
P008	**504–24–5**	**4-Pyridinamine**
P009	**131–74–8**	**Ammonium picrate (R)**
P009	**131–74–8**	**Phenol, 2,4,6-trinitro-, ammonium salt (R)**
P010	**7778–39–4**	**Arsenic acid H3 AsO_4**
P011	**1303–28–2**	**Arsenic oxide As2 O_5**
P011	**1303–28–2**	**Arsenic pentoxide**
P012	**1327–53–3**	**Arsenic oxide As2 O_3**
P012	**1327–53–3**	**Arsenic trioxide**
P013	**542–62–1**	**Barium cyanide**
P014	**108–98–5**	**Benzenethiol**
P014	**108–98–5**	**Thiophenol**
P015	**7440–41–7**	**Beryllium powder**
P016	**542–88–1**	**Dichloromethyl ether**
P016	**542–88–1**	**Methane, oxybis[chloro-**
P017	**598–31–2**	**Bromoacetone**
P017	**598–31–2**	**2-Propanone, 1-bromo-**
P018	**357–57–3**	**Brucine**
P018	**357–57–3**	**Strychnidin-10-one, 2,3-dimethoxy-**
P020	**88–85–7**	**Dinoseb**
P020	**88–85–7**	**Phenol, 2-(1-methyl propyl)-4,6-dinitro-**
P021	**592–01–8**	**Calcium cyanide**
P021	**592–01–8**	**Calcium cyanide $Ca(CN)_2$**
P022	**75–15–0**	**Carbon disulfide**
P023	**107–20–0**	**Acetaldehyde, chloro-**
P023	**107–20–0**	**Chloroacetaldehyde**
P024	**106–47–8**	**Benzenamine, 4-chloro-**
P024	**106–47–8**	**p-Chloroaniline**
P026	**5344–82–1**	**1-(o-Chlorophenyl) thiourea**
P026	**5344–82–1**	**Thiourea, (2-chloro-phenyl)-**
P027	**542–76–7**	**3-Chloropropionitrile**
P027	**542–76–7**	**Propanenitrile, 3-chloro-**
P028	**100–44–7**	**Benzene, (chloromethyl)-**
P028	**100–44–7**	**Benzyl chloride**
P029	**544–92–3**	**Copper cyanide**
P029	**544–92–3**	**Copper cyanide Cu(CN)**
P030	**.....**	**Cyanides (soluble cyanide salts), not otherwise specified**
P031	**460–19–5**	**Cyanogen**
P031	**460–19–5**	**Ethanedinitrile**
P033	**506–77–4**	**Cyanogen chloride**
P033	**506–77–4**	**Cyanogen chloride (CN)Cl**

P034 131–89–5	2-Cyclohexyl-4,6-dinitrophenol
P034 131–89–5	Phenol, 2-cyclohexyl-4,6-dinitro-
P036 696–28–6	Arsonous dichloride, phenyl-
P036 696–28–6	Dichlorophenylarsine
P037 60–57–1	Dieldrin
P037 60–57–1	2,7:3,6-Dimethanonaphth[2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha, 2beta,2aalpha,3beta,6beta ,6aalpha,7beta, 7a-alpha)-
P038 692–42–2	Arsine, diethyl-
P038 692–42–2	Diethylarsine
P039 298–04–4	Disulfoton
P039 298–04–4	Phosphorodithioic acid, O,O-diethyl S-[2-(ethylthio)ethyl] ester
P040 297–97–2	O,O-Diethyl O-pyrazinyl phosphorothioate
P040 297–97–2	Phosphorothioic acid, ,O-diethyl O-pyrazinyl ester
P041 311–45–5	Diethyl-p-nitrophenyl phosphate
P041 311–45–5	Phosphoric acid, diethyl 4-nitrophenyl ester
P042 51–43–4	1,2-Benzenediol, 4-[1-hydroxy-2-(methylamino) ethyl]-, (R)-
P042 51–43–4	Epinephrine
P043 55–91–4	iisopropylfluorophosphate (DFP)
P043 55–91–4	Phosphorofluoridic acid, bis(1-methylethyl) ester
P044 60–51–5	Dimethoate
P044 60–51–5	Phosphorodithioic acid, O,O-dimethyl S-[2-(methyl amino)-2-oxoethyl] ester
P045 39196–18–4	2-Butanone, 3,3-dimethyl-1-(methylthio)-, O -[(methylamino)carbonyl] oxime
P045 39196–18–4	Thiofanox
P046 122–09–8	Benzeneethanamine, alpha,alpha-dimethyl-
P046 122–09–8	alpha,alpha-Dimethylphenethylamine
P047 ..... 1 534–52–1	4,6-Dinitro-o-cresol, & salts
P047 ..... 1 534–52–1	Phenol, 2-methyl-4,6-dinitro-, & salts
P048 51–28–5	2,4-Dinitrophenol
P048 51–28–5	Phenol, 2,4-dinitro-
P049 541–53–7	Dithiobiuret
P049 541–53–7	Thioimidodicarbonic diamide [(H_2 N)C(S)]$_2$ NH
P050 115–29–7	Endosulfan
P050 115–29–7	6,9-Methano-2,4,3-benzodioxathiepin, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide
P051 ..... 1 72–20–8	2,7:3,6-Dimethanonaphth [2,3-b]oxirene, 3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha, 2beta, 2abeta, 3alpha, 6alpha, 6abeta,7beta, 7aalpha)-, & metabolites
P051 72–20–8	Endrin
P051 72–20–8	Endrin, & metabolites
P054 151–56–4	Aziridine
P054 151–56–4	Ethyleneimine
P056 7782–41–4	Fluorine
P057 640–19–7	Acetamide, 2-fluoro-
P057 640–19–7	Fluoroacetamide
P058 62–74–8	Acetic acid, fluoro-, sodium salt
P058 62–74–8	Fluoroacetic acid, sodium salt
P059 76–44–8	Heptachlor
P059 76–44–8	4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-
P060 465–73–6	1,4,5,8-Dimethano naphthalene, 1,2,3,4,10,10-hexa-chloro-1,4,4a,5,8,8a-hexahydro-, (1alpha, 4alpha, 4abeta ,5beta,8beta,8abeta)-
P060 465–73–6	Isodrin
P062 757–58–4	Hexaethyl tetraphosphate
P062 757–58–4	Tetraphosphoric acid, hexaethyl ester
P063 74–90–8	Hydrocyanic acid
P063 74–90–8	Hydrogen cyanide
P064 624–83–9	Methane, isocyanato-
P064 624–83–9	Methyl isocyanate
P065 628–86–4	Fulminic acid, mercury (2+) salt (R,T)
P065 628–86–4	Mercury fulminate (R,T)
P066 16752–77–5	Ethanimidothioic acid, N-[[(methylamino)carbonyl] oxy]-, methyl ester
P066 16752–77–5	Methomyl
P067 75–55–8	Aziridine, 2-methyl-
P067 75–55–8	1,2-Propylenimine
P068 60–34–4	Hydrazine, methyl-
P068 60–34–4	Methyl hydrazine
P069 75–86–5	2-Methyllactonitrile
P069 75–86–5	Propanenitrile, 2-hydroxy-2-methyl-
P070 116–06–3	Aldicarb
P070 116–06–3	Propanal, 2-methyl-2-(methylthio)-, O-[(methylamino)carbonyl] oxime
P071 298–00–0	Methyl parathionith
P071 ..... 298–00–0 O,O,-	Phosphorothioic acid, dimethyl O-(4-nitrophenyl) ester
P072 86–88–4	alpha-Naphthylthiourea
P072 86–88–4	Thiourea, 1-naphthalenyl-
P073 13463–39–3	Nickel carbonyl
P073 13463–39–3	Nickel carbonyl Ni(CO)4, (T-4)-
P074 557–19–7	Nickel cyanide
P074 557–19–7	Nickel cyanide Ni(CN)2
P075 ..... 1 54–11–5	Nicotine, & salts
P075 ..... 1 54–11–5	Pyridine, 3-(1-methyl-2-pyrrolidinyl)-, (S)-, & salts
P076 10102–43–9	Nitric oxide
P076 10102–43–9	Nitrogen oxide NO
P077 100–01–6	Benzenamine, 4-nitro-
P077 100–01–6	p-Nitroaniline
P078 10102–44–0	Nitrogen dioxide
P078 10102–44–0	Nitrogen oxide NO_2
P081 55–63–0	Nitroglycerine (R)

P081 55–63–0	1,2,3-Propanetriol, trinitrate (R)
P082 62–75–9	Methanamine, -methyl-N-nitroso-
P082 62–75–9	N-Nitrosodimethylamine
P084 4549–40–0	N-Nitrosomethyl vinyl amine
P084 4549–40–0	Vinylamine, -methyl-N-nitroso-
P085 152–16–9	Diphosphoramide, octamethyl-
P085 152–16–9	Octamethylpyrophosphoramide
P087 20816–12–0	Osmium oxide OsO_4, (T-4)-
P087 20816–12–0	Osmium tetroxide
P088 145–73–3	Endothall
P088 145–73–3	7-Oxabicyclo[2.2.1] heptane- 2,3-dicarboxylic acid
P089 56–38–2	Parathion
P089 56–38–2	Phosphorothioic acid, O,O-diethyl O-(4-nitrophenyl) ester
P092 62–38–4	Mercury, (acetato-O)phenyl-
P092 62–38–4	Phenylmercury acetate
P093 103–85–5	Phenylthiourea
P093 103–85–5	Thiourea, phenyl-
P094 298–02–2	Phorate
P094 298–02–2	Phosphorodithioic acid, O,O-diethyl S-[(ethylthio)methyl] ester
P095 75–44–5	Carbonic dichloride
P095 75–44–5	Phosgene
P096 7803–51–2	Hydrogen phosphide
P096 7803–51–2	Phosphine
P097 52–85–7	Famphur
P097 52–85–7	Phosphorothioic acid, O-[4-[(dimethylamino) sulfonyl]phenyl] O,O-dimethyl ester
P098 151–50–8	Potassium cyanide
P098 151–50–8	Potassium cyanide K(CN)
P099 506–61–6	Argentate(1-), bis(cyano-C)-, potassium
P099 506–61–6	Potassium silver cyanide
P101 107–12–0	Ethyl cyanide
P101 107–12–0	Propanenitrile
P102 107–19–7	Propargyl alcohol
P102 107–19–7	2-Propyn-1-ol
P103 630–10–4	Selenourea
P104 506–64–9	Silver cyanide
P104 506–64–9	Silver cyanide Ag(CN)
P105 26628–22–8	Sodium azide
P106 143–33–9	Sodium cyanide
P106 143–33–9	Sodium cyanide Na(CN)
P108 ..... 1 157–24–9	Strychnidin-10-one, & salts
P108 ..... 1 157–24–9	Strychnine, & salts
P109 3689–24–5	Tetraethyldithiopyrophosphate
P109 3689–24–5	Thiodiphosphoric acid, tetraethyl ester
P110 78–00–2	Plumbane, tetraethyl-
P110 78–00–2	Tetraethyl lead
P111 107–49–3	Diphosphoric acid, tetraethyl ester
P111 107–49–3	Tetraethyl pyrophosphate
P112 509–14–8	Methane, tetranitro-(R)
P112 509–14–8	Tetranitromethane (R)
P113 1314–32–5	Thallic oxide
P113 1314–32–5	Thallium oxide Tl_2O_3
P114 12039–52–0	Selenious acid, dithallium(1+) salt
P114 12039–52–0	Tetraethyldithio pyrophosphate
P115 7446–18–6	Thiodiphosphoric acid, tetraethyl ester
P115 7446–18–6	Plumbane, tetraethyl-
P116 79–19–6	Tetraethyl lead
P116 79–19–6	Thiosemicarbazide
P118 75–70–7	Methanethiol, trichloro-
P118 75–70–7	Trichloromethanethiol
P119 7803–55–6	Ammonium vanadate
P119 7803–55–6	Vanadic acid, ammonium salt
P120 1314–62–1	Vanadium oxide V_2O_5
P120 1314–62–1	Vanadium pentoxide
P121 557–21–1	Zinc cyanide
P121 557–21–1	Zinc cyanide $Zn(CN)_2$
P122 1314–84–7	Zinc phosphide Zn_3P_2, when present at concentrations greater than 10% (R,T)
P123 8001–35–2	Toxaphene
P127 1563–66–2	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-, methylcarbamate.
P127 1563–66–2	Carbofuran
P128 315–8–4	Mexacarbate
P128 315–18–4	Phenol, 4-(dimethylamino)-3,5-dimethyl-, methylcarbamate (ester)
P185 26419–73–8	1,3-Dithiolane-2-carboxaldehyde, 2,4-dimethyl-, O-[(methylamino)-carbonyl] oxime.
P185 26419–73–8	Tirpate
P188 57–64–7	Benzoic acid, 2-hydroxy-, compd. with (3aS-cis)-1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethylpyrrolo[2,3-b]indol-5-yl methylcarbamate ester (1:1)
P188 57–64–7	Physostigmine salicylate
P189 55285–14–8	Carbamic acid, [(dibutylamino)-thio]methyl-, 2,3-dihydro-2,2-dimethyl-7-benzofuranyl ester
P189 55285–14–8	Carbosulfan
P190 1129–41–5	Carbamic acid, methyl-, 3-methylphenyl ester
P190 1129–41–5	Metolcarb
P191 644–64–4	Carbamic acid, dimethyl-, 1-[(dimethylamino)carbonyl]-5-methyl-1H-pyrazol-3-yl ester
P191 644–64–4	Dimetilan
P192 119–38–0	Carbamic acid, dimethyl-, 3-methyl-1-(1-methylethyl)-1H-pyrazol-5-yl ester
P192 119–38–0	Isolan
P194 23135–22–0	Ethanimidthioic acid, 2-(dimethylamino)-N-[[(methylamino) carbonyl]oxy]-2-oxo-, methyl ester

P194 23135–22–0	**Oxamyl**
P196 15339–36–3	**Manganese, bis(dimethyl carbamodithioato-S,S')-,**
P196 15339–36–3	**Manganese dimethyldithio carbamate**
P197 17702–57–7	**Formparanate**
P197 17702–57–7	**Methanimidamide, N,N-dimethyl-N'-[2-methyl-4-[[(methylamino)carbonyl] oxy]phenyl]-**
P198 23422–53–9	**Formetanate hydrochloride**
P198 23422–53–9	**Methanimidamide, N,N-dimethyl-N'-[3-[[(methylamino)-carbonyl]oxy]phenyl]-monohydrochloride**
P199 2032–65–7	**Methiocarb**
P199 2032–65–7	**Phenol, (3,5-dimethyl-4-(methylthio)-, methylcarbamate**
P201 2631–37–0	**Phenol, 3-methyl-5-(1-methylethyl)-, methyl carbamate**
P201 2631–37–0	**Promecarb**
P202 64–00–6	**m-Cumenyl methylcarbamate**
P202 64–00–6	**3-Isopropylphenyl N-methylcarbamate**
P202 64–00–6	**Phenol, 3-(1-methylethyl)-, methyl carbamate**
P203 1646–88–4	**Aldicarb sulfone**
P203 1646–88–4	**Propanal, 2-methyl-2-(methyl-sulfonyl)-, O-[(methylamino) carbonyl] oxime**
P204 57–47–6	**Physostigmine**
P204 57–47–6	**Pyrrolo[2,3-b]indol-5-ol, 1,2,3,3a,8,8a-hexahydro-1,3a,8-trimethyl-, methylcarbamate (ester), (3aS-cis)-**
P205 137–30–4	**Zinc, bis(dimethyl carbamodithioato-S,S')-,**
P205 137–30–4	**Ziram**

* * * * *

(f) The commercial chemical products, ~~manfacturing~~ **manufacturing** chemical intermediates, or off-specification commercial chemical products referred to in paragraphs (a) through (d) of this section, are identified as toxic wastes (T), unless otherwise designated and are subject to the small quantity generator exclusion defined in § 261.5 (a) and (g).

Comment: For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability) and C (Corrosivity). Absence of a letter indicates that the compound is only listed for toxicity. ***Wastes are first listed in alphabetical order by substance and then listed again in numerical order by Hazardous Waste Number.***

* * * * *

Hazardous waste No.	Chemical abstracts No	. Substance
* * * * * * *		
U226	71–55–6	1,1,1-Trichloroethane
* * * * * * *		
U001	75–07–0	Acetaldehyde (I)
U001	75–07–0	Ethanal (I)
U002	67–64–1	Acetone (I)
U002	67–64–1	2-Propanone (I)
U003	75–05–8	Acetonitrile (I,T)
U004	98–86–2	Acetophenone
U004	98–86–2	Ethanone, 1-phenyl-
U005	53–96–3	Acetamide, -9H-fluoren-2-yl-
U005	53–96–3	2-Acetylaminofluorene
U006	75–36–5	Acetyl chloride (C,R,T)
U007	79–06–1	Acrylamide
U007	79–06–1	2-Propenamide
U008	79–10–7	Acrylic acid (I)
U008	79–10–7	2-Propenoic acid (I)
U009	107–13–1	Acrylonitrile
U009	107–13–1	2-Propenenitrile
U010	50–07–7	Azirino[2',3':3,4]pyrrolo[1,2-a]indole-4,7-dione, 6-amino-8-[[(aminocarbonyl) oxy] methyl]-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl-, [1aS-(1aalpha, 8beta,8aalpha,8balpha)]-
U010	50–07–7	Mitomycin C
U011	61–82–5	Amitrole
U011	61–82–5	1H-1,2,4-Triazol-3-amine
U012	62–53–3	Aniline (I,T)
U012	62–53–3	Benzenamine (I,T)
U014	492–80–8	Auramine
U014	492–80–8	Benzenamine, 4,4'-carbonimidoylbis[N,N-dimethyl-
U015	115–02–6	Azaserine
U015	115–02–6	L-Serine, diazoacetate (ester)
U016	225–51–4	Benz[c]acridine
U017	98–87–3	Benzal chloride
U017	98–87–3	Benzene, (dichloromethyl)-
U018	56–55–3	Benz[a]anthracene
U019	71–43–2	Benzene (I,T)
U020	98–09–9	Benzenesulfonic acid chloride (C,R)
U020	98–09–9	Benzenesulfonyl chloride (C,R)
U021	92–87–5	Benzidine
U021	92–87–5	[1,1'-Biphenyl]-4,4'-diamine
U022	50–32–8	Benzo[a]pyrene
U023	98–07–7	Benzene, (trichloromethyl)-
U023	98–07–7	Benzotrichloride (C,R,T)
U024	111–91–1	Dichloromethoxy ethane
U024	111–91–1	Ethane, 1,1'-[methylene bis(oxy)]bis[2-chloro-
U025	111–44–4	Dichloroethyl ether
U025	111–44–4	Ethane, 1,1'-oxybis[2-chloro-
U026	494–03–1	Chlornaphazin
U026	494–03–1	Naphthalenamine, N,N'-bis(2-chloroethyl)-
U027	108–60–1	Dichloroisopropyl ether
U027	108–60–1	Propane, 2,2'-oxybis[2-chloro-
U028	117–81–7	1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester
U028	117–81–7	Diethylhexyl phthalate
U029	74–83–9	Methane, bromo-
U029	74–83–9	Methyl bromide
U030	101–55–3	Benzene, 1-bromo-4-phenoxy-
U030	101–55–3	4-Bromophenyl phenyl ether

U031 71–36–3	1-Butanol (I)
U031 71–36–3	n-Butyl alcohol (I)
U032 13765–19–0	Calcium chromate
U032 13765–19–0	Chromic acid H_2CrO_4, calcium salt
U033 353–50–4	Carbonic difluoride
U033 353–50–4	Carbon oxyfluoride (R,T)
U034 75–87–6	Acetaldehyde, trichloro-
U034 75–87–6	Chloral
U035 305–03–3	Benzenebutanoic acid, 4-[bis(2-chloroethyl)amino]-
U035 305–03–3	Chlorambucil
U036 57–74–9	Chlordane, alpha & gamma isomers
U036 57–74–9	4,7-Methano-1H-indene, 1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexahydro-
U037 108–90–7	Benzene, chloro-
U037 108–90–7	Chlorobenzene
U038 510–15–6	Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-, ethyl ester
U038 510–15–6	Chlorobenzilate
U039 59–50–7	p-Chloro-m-cresol
U039 59–50–7	Phenol, 4-chloro-3-methyl-
U041 106–89–8	Epichlorohydrin
U041 106–89–8	Oxirane, (chloromethyl)-
U042 110–75–8	2-Chloroethyl vinyl ether
U042 110–75–8	Ethene, (2-chloroethoxy)-
U043 75–01–4	Ethene, chloro-
U043 75–01–4	Vinyl chloride
U044 67–66–3	Chloroform
U044 67–66–3	Methane, trichloro-
U045 74–87–3	Methane, chloro- (I,T)
U045 74–87–3	Methyl chloride (I,T)
U046 107–30–2	Chloromethyl methyl ether
U046 107–30–2	Methane, chloromethoxy-
U047 91–58–7	beta-Chloronaphthalene
U047 91–58–7	Naphthalene, 2-chloro-
U048 95–57–8	o-Chlorophenol
U048 95–57–8	Phenol, 2-chloro-
U049 3165–93–3	Benzenamine, 4-chloro-2-methyl-, hydrochloride
U049 3165–93–3	4-Chloro-o-toluidine, hydrochloride
U050 218–01–9	Chrysene
U051	Creosote
U052 1319–77–3	Cresol (Cresylic acid)
U052 1319–77–3	Phenol, methyl-
U053 4170–30–3	2-Butenal
U053 4170–30–3	Crotonaldehyde
U055 98–82–8	Benzene, (1-methylethyl)- (I)
U055 98–82–8	Cumene (I)
U056 110–82–7	Benzene, hexahydro-(I)
U056 110–82–7	Cyclohexane (I)
U057 108–94–1	Cyclohexanone (I)
U058 50–18–0	Cyclophosphamide
U058 50–18–0	2H-1,3,2-Oxazaphosphorin-2-amine, N,N-bis(2-chloroethyl)tetrahydro-, 2-oxide
U059 20830–81–3	Daunomycin
U059 20830–81–3	5,12-Naphthacenedione, 8-acetyl-10-[(3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl)oxy]-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-, (8S-cis)-
U060 72–54–8	Benzene, 1,1'-(2,2-dichloroethylidene)bis[4-chloro-
U060 72–54–8	DDD
U061 50–29–3	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-chloro-
U061 50–29–3	DDT
U062 2303–16–4	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3-dichloro-2-propenyl) ester
U062 2303–16–4	Diallate
U063 53–70–3	Dibenz[a,h]anthracene
U064 189–55–9	Benzo[rst]pentaphene
U064 189–55–9	Dibenzo[a,i]pyrene
U066 96–12–8	1,2-Dibromo-3-chloropropane
U066 96–12–8	Propane, 1,2-dibromo-3-chloro-
U067 106–93–4	Ethane, 1,2-dibromo-
U067 106–93–4	Ethylene dibromide
U068 74–95–3	Methane, dibromo-
U068 74–95–3	Methylene bromide
U069 84–74–2	1,2-Benzenedicarboxylic acid, dibutyl ester
U069 84–74–2	Dibutyl phthalate
U070 95–50–1	Benzene, 1,2-dichloro-
U070 95–50–1	o-Dichlorobenzene
U071 541–73–1	Benzene, 1,3-dichloro-
U071 541–73–1	m-Dichlorobenzene
U072 106–46–7	Benzene, 1,4-dichloro-
U072 106–46–7	p-Dichlorobenzene
U073 91–94–1	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dichloro-
U073 91–94–1	3,3'-Dichlorobenzidine
U074 764–41–0	2-Butene, 1,4-dichloro-(I,T)
U074 764–41–0	1,4-Dichloro-2-butene (I,T)
U075 75–71–8	Dichlorodifluoromethane
U075 75–71–8	Methane, dichlorodifluoro-
U076 75–34–3	Ethane, 1,1-dichloro-
U076 75–34–3	Ethylidene dichloride
U077 107–06–2	Ethane, 1,2-dichloro-
U077 107–06–2	Ethylene dichloride
U078 75–35–4	1, 1-Dichloroethylene
U078 75–35–4	Ethene, 1,1-dichloro-
U079 156–60–5	1,2-Dichloroethylene
U079 156–60–5	Ethene, 1,2-dichloro-, (E)-
U080 75–09–2	Methane, dichloro-
U080 75–09–2	Methylene chloride
U081 120–83–2	2,4-Dichlorophenol
U081 120–83–2	Phenol, 2,4-dichloro-
U082 87–65–0	2,6-Dichlorophenol
U082 87–65–0	Phenol, 2,6-dichloro-
U083 78–87–5	Propane, 1,2-dichloro-
U083 78–87–5	Propylene dichloride
U084 542–75–6	1,3-Dichloropropene
U084 542–75–6	1-Propene, 1,3-dichloro-
U085 1464–53–5	2,2'-Bioxirane
U085 1464–53–5	1,2:3,4-Diepoxybutane (I,T)
U086 1615–80–1	N,N'-Diethylhydrazine
U086 1615–80–1	Hydrazine, 1,2-diethyl-
U087 3288–58–2	O,O-Diethyl S-methyl dithiophosphate
U087 3288–58–2	Phosphorodithioic acid, O,O-diethyl S-methyl ester
U088 84–66–2	1,2-Benzenedicarboxylic acid, diethyl ester
U088 84–66–2	Diethyl phthalate
U089 56–53–1	Diethylstilbesterol
U089 56–53–1	Phenol, 4,4'-(1,2-diethyl-

	1,2-ethenediyl)bis-, (E)-
U090 94–58–6	1,3-Benzodioxole, 5-propyl-
U090 94–58–6	Dihydrosafrole
U091 119–90–4	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethoxy-
U091 119–90–4	3,3'-Dimethoxybenzidine
U092 124–40–3	Dimethylamine (I)
U092 124–40–3	Methanamine, -methyl-(I)
U093 60–11–7	Benzenamine, N,N-dimethyl-4-(phenylazo)-
U093 60–11–7	p-Dimethylamino azobenzene
U094 57–97–6	Benz[a]anthracene, 7,12-dimethyl-
U094 57–97–6	7,12-Dimethylbenz[a] anthracene
U095 119–93–7	[1,1'-Biphenyl]-4,4'-diamine, 3,3'-dimethyl-
U095 119–93–7	3,3'-Dimethylbenzidine
U096 80–15–9	alpha,alpha-Dimethyl benzylhydroperoxide (R)
U096 80–15–9	Hydroperoxide, 1-methyl-1-phenylethyl-(R)
U097 79–44–7	Carbamic chloride, dimethyl-
U097 79–44–7	Dimethylcarbamoyl chloride
U098 57–14–7	1,1-Dimethylhydrazine
U098 57–14–7	Hydrazine, 1,1-dimethyl-
U099 540–73–8	1,2-Dimethylhydrazine
U099 540–73–8	Hydrazine, 1,2-dimethyl-
U101 105–67–9	2,4-Dimethylphenol
U101 105–67–9	Phenol, 2,4-dimethyl-
U102 131–11–3	1,2-Benzenedicarboxylic acid, dimethyl ester
U102 131–11–3	Dimethyl phthalate
U103 77–78–1	Dimethyl sulfate
U103 77–78–1	Sulfuric acid, dimethyl ester
U105 121–14–2	Benzene, 1-methyl-2,4-dinitro-
U105 121–14–2	2,4-Dinitrotoluene
U106 606–20–2	Benzene, 2-methyl-1,3-dinitro-
U106 606–20–2	2,6-Dinitrotoluene
U107 117–84–0	1,2-Benzenedicarboxylic acid, dioctyl ester
U107 117–84–0	Di-n-octyl phthalate
U108 123–91–1	1,4-Diethyleneoxide
U108 123–91–1	1,4-Dioxane
U109 122–66–7	1,2-Diphenylhydrazine
U109 122–66–7	Hydrazine, 1,2-diphenyl-
U110 142–84–7	Dipropylamine (I)
U110 142–84–7	1-Propanamine, N-propyl-(I)
U111 621–64–7	Di-n-propylnitrosamine
U111 621–64–7	1-Propanamine, N-nitroso-N-propyl-
U112 141–78–6	Acetic acid ethyl ester (I)
U112 141–78–6	Ethyl acetate (I)
U113 140–88–5	Ethyl acrylate (I)
U113 140–88–5	2-Propenoic acid, ethyl ester (I)
U114 ..... [1]111–54–6	Carbamodithioic acid, 1,2-ethanediylbis-, salts & esters
U114 ..... [1]111–54–6	Ethylenebisdithiocarbamic acid, salts & esters
U115 75–21–8	Ethylene oxide (I,T)
U115 75–21–8	Oxirane (I,T)
U116 96–45–7	Ethylenethiourea
U116 96–45–7	2-Imidazolidinethione
U117 60–29–7	Ethane, 1,1'-oxybis-(I)
U117 60–29–7	Ethyl ether (I)
U118 97–63–2	Ethyl methacrylate
U118 97–63–2	2-Propenoic acid, 2-methyl-, ethyl ester
U119 62–50–0	Ethyl methanesulfonate
U119 62–50–0	Methanesulfonic acid, ethyl ester
U120 206–44–0	Fluoranthene
U121 75–69–4	Methane, trichlorofluoro-
U121 75–69–4	Trichloromonofluoro-methane
U122 50–00–0	Formaldehyde
U123 64–18–6	Formic acid (C,T)
U124 110–00–9	Furan (I)
U124 110–00–9	Furfuran (I)
U125 98–01–1	2-Furancarboxaldehyde (I)
U125 98–01–1	Furfural (I)
U126 765–34–4	Glycidylaldehyde
U126 765–34–4	Oxiranecarboxyaldehyde
U127 118–74–1	Benzene, hexachloro-
U127 118–74–1	Hexachlorobenzene
U128 87–68–3	1,3-Butadiene, 1,1,2,3,4,4-hexachloro-
U128 87–68–3	Hexachlorobutadiene
U129 58–89–9	Cyclohexane, 1,2,3,4,5,6-hexachloro-, (1alpha,2alpha,3beta,4alpha,5alpha,6beta)-
U129 58–89–9	Lindane
U130 77–47–4	1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-
U130 77–47–4	Hexachlorocyclopentadiene
U131 67–72–1	Ethane, hexachloro-
U131 67–72–1	Hexachloroethane
U132 70–30–4	Hexachlorophene
U132 70–30–4	Phenol, 2,2'-methylene bis[3,4,6-trichloro-
U133 302–01–2	Hydrazine (R,T)
U134 7664–39–3	Hydrofluoric acid (C,T)
U134 7664–39–3	Hydrogen fluoride (C,T)
U135 7783–06–4	Hydrogen sulfide
U135 7783–06–4	Hydrogen sulfide H_2S
U136 75–60–5	Arsinic acid, dimethyl-
U136 75–60–5	Cacodylic acid
U137 193–39–5	Indeno[1,2,3-cd]pyrene
U138 74–88–4	Methane, iodo-
U138 74–88–4	Methyl iodide
U140 78–83–1	Isobutyl alcohol (I,T)
U140 78–83–1	1-Propanol, 2-methyl- (I,T)
U141 120–58–1	1,3-Benzodioxole, 5-(1-propenyl)-
U141 120–58–1	Isosafrole
U142 143–50–0	Kepone
U142 143–50–0	1,3,4-Metheno-2H-cyclobuta[cd]pentalen-2-one, 1,1a,3,3a,4,5,5,5a,5b,6-decachlorooctahydro-
U143 303–34–4	2-Butenoic acid, 2-methyl-, 7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy]methyl]-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester, [1S-[1alpha(Z),7(2S*,3R*),7aalpha]]-
U143 303–34–4	Lasiocarpine
U144 301–04–2	Acetic acid, lead(2+) salt
U144 301–04–2	Lead acetate
U145 7446–27–7	Lead phosphate
U145 7446–27–7	Phosphoric acid, lead(2+) salt (2:3)
U146 1335–32–6	Lead, bis(acetato-O)tetra hydroxytri-
U146 1335–32–6	Lead subacetate
U147 108–31–6	2,5-Furandione

U147 108–31–6	Maleic anhydride
U148 123–33–1	Maleic hydrazide
U148 123–33–1	3,6-Pyridazinedione, 1,2-dihydro-
U149 109–77–3	Malononitrile
U149 109–77–3	Propanedinitrile
U150 148–82–3	Melphalan
U150 148–82–3	L-Phenylalanine, 4-[bis(2-chloroethyl)amino]-
U151 7439–97–6	Mercury
U152 126–98–7	Methacrylonitrile (I,T)
U152 126–98–7	2-Propenenitrile, 2-methyl- (I,T)
U153 74–93–1	Methanethiol (I,T)
U153 74–93–1	Thiomethanol (I,T)
U154 67–56–1	Methanol (I)
U154 67–56–1	Methyl alcohol (I)
U155 91–80–5	1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)-
U155 91–80–5	Methapyrilene
U156 79–22–1	Carbonochloridic acid, methyl ester (I,T)
U156 79–22–1	Methyl chlorocarbonate (I,T)
U157 56–49–5	Benz[j]aceanthrylene, 1,2-dihydro-3-methyl-
U157 56–49–5	3-Methylcholanthrene
U158 101–14–4	Benzenamine, 4,4'-methylenebis[2-chloro-
U158 101–14–4	4,4'-Methylenebis(2-chloroaniline)
U159 78–93–3	2-Butanone (I,T)
U159 78–93–3	Methyl ethyl ketone (MEK) (I,T)
U160 1338–23–4	2-Butanone, peroxide (R,T)
U160 1338–23–4	Methyl ethyl ketone peroxide (R,T)
U161 108–10–1	Methyl isobutyl ketone (I)
U161 108–10–1	4-Methyl-2-pentanone (I)
U161 108–10–1	Pentanol, 4-methyl-
U162 80–62–6	Methyl methacrylate (I,T)
U162 80–62–6	2-Propenoic acid, 2-methyl-, methyl ester (I,T)
U163 70–25–7	Guanidine, -methyl-N'-nitro-N-nitroso-
U163 70–25–7	MNNG
U164 56–04–2	Methylthiouracil
U164 56–04–2	4(1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-
U165 91–20–3	Naphthalene
U166 130–15–4	1,4-Naphthalenedione
U166 130–15–4	1,4-Naphthoquinone
U167 134–32–7	1-Naphthalenamine
U167 134–32–7	alpha-Naphthylamine
U168 91–59–8	2-Naphthalenamine
U168 91–59–8	beta-Naphthylamine
U169 98–95–3	Benzene, nitro-
U169 98–95–3	Nitrobenzene (I,T)
U170 100–02–7	p-Nitrophenol
U170 100–02–7	Phenol, 4-nitro-
U171 79–46–9	2-Nitropropane (I,T)
U171 79–46–9	Propane, 2-nitro- (I,T)
U172 924–16–3	1-Butanamine, N-butyl-N-nitroso-
U172 924–16–3	N-Nitrosodi-n-butylamine
U173 1116–54–7	Ethanol, 2,2'-(nitroso imino)bis-
U173 1116–54–7	N-Nitrosodiethanolamine
U174 55–18–5	Ethanamine, -ethyl-N-nitroso-
U174 55–18–5	N-Nitrosodiethylamine
U176 759–73–9	N-Nitroso-N-ethylurea
U176 759–73–9	Urea, N-ethyl-N-nitroso-
U177 684–93–5	N-Nitroso-N-methylurea
U177 684–93–5	Urea, N-methyl-N-nitroso-
U178 615–53–2	Carbamic acid, methyl nitroso-, ethyl ester
U178 615–53–2	N-Nitroso-N-methylurethane
U179 100–75–4	N-Nitrosopiperidine
U179 100–75–4	Piperidine, 1-nitroso-
U180 930–55–2	N-Nitrosopyrrolidine
U180 930–55–2	Pyrrolidine, 1-nitroso-
U181 99–55–8	Benzenamine, 2-methyl-5-nitro-
U181 ..... 99–55–8 5-	Nitro-o-toluidine
U182 123–63–7	1,3,5-Trioxane, 2,4,6-trimethyl-
U182 123–63–7	Paraldehyde
U183 608–93–5	Benzene, pentachloro-
U183 608–93–5	Pentachlorobenzene
U184 76–01–7	Ethane, pentachloro-
U184 76–01–7	Pentachloroethane
U185 82–68–8	Benzene, pentachloronitro-
U185 82–68–8	Pentachloronitrobenzene (PCNB)
U186 504–60–9	1-Methylbutadiene (I)
U186 504–60–9	1,3-Pentadiene (I)
U187 62–44–2	Acetamide, -(4-ethoxy phenyl)-
U187 62–44–2	Phenacetin
U188 108–95–2	Phenol
U189 1314–80–3	Phosphorus sulfide (R)
U189 1314–80–3	Sulfur phosphide (R)
U190 85–44–9	1,3-Isobenzofurandione
U190 85–44–9	Phthalic anhydride
U191 109–06–8	2-Picoline
U191 109–06–8	Pyridine, 2-methyl-
U192 23950–58–5	Benzamide, 3,5-dichloro-N-(1,1-dimethyl-2-propynyl)-
U192 23950–58–5	Pronamide
U193 1120–71–4	1,2-Oxathiolane, 2,2-dioxide
U193 1120–71–4	1,3-Propane sultone
U194 107–10–8	1-Propanamine (I,T)
U194 107–10–8	n-Propylamine (I,T)
U196 110–86–1	Pyridine
U197 106–51–4	p-Benzoquinone
U197 106–51–4	2,5-Cyclohexadiene-1,4-dione
U200 50–55–5	Reserpine
U200 50–55–5	Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-[(3,4,5-trimethoxy benzoyl)oxy]-, methyl ester,(3beta,16beta, 17alpha,18beta,20alpha)-
U201 108–46–3	1,3-Benzenediol
U201 108–46–3	Resorcinol
U202 181–07–2	1,2-Benzisothiazol-3(2H)-one, 1,1-dioxide, & salts
U202 181–07–2	Saccharin, & salts
U203 94–59–7	1,3-Benzodioxole, 5-(2-propenyl)-
U203 94–59–7	Safrole
U204 7783–00–8	Selenious acid
U204 7783–00–8	Selenium dioxide
U205 7488–56–4	Selenium sulfide
U205 7488–56–4	Selenium sulfide SeS_2 (R,T)
U206 18883–66–4	Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-, D-
U206 18883–66–4	D-Glucose, 2-deoxy-2-

	[[(methylnitroso amino)-carbonyl]amino]-
U206 18883–66–4	Streptozotocin
U207 95–94–3	Benzene, 1,2,4,5-tetra chloro-
U207 95–94–3	1,2,4,5-Tetrachlorobenzene
U208 630–20–6	Ethane, 1,1,1,2-tetrachloro-
U208 630–20–6	1,1,1,2-Tetrachloroethane
U209 79–34–5	Ethane, 1,1,2,2-tetrachloro-
U209 79–34–5	1,1,2,2-Tetrachloroethane
U210 127–18–4	Ethene, tetrachloro-
U210 127–18–4	Tetrachloroethylene
U211 56–23–5	Carbon tetrachloride
U211 56–23–5	Methane, tetrachloro-
U213 109–99–9	Furan, tetrahydro-(I)
U213 109–99–9	Tetrahydrofuran (I)
U214 563–68–8	Acetic acid, thallium(1+) salt
U214 563–68–8	Thallium(I) acetate
U215 6533–73–9	Carbonic acid, dithallium(1+) salt
U215 6533–73–9	Thallium(I) carbonate
U216 7791–12–0	Thallium(I) chloride
U216 7791–12–0	Thallium chloride TlCl
U217 10102–45–1	Nitric acid, thallium(1+) salt
U217 10102–45–1	Thallium(I) nitrate
U218 62–55–5	Ethanethioamide
U218 62–55–5	Thioacetamide
U219 62–56–6	Thiourea
U220 108–88–3	Benzene, methyl-
U220 108–88–3	Toluene
U221 25376–45–8	Benzenediamine, ar-methyl-
U221 25376–45–8	Toluenediamine
U222 636–21–5	Benzenamine, 2-methyl-, hydrochloride
U222 636–21–5	o-Toluidine hydrochloride
U223 26471–62–5	Benzene, 1,3-diisocyanatomethyl- (R,T)
U223 26471–62–5	Toluene diisocyanate (R,T)
U225 75–25–2	Bromoform
U225 75–25–2	Methane, tribromo-
U226 71–55–6	Ethane, 1,1,1-trichloro-
U226 71–55–6	Methyl chloroform
U226 71–55–6	1,1,1-Trichloroethane
U227 79–00–5	Ethane, 1,1,2-trichloro-
U227 79–00–5	1,1,2-Trichloroethane
U228 79–01–6	Ethene, trichloro-
U228 79–01–6	Trichloroethylene
U234 99–35–4	Benzene, 1,3,5-trinitro-
U234 99–35–4	1,3,5-Trinitrobenzene (R,T)
U235 126–72–7	1-Propanol, 2,3-dibromo-, phosphate (3:1)
U235 126–72–7	Tris(2,3-dibromopropyl) phosphate
U236 72–57–1	2,7-Naphthalenedisulfonic acid, 3,3'-[(3,3'-dimethyl[1,1'-biphenyl]-4,4'-diyl)bis(azo)bis[5-amino-4-hydroxy]-, tetrasodium salt
U236 72–57–1	Trypan blue
U237 66–75–1	2,4-(1H,3H)-Pyrimidinedione, 5-[bis(2-chloroethyl)amino]-
U237 66–75–1	Uracil mustard
U238 51–79–6	Carbamic acid, ethyl ester
U238 51–79–6	Ethyl carbamate (urethane)
U239 1330–20–7	Benzene, dimethyl- (I,T)
U239 1330–20–7	Xylene (I)
U240 ..... (1) 94–75–7	Acetic acid, (2,4-dichloro phenoxy)-, salts & esters
U240 ..... (1) 94–75–7	2,4-D, salts & esters
U243 1888–71–7	Hexachloropropene
U243 1888–71–7	1-Propene, 1,1,2,3,3,3-hexachloro-
U244 137–26–8	Thioperoxydicarbonic diamide [$(H_2N)C(S)]_2 S_2$, tetramethyl-
U244 137–26–8	Thiram
U246 506–68–3	Cyanogen bromide (CN)Br
U247 72–43–5	Benzene, 1,1'-(2,2,2-trichloroethylidene)bis[4-methoxy-
U247 72–43–5	Methoxychlor
U248 ..... (1) 81–81–2	2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenyl-butyl)-, & salts, when present at concentrations of 0.3% or less
U248 ..... (1) 81–81–2	Warfarin, & salts, when present at concentrations of 0.3% or less
U249 1314–84–7	Zinc phosphide Zn3 P2, when present at concentrations of 10% or less
U271 17804–35–2	Benomyl
U271 17804–35–2	Carbamic acid, [1-[(butylamino)carbonyl]-1H-benzimidazol-2-yl]-, methyl ester
U278 22781–23–3	Bendiocarb
U278 22781–23–3	1,3-Benzodioxol-4-ol, 2,2-dimethyl-, methyl carbamate
U279 63–25–2	Carbaryl
U279 63–25–2	1-Naphthalenol, methyl carbamate
U280 101–27–9	Barban
U280 101–27–9	Carbamic acid, (3-chloro phenyl)-, 4-chloro-2-butynyl ester
U328 95–53–4	Benzenamine, 2-methyl-o-Toluidine
U328 95–53–4	
U353 106–49–0	Benzenamine, 4-methyl-p-Toluidine
U353 106–49–0	
U359 110–80–5	Ethanol, 2-ethoxy-
U359 110–80–5	Ethylene glycol monoethyl ether
U364 22961–82–6	Bendiocarb phenol
U364 22961–82–6	1,3-Benzodioxol-4-ol, 2,2-dimethyl-,
U367 1563–38–8	7-Benzofuranol, 2,3-dihydro-2,2-dimethyl-
U367 1563–38–8	Carbofuran phenol
U372 10605–21–7	Carbamic acid, 1H-benzimidazol-2-yl, methyl ester
U372 10605–21–7	Carbendazim
U373 122–42–9	Carbamic acid, phenyl-, 1-methylethyl ester
U373 122–42–9	Propham
U387 52888–80–9	Carbamothioic acid, dipropyl-, S-(phenylmethyl) ester
U387 52888–80–9	Prosulfocarb
U389 2303–17–5	Carbamothioic acid, bis(1-methylethyl)-, S-(2,3,3-trichloro-2-propenyl) ester
U389 2303–17–5	Triallate
U394 30558–43–1	A2213
U394 30558–43–1	Ethanimidothioic acid, 2-(dimethylamino)-N-hydroxy-2-oxo-, methyl ester
U395 5952–26–1	Diethylene glycol,

	dicarbamate
U395 5952–26–1	Ethanol, 2,2'-oxybis-, dicarbamate
U404 121–44–8	Ethanamine, N,N-diethyl-
U404 121–44–8	Triethylamine
U409 23564–05–8	Carbamic acid, [1,2-phenylenebis (iminocarbonothioyl)]bis-, dimethyl ester
U409 23564–05–8	Thiophanate-methyl
U410 59669–26–0	Ethanimidothioic acid, N,N'-[thiobis[(methylimino) carbonyloxy]]bis-, dimethyl ester
U410 59669–26–0	Thiodicarb
U411 114–26–1	Phenol, 2-(1-methylethoxy)-, methylcarbamate
U411 114–26–1	Propoxur
See F027 93–76–5	Acetic acid, (2,4,5-trichlorophenoxy)-
See F027 87–86–5	Pentachlorophenol
See F027 87–86–5	Phenol, pentachloro-
See F027 58–90–2	Phenol, 2,3,4,6-tetrachloro-
See F027 95–95–4	Phenol, 2,4,5-trichloro-
See F027 88–06–2	Phenol, 2,4,6-trichloro-
See F027 93–72–1	Propanoic acid, 2-(2,4,5-trichlorophenoxy)-
See F027 93–72–1	Silvex (2,4,5-TP)
See F027 93–76–5	2,4,5-T
See F027 58–90–2	2,3,4,6-Tetrachlorophenol
See F027 95–95–4	2,4,5-Trichlorophenol
See F027 88–06–2	2,4,6-Trichlorophenol

17. **Section 261.38** is revised as follows:

a. Amend the certification statement in paragraph (c)(1)(i)(C)(4) by revising the citation ''261.28(c)(10)'' to read ''Section 261.38(c)(10)''.

b. **Section 261.38** of subsection D is moved to subsection E.

§ 261.38 Comparable/Syngas Fuel Exclusion.

* * * * *

(c) * * *

(1) * * *

(i) * * *

(C) * * *

(4) The following statement is signed and submitted by the person claiming the exclusion or his authorized representative: Under penalty of criminal and civil prosecution for making or submitting false statements, representations, or omissions, I certify that the requirements of 40 CFR 261.38 have been met for all waste identified in this notification. Copies of the records and information required at ~~40 CFR 261.28(c)(10)~~ ***40 CFR 261.38 (c)(10)*** are available at the comparable/syngas fuel generator's facility. Based on my inquiry of the individuals immediately responsible for obtaining the information, the information is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

* * * * *

18. **Section 261** is amended by adding Subsection E to read as follows:

Subsection E— Exclusions/Exemptions

§ 261.38 Comparable/Syngas Fuel Exclusion.
§ 261.39 Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.
§ 261.40 Conditional Exclusion for Used, Intact Cathode Ray Tubes (CRTs) Exported for Recycling.
§ 261.41 Notification and Recordkeeping for Used, Intact Cathode Ray Tubes (CRTs) Exported for Reuse.

Subsection E—Exclusions/Exemptions

* * * * *

§ 261.39 Conditional Exclusion for Used, Broken Cathode Ray Tubes (CRTs) and Processed CRT Glass Undergoing Recycling.

Used, broken CRTs are not solid wastes if they meet the following conditions:

(a) Prior to processing: These materials are not solid wastes if they are destined for recycling and if they meet the following requirements:

(1) Storage. The broken CRTs must be either:

(i) Stored in a building with a roof, floor, and walls, or

(ii) Placed in a container (i.e., a package or a vehicle) that is constructed, filled, and closed to minimize releases to the environment of CRT glass (including fine solid materials).

(2) Labeling. Each container in which the used, broken CRT is contained must be labeled or marked clearly with one of the following phrases: "Used cathode ray tube(s)-contains leaded glass " or "Leaded glass from televisions or computers." It must also be labeled: "Do not mix with other glass materials."

(3) Transportation. The used, broken CRTs must be transported in a container meeting the requirements of paragraphs (a)(1)(ii) and (2) of this section.

(4) Speculative accumulation and use constituting disposal. The used, broken CRTs are sub-

ject to the limitations on speculative accumulation as defined in paragraph (c)(8) of this section. If they are used in a manner constituting disposal, they must comply with the applicable requirements of Section 266, Subsection C of this regulation instead of the requirements of this section.

(5) Exports. In addition to the applicable conditions specified in paragraphs (a)(1)-(4) of this section, exporters of used, broken CRTs must comply with the following requirements:

(i) Notify EPA of an intended export before the CRTs are scheduled to leave the United States. A complete notification should be submitted sixty (60) days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a twelve (12) month or lesser period. The notification must be in writing, signed by the exporter, and include the following information:

(A) Name, mailing address, telephone number and EPA ID number (if applicable) of the exporter of the CRTs.

(B) The estimated frequency or rate at which the CRTs are to be exported and the period of time over which they are to be exported.

(C) The estimated total quantity of CRTs specified in kilograms.

(D) All points of entry to and departure from each foreign country through which the CRTs will pass.

(E) A description of the means by which each shipment of the CRTs will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), type(s) of container (drums, boxes, tanks, etc.)).

(F) The name and address of the recycler and any alternate recycler.

(G) A description of the manner in which the CRTs will be recycled in the foreign country that will be receiving the CRTs.

(H) The name of any transit country through which the CRTs will be sent and a description of the approximate length of time the CRTs will remain in such country and the nature of their handling while there.

(ii) Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, (Mail Code 2254A), Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 1200 Pennsylvania Ave., NW., Washington, DC. In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export CRTs."

(iii) Upon request by EPA, the exporter shall furnish to EPA any additional information which a receiving country requests in order to respond to a notification.

(iv) EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of paragraph (a)(5)(i) of this section. Where a claim of confidentiality is asserted with respect to any notification information required by paragraph (a)(5)(i) of this section, EPA may find the notification not complete until any such claim is resolved in accordance with 40 CFR 260.2.

(v) The export of CRTs is prohibited unless the receiving country consents to the intended export. When the receiving country consents in writing to the receipt of the CRTs, EPA will forward an Acknowledgment of Consent to Export CRTs to the exporter. Where the receiving country objects to receipt of the CRTs or withdraws a prior consent, EPA will notify the exporter in writing. EPA will also notify the exporter of any responses from transit countries.

(vi) When the conditions specified on the original notification change, the exporter must provide EPA with a written renotification of the change, except for changes to the telephone number in paragraph (a)(5)(i)(A) of this section and decreases in the quantity indicated pursuant to paragraph (a)(5)(i)(C) of this section. The shipment cannot take place until consent of the receiving country to the changes has been obtained (except for changes to information about points of entry and departure and transit countries pursuant to paragraphs (a)(5)(i)(D) and (a)(5)(i)(H) of this section) and the exporter of CRTs receives from EPA a copy of the Acknowl-

edgment of Consent to Export CRTs reflecting the receiving country's consent to the changes.

(vii) A copy of the Acknowledgment of Consent to Export CRTs must accompany the shipment of CRTs. The shipment must conform to the terms of the Acknowledgment.

(viii) If a shipment of CRTs cannot be delivered for any reason to the recycler or the alternate recycler, the exporter of CRTs must renotify EPA of a change in the conditions of the original notification to allow shipment to a new recycler in accordance with paragraph (a)(5)(vi) of this section and obtain another Acknowledgment of Consent to Export CRTs.

(ix) Exporters must keep copies of notifications and Acknowledgments of Consent to Export CRTs for a period of three years following receipt of the Acknowledgment.

(b) Requirements for used CRT processing: Used, broken CRTs undergoing CRT processing as defined in § 260.10 of this regulation are not solid wastes if they meet the following requirements:

(1) Storage. Used, broken CRTs undergoing processing are subject to the requirement of paragraph (a)(4) of this section.

(2) Processing.

(i) All activities specified in paragraphs (2) and (3) of the definition of "CRT processing" in § 260.10 of this regulation must be performed within a building with a roof, floor, and walls; and

(ii) No activities may be performed that use temperatures high enough to volatilize lead from CRTs.

(c) Processed CRT glass sent to CRT glass making or lead smelting: Glass from used CRTs that is destined for recycling at a CRT glass manufacturer or a lead smelter after processing is not a solid waste unless it is speculatively accumulated as defined in § 261.1(c)(8).

(d) Use constituting disposal: Glass from used CRTs that is used in a manner constituting disposal must comply with the requirements of Section 266, subsection C of this regulation instead of the requirements of this section.

§ 261.40 Conditional Exclusion for Used, Intact Cathode Ray Tubes (CRTs) Exported for Recycling.

Used, intact CRTs exported for recycling are not solid wastes if they meet the notice and consent conditions of § 261.39(a)(5), and if they are not speculatively accumulated as defined in § 261.1(c)(8).

§ 261.41 Notification and Recordkeeping for Used, Intact Cathode Ray Tubes (CRTs) Exported for Reuse.

(a) Persons who export used, intact CRTs for reuse must send a one- time notification to the Regional Administrator. The notification must include a statement that the notifier plans to export used, intact CRTs for reuse, the notifier's name, address, and EPA ID number (if applicable) and the name and phone number of a contact person.

(b) Persons who export used, intact CRTs for reuse must keep copies of normal business records, such as contracts, demonstrating that each shipment of exported CRTs will be reused. This documentation must be retained for a period of at least three years from the date the CRTs were exported.

Appendix VII to Section 261—[Amended]

19. In **Section 261 Appendix VII**, amend the entries for ''F002'', ''F038'', ''F039'', ''K001'', and ''K073'' as follows:

a. In the second column of the ''F002'' row, revise ''trichfluoroethane'' to read ''trifluoroethane'';

b. In the second column of the ''F038'' row, add a comma between ''benzo(a)pyrene'' and ''chrysene'' to read ''benzo(a)pyrene, chrysene'';

c. In the second column of the ''F039'' row, revise the citation ''40 CFR 268.43(a)'' to read ''40 CFR 268.43'';

d. In the second column of the ''K001'' row, revise ''cresosote'' to read ''creosote'';

e. In the second column of the ''K073'' row, revise ''hexacholroethane'' to read ''hexachloroethane''.

Appendix VII to Section 261 — Basis for Listing Hazardous Waste

* * * * *

F002 Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2-~~trichfluoroethane~~ ***trifluoroethane***, orthodichlorobenzene, trichlorofluoromethane.

* * * * *

F038 Benzene, ~~benzo(a)pyrene chrysene~~ ***benzo(a)pyrene, chrysene***, lead, chromium.

* * * * *

F039 All constituents for which treatment standards are specified for multi-source leachate (wastewaters and nonwastewaters) under ~~40 CFR 268.43(a)~~ ***40 CFR 268.43***, Table CCW.

* * * * *

K001 Pentachlorophenol, phenol, 2-chlorophenol, p-chloro-m-cresol, 2,4-dimethylphenyl, 2,4-dinitrophenol, trichlorophenols, tetrachlorophenols, 2,4-dinitrophenol, ~~cresosote~~ ***creosote***, chrysene, naph thalene, fluoranthene, benzo(b)fluoranthene, benzo(a)pyrene, indeno(1,2,3-cd)pyrene, benz(a)anthracene, dibenz(a)anthracene, acenaphthalene.

* * * * *

K073 Chloroform, carbon tetrachloride, ~~hexacholroethane~~ ***hexachloroethane***, trichloroethane, tetrachloroethylene, dichloroethylene, 1,1,2,2-

tetrachloroethane.
* * * * *

20. Amend **Section 261 Appendix VIII** by amending the entries for ''Allyl chloride'', ''Benzidine'', § 1,2-Dichloroethylene'', ''Lasiocarpine'', and ''Nitrosamines, N.O.S.'' to read as follows:

a. In the third column of the ''Allyl chloride'' row, revise ''107–18–6'' to read ''107–05–1'';

b. In the second column of the ''Benzidine'' row, amend ''-4,41-'' by changing the superscript ''1'' to the symbol ''''' to read, ''-4,4'-'';

c. In the second column of the ''1,2-Dichloroethylene'' row, revise ''-dichlrol-'' to read ''-dichloro-'';

d. In the third and fourth columns of the ''Lasiocarpine'' row, revise ''303–34–1'' to read ''303–34–4''; and revise ''4143'' to read ''U143'';

e. In the third column of the ''Nitrosamines, N.O.S.'' row, revise ''35576–91–1D'' to read ''35576–91–1''.

Appendix VIII — Hazardous Constituents

* * * * *		
Allyl chloride ~~107-18-6~~***107–05–1***		1-Propane, 3-chloro
* * * * *		
Benzidine 92-87-5	U021	[1,1'-Biphenyl]~~-4,4'-~~ ***-4,4'-*** diamine
* * * * *		
1,2-Dichloroethylene 156-60-5	U079	Ethene, 1,2~~-dichlrol-~~***-dichloro-***, (E)-
* * * * *		
Lasiocarpine ~~303-34-1~~ ***303–34–4***	U143	2-Butenoic acid, 2-methyl-, 7-[[2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1- oxobutoxy]methyl]-2,3,5,7atetrahydro- 1H-pyrrolizin-1-yl ester, [1S-[1alpha(Z),7(2S*,3R*),7aalpha]]-
* * * * *		
Nitrosamines, N.O.S.1 ~~35576-91-1D~~***35576–91–1***		

* * * * *

21. The entry in **Section 261, Appendix IX** for Tokusen USA, Inc. is removed and revoked as follows:

~~**Tokusen USA, Inc.**~~
~~**Conway, AR**~~

~~Dewatered wastewater treatment plant (WWTP) sludge (EPA Hazardous Waste Nos. F006) generated at a maximum annual rate of 670 cubic yards per calendar year after December 31, 2002 and disposed of in a Subtitle D landfill. For the exclusion to be valid, Tokusen must implement a testing program that meets the following Paragraphs:~~

~~(1) Delisting Levels: All leachable concentrations for those constituents listed below in (i) and (ii) must not exceed the following levels (mg/l). Tokusen must use an acceptable leaching method, for example SW-846, Method 1311 to measure constituents in the waste leachate, dewatered WWTP sludge~~

~~(i) Inorganic Constituents Antimony - 0.360 mg/l; Arsenic - 0.0654 mg/l; Barium - 51.1 mg/l; Chromium - 5.0 mg/l; Cobalt - 15.7 mg/l; Copper - 7,350 mg/l; Lead - 5.0 mg/l; Nickel - 19.7 mg/l; Selenium - 1.0 mg/l; Silver - 2.68 mg/l; Vanadium - 14.8 mg/l; Zinc – 196 mg/l.~~

~~(ii) OrganicConstituents 1,4-Dichlorobenzene - 3.03 mg/l; Hexachlorobutadiene - 0.21 mg/l.~~

~~(2) Waste Holding and Handling: Tokusen must store the dewatered WWTP sludge as described in its RCRA permit, or continue to dispose of as hazardous all dewatered WWTP sludge generated, until they have completed verification testing described in Paragraph (3)(A) and (B), as appropriate, and valid analyses show that paragraph (1) is satisfied.~~

~~(A) Not used.~~

~~(B) Levels of constituents measured in the samples of the dewatered WWTP sludge that do not exceed the levels set forth in Paragraph (1) are non-hazardous. Tokusen can manage and dispose the non-hazardous dewatered WWTP sludge according to all applicable solid waste regulations.~~

~~(C) If constituent levels in a sample exceed any of the delisting levels set in Paragraph (1), Tokusen must re-treat the batches of waste used to generate the representative sample until it meets the levels. Tokusen must repeat the analyses of the treated waste.~~

~~(D) If the facility has not treated the waste, Tokusen must manage and dispose the waste generated under Subtitle C of RCRA.~~

~~(3) Verification Testing Requirements: Tokusen must perform sample collection and analyses, including quality control procedures, using appropriate methods. As applicable to the method-defined parameters concern, analyses requiring the use of SW-846 methods incorporated by reference in 40 CFR 260.11 must be used without substitution. applicable, the SW-846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev.A), 9071B, and 9095B. If the Department and EPA judge the process to be effective under the operating conditions used during the initial verification testing, Tokusen may replace the testing required in Paragraph (3)(A) with the testing required in Paragraph (3)(B). Tokusen must continue to test as specified in Paragraph (3)(A) until and unless notified by EPA and the Department in writing that testing in Paragraph (3)(A) may be replaced by Paragraph (3)(B).~~

~~(A) Initial Verification Testing: After EPA and ADEQ grant this final exclusion, Tokusen must do the following:~~

~~(i) Collect and analyze composites of the dewatered WWTP sludge.~~

~~(ii) Make two composites of representative grab samples collected.~~

~~(iii) Analyze the waste, before disposal, for all of the constituents listed in Paragraph 1.~~

~~(iv) Sixty (60) days after this exclusion becomes final, report to EPA and ADEQ the operational and analytical test data, including quality control information.~~

~~(B) Subsequent Verification Testing: Following written notification by EPA and the Department, Tokusen may substitute the testing conditions in (3)(B) for (3)(A). Tokusen must continue to monitor operating conditions, and analyze representative samples each quarter of operation during the first year of waste generation using appropriate methods. As applicable to method-defined parameters of concern, analyses requiring the use SW-846 methods incorporated by reference in § 260.11 must be used without substitution. As applicable, the SW-846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev. A), 9071B, and 9095B. The samples must represent the waste generated during the quarter.~~

~~(C) Termination of Organic Testing:~~

~~(i) Tokusen must continue testing as required under Paragraph (3)(B) for organic constituents in Paragraph (1)(A)(ii), until the analytical results submitted under Paragraph (3)(B) show a minimum of two consecutive samples below the delisting levels in Paragraph (1)(A)(i), Tokusen may then request that EPA and the Department stop quarterly organic testing. After EPA and ADEQ notify Tokusen in writing, the company may end quar-~~

~~terly organic testing.~~

~~(ii) Following cancellation of the quarterly testing, Tokusen must continue to test a representative composite sample for all constituents listed in Paragraph (1) annually (by twelve months after final exclusion) using appropriate methods. As applicable to method-defined parameters of concern, analyses requiring the use SW-846 methods incorporated by reference in § 260.11 must be used without substitution. As applicable, the SW-846 methods might include Methods 0010, 0011, 0020, 0023A, 0030, 0031, 0040, 0050, 0051, 0060, 0061, 1010A, 1020B, 1110A, 1310B, 1311, 1312, 1320, 1330A, 9010C, 9012B, 9040C, 9045D, 9060A, 9070A (uses EPA Method 1664, Rev. A), 9071B, and 9095B.~~

~~(4) Changes in Operating Conditions: If Tokusen significantly changes the process described in its petition or starts any processes that generate(s) the waste that may or could affect the composition or type of waste generated as established under Paragraph (1) (by illustration, but not limitation, changes in equipment or operating conditions of the treatment process), they must notify EPA and the Department in writing; they may no longer handle the waste generated from the new process as nonhazardous until the waste meets the delisting levels set in Paragraph (1) and they have received written approval to do so from EPA and the Department.~~

~~(5) Data Submittals: Tokusen must submit the information described below. If Tokusen fails to submit the required data within the specified time or maintain the required records on-site for the specified time, EPA and ADEQ, at their discretion, will consider this sufficient basis to reopen the exclusion as described in Paragraph 6. Tokusen must:~~

~~(A) Submit the data obtained through Paragraph 3 to the Region 6 Delisting Program, EPA, 1445 Ross Avenue, Dallas, Texas 75202-2733, Mail Code, (6PD-O) and to the Active Sites Branch, Hazardous Waste Division, ADEQ, 8001 National Drive, Little Rock, AR 72219 within the time specified.~~

~~(B) Compile records of operating conditions and analytical data from Paragraph (3), summarized, and maintained on-site for a minimum of five years.~~

~~(C) Furnish these records and data when EPA or the State of Arkansas request them for inspection.~~

~~(D) A company official having supervisory responsibility should send along with all data a signed copy of the following certification statement, to attest to the truth and accuracy of the data submitted: "Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of the Federal Code, which include, but may not be limited to, 18 U.S.C. 1001 and 42 U.S.C. 6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. If any of this information is determined by EPA or ADEQ in their sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by EPA or ADEQ and that the company will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.~~

~~(6) Reopener.~~

~~(A) If, anytime after disposal of the delisted waste, Tokusen possesses or is otherwise made aware of any environmental data (including but not limited to leachate data or groundwater monitoring data) or any other data relevant to the delisted waste indicating that any constituent identified for the delisting verification testing is at a level higher than the delisting level allowed by the Director and the Regional Administrator or his delegate in granting the petition, then the facility must report the data, in writing, to the Director and the Regional Administrator or his delegate within 10 days of first possessing or being made aware of that data.~~

~~(B) If the annual testing of the waste does not meet the delisting requirements in Paragraph (1), Tokusen must report the data, in writing, to the Director and the Regional Administrator or his delegate within 10 days of first possessing or being made aware of that data.~~

~~(C) If Tokusen fails to submit the information described in paragraphs (5), (6)(A) or (6)(B) or if any other information is received from any source, the Director and/or Regional Administrator or his delegate will make a preliminary determination as to whether the reported information requires Department or Agency action to protect human health or the environment. Further action may include suspending, or revoking the exclusion, or other appropriate response necessary to protect human health and the environment.~~

~~(D) If the Director, or Regional Administrator or his delegate determines that the reported information does require Department or Agency action, the Director or Regional Administrator or his delegate will notify the facility in writing of the actions the Director, the Regional Administrator or his delegate believe are necessary to protect human health and the environment. The notice shall include a statement of the proposed action and a statement providing the facility with an opportunity to present information as to why the proposed Department or Agency action is not necessary. The facility shall have 10 days from the date of the Director's and/or the Regional Administrator or his delegate's notice to present such information.~~

~~(E) Following the receipt of information from the facility described in paragraph (6)(D) or (if no information is presented under paragraph (6)(D)) the initial receipt of information described in paragraphs (5), (6)(A) or (6)(B), the Director or the Regional Administrator or his delegate will issue a final written determination describing the Department and/or Agency actions that are necessary to protect human health or the environment. Any required action described in the Director's or the Regional Administrator or his delegate's determination shall become effective immediately, unless the Director or the Regional Administrator or his delegate provides otherwise.~~

~~(7) Notification Requirements: Tokusen must do the following before transporting the delisted waste. Failure to provide this notification will result in a violation of the delisting petition and a possible revocation of the decision:~~

~~(A) Provide a one-time written notification to any State Regulatory Agency to which or through which they will transport the delisted waste described above for disposal, 60 days before beginning such activities.~~

~~(B) Update the one-time written notification if they ship the delisted waste into a different disposal facility.~~

Section 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

22. **Section 262.12** is amended by revising paragraph (b) to read as follows:

§ 262.12 EPA identification numbers.

* * * * *

(b) A generator who has not received an EPA identification number may obtain one by applying to the Director using **the current version of** EPA Form 8700-12 **(RCRA Subtitle C Site Identification Form)** ~~(AR-09-~~

~~99R)~~. Upon receiving the request the Director will assign an EPA identification number to the generator.

* * * * *

23. **Section 262.13** is amended by revising paragraph (f) to read as follows:

§ 262.13 State Requirements for Transportation of Waste from Generators of over 100 kgs per Month.

* * * * *

(f). Generators of hazardous wastes newly characterized as TC Toxic using the Toxicity Characteristic Leaching Procedure (TCLP) (40 CFR 261.24) must notify this Department using ***the current version of*** *EPA Form 8700-12* **(RCRA Subtitle C Site Identification Form)** *(AR-11-91R) and obtain an EPA identification number. Generators who have previously notified the Department of hazardous waste activity and currently have an EPA identification number, but now determine that they produce a TC toxic waste must submit an amended EPA Form 8700-12(AR-09-99R) to the Department notifying that they generate TC toxic wastes in addition to other hazardous wastes previously reported.*

* * * * *

24. Amend **§ 262.32(b)** after "HAZARDOUS WASTE" paragraph to add Generator's EPA Identification Number ——— ." after Generator's Name and Address ———— — to read:

§ 262.32 Marking

HAZARDOUS WASTE * * *
Generator's Name and Address ———— .

Generator's EPA Identification Number ———— .

Manifest Tracking Number ———— .
* * * * *

25. **Section 262.34** is amended as follows:

a. Amend paragraph (a)(1)(iv) by removing the beginning phrase ''The waste is placed in containment buildings'' and adding in its place the phrase ''In containment buildings''.

b. Amend paragraph (j) by adding add "(" before or one kg.

§ 262.34 Accumulation time.
* * * * *

(a) * * *

(1) * * *

(iv) ~~The waste is placed in containment buildings~~ ***In containment buildings*** and the generator complies with subsection DD of § 265, has placed its professional engineer certification that the building complies with the design standards specified in § 265.1101 in the facility's operating record no later than 60 days after the date of initial operation of the unit. After February 18, 1993, certification by an Arkansas-registered professional engineer will be required prior to operation of the unit. The owner or operator shall maintain the following records at the facility:

* * * * *

(j) A member of the Performance Track Program who generates 1000 kg or greater of hazardous waste per month ***(***or one kg or more of acute hazardous waste)

* * * * *

26. **Section 262.53** is amended by revising paragraph (b) to read as follows:

§ 262.53 Notification of intent to export.
* * * * *

~~(b) Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, Ariel Rios Bldg., 12th St. and Pennsylvania Ave., NW., Washington, DC. In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export."~~

(b) Notifications submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered notifications should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC 20004. In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export.".

* * * * *

27. Section **262.54** is amended at paragraph (c) by revising ''Special Handling Instructions and Additional Informa-

tion'' to read ''International Shipments block''.

§ 262.54 Special manifest requirements.

* * * * *

(c) In ~~Special Handling Instructions and Additional Information~~ ***International Shipments block***, the primary exporter must check the export box and enter the point of exit (city and State) from the United States;

* * * * *

28. **Section 262.56** is amended by revising paragraph (b) to read as follows:

§ 262.56 Annual reports.

* * * * *

~~(b) Annual reports submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Hand-delivered reports should be sent to: Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting, and Data Division (2222A), Environmental Protection Agency, Ariel Rios Bldg., 12th St. and Pennsylvania Ave., NW., Washington, DC.~~

(b) Annual reports submitted by mail should be sent to the following mailing address: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Hand-delivered reports should be sent to: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division, Environmental Protection Agency, Ariel Rios Bldg., Room 6144, 12th St. and Pennsylvania Ave., NW., Washington, DC 20004.

* * * * *

29. **Section 262.58** is amended by revising paragraph (a)(1) to read as follows:

§ 262.58 International Agreements.

(a) * * *

~~(1) For the purposes of this Subsection, the designated OECD countries consist of Australia, Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Japan, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and the United States.~~

(1) For the purposes of Subsection H, the designated OECD Member countries consist of Australia, Austria, Belgium, the Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, the Slovak Republic, South Korea, Spain, Sweden, Switzerland, Turkey, the United Kingdom, and the United States.

* * * * *

30. **Section 262.81** is amended at paragraph (k) by revising ''RCRA Information Center (RIC), 1235 Jefferson-Davis Highway, first floor, Arlington, VA 22203'' to read ''RCRA Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20460''.

§ 262.81 Definitions.

* * * * *

(k) "Recovery operations" means activities leading to resource recovery, recycling, reclamation, direct re-use or alternative uses as listed in Table 2.B of the Annex of OECD Council Decision C(88)90(Final) of 27 May 1988, (available from the Environmental Protection Agency, RCRA Information Center (RIC), 1235 ~~Jefferson-Davis Highway, first floor, Arlington, VA 22203~~ ***RCRA Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC 20460*** (Docket # F-94-IEHF-FFFFF) and the Organisation for Economic Co-operation and Development, Environment Direcorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France) which include:

* * * * *

31. In **Section 262.82**, amend paragraph (a)(1)(ii) by revising the phrase ''Green-list waste'' to read ''Green-list wastes''.

§ 262.82 General conditions.

(a) * * *

(1) * * *

(ii) ~~Green-list waste~~ ***Green-list wastes*** that are sufficiently contaminated or mixed with amber-list wastes, such that the waste or waste mixture is considered hazardous under U.S. national procedures, are subject to amber-list controls.

* * * * *

32. **Section 262.83** is amended as follows:

a. Amend paragraph (b)(1)(i) by revising ''Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A)'' to read ''Office of Federal Activities, International Compliance Assurance Division (2254A)''.

b. Revise paragraph (b)(2)(i) to read as follows:

§ 262.83 Notification and consent.

* * * * *

(b) * * *

(1) * * *

(i) Notification. At least 45 days prior to commencement of the transfrontier movement, the notifier must provide written notification in English of the proposed transfrontier movement to the Office of Enforcement and Compliance Assurance, ~~Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A)~~ ***Office of Federal Activities, International Compliance Assurance Division (2254A)***, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, with the words "Attention: OECD Export Notification" prominently displayed on the envelope. This notification must include all of the information identified in paragraph (e) of this section. In cases where wastes having similar physical and chemical characteristics, the same United Nations classification, and the same RCRA waste codes are to be sent periodically to the same recovery facility by the same notifier, the notifier may submit one notification of intent to export these wastes in multiple shipments during a period of up to one year.

* * * * *

(2) * * *

~~(i) The notifier must provide EPA the information identified in paragraph (e) of this section in English, at least 10 days in advance of commencing shipment to a pre-approved facility. The notification should indicate that the recovery facility is pre-approved, and may apply to a single specific shipment or to multiple shipments as described in paragraph (b)(1)(i) of this section. This information must be sent to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, with the words "OECD Export Notification— Pre-approved Facility" prominently displayed on the envelope.~~

(i) The notifier must provide EPA the information identified in paragraph (e) of this section in English, at least 10 days in advance of commencing shipment to a pre-approved facility. The notification should indicate that the recovery facility is pre-approved, and may apply to a single specific shipment or to multiple shipments as described in paragraph (b)(1)(i) of this section. This information must be sent to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, with the words "Attention: OECD Export Notification—Pre-approved Facility" prominently displayed on the envelope.

* * * * *

33. **Section 262.84** is amended by revising paragraph (e) to read as follows:

§ 262.84 Tracking document.

* * * * *

~~(e) Within 3 working days of the receipt of imports subject to this Subsection, the owner or operator of the U.S. recovery facility must send signed copies of the tracking document to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and to the competent authorities of the exporting and transit countries.~~

(e) Within three working days of the receipt of imports subject to this Subsection, the owner or operator of the U.S. recovery facility must send signed copies of the tracking document to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and to the competent authorities of the exporting and transit countries.

* * * * *

34. **Section 262.87** is amended as follows:

a. In paragraph (a) revise ''Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A)'', to read, ''Office of Federal Activities, International Compliance Assurance Division (2254A)'';

b. Amend paragraph (a)(5) introductory text by inserting a space in ''100kg'' and ''1000kg'' to read ''100 kg'' and ''1000 kg''.

§ 262.87 Reporting and recordkeeping.

(a) Annual reports. For all waste movements subject to this Subsection, persons (e.g., notifiers, recognized traders) who meet the definition of primary exporter in § 262.51 shall file an annual report with the Office of Enforcement and Compliance Assurance~~, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A)~~ ***Office of Federal Activities, International Compliance Assurance***

Division (2254A), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, no later than March 1 of each year summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year. (If the primary exporter is required to file an annual report for waste exports that are not covered under this Subsection, he may include all export information in one report provided the following information on exports of waste destined for recovery within the designated OECD member countries is contained in a separate section). Such reports shall include the following:

* * * * *

(5) In even numbered years, for each hazardous waste exported, except for hazardous waste produced by exporters of greater than ~~100kg~~***100 kg*** but less than ~~1000kg~~***1000 kg*** in a calendar month, and except for hazardous waste for which information was already provided pursuant to § 262.41:

* * * * *

35. **Section 262 Appendix 1 8700-22** is amended by changing the second "III " Instructions for Owners to "IV' as shown below.

APPENDIX I TO SECTION 262 — UNIFORM HAZARDOUS WASTE MANIFEST AND INSTRUCTIONS (EPA FORMS 8700-22 AND 8700-22A AND THEIR INSTRUCTIONS) U.S. EPA FORM 8700-22

~~III.~~ *IV.* INSTRUCTIONS FOR OWNERS AND OPERATORS OF TREATMENT, STORAGE, AND DISPOSAL FACILITIES

* * * * *

Section 263 — STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

36. **Section 263.11** is amended by revising paragraph (b) to read as follows:

§ 263.11 EPA identification number.

* * * * *

(b) A transporter who has not received an EPA identification number may obtain one by applying to the Director (for Arkansas companies) using **the current version of** EPA Form 8700-12 **(RCRA Subtitle C Site Identification Form)** ~~(AR-11-91R)(Notification of Regulated Waste Activity)~~. Upon receiving the request, the Director will assign an EPA identification number to the transporter.

* * * * *

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

37. In **§ 264.1**, amend paragraph (g)(2) by revising "Subsections C, D, F, or G" to read "Subsections C, F, G, or H"; and revise paragraph (j)(1) to read as follows:

§ 264.1 Purpose, scope, and applicability.

* * * * *

(g) * * *

(2) The owner or operator of a facility managing recyclable materials described in § 261.6(a) (2), (3) and (4) of this regulation (except to the extent that requirements of this Section are referred to in Section 279 or ~~Subsections C, F, or G~~ ***Subsections C, F, G, or H*** of Section 266 of this regulation).

* * * * *

(j) The requirements of subsections B, C, and D of this Section and § 264.101 do not apply to remediation waste management sites. (However, some remediation waste management sites may be a part of a facility that is subject to a traditional RCRA permit because the facility is also treating, storing or disposing of hazardous wastes that are not remediation wastes. In these cases, Subsections B, C, and D of this Section, and § 264.101 do apply to the facility subject to the traditional RCRA permit.) Instead of the requirements of subsections B, C, and D of this Section, owners or operators of remediation waste management sites must:

(1) Obtain an EPA identification number by applying to the Director using **the current version of** ~~Arkansas/~~EPA Form 8700-12 **(RCRA Subtitle C Site Identification Form)**;

* * * * *

Subsection B—General Facility Standards

38. Section **264.13**, is amended at paragraph (b)(7)(iii)(B) by revising the semicolon at the end of the subsection into a colon.

§ 264.13 General waste analysis.

* * * * *

(b) * * *

(7) * * *

(iii) * * *

~~(B) Where no treatment standards have been established;~~

(B) Where no treatment standards

have been established:

* * * * *

39. **Section 264.15** is amended by revising paragraph (b)(4) (the comment to paragraph (b)(4) is unchanged), and adding paragraph (b)(5) to read as follows:

§ 264.15 General inspection requirements.

* * * * *

(b) * * *

(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use, **except for Performance Track member facilities, that must inspect at least once each month, upon approval by the Director, as described in paragraph (b)(5) of this section.** At a minimum, the inspection schedule must include the items and frequencies called for in §§ 264.174, 264.193, 264.195, 264.226, 264.254, 264.278, 264.303, 264.347, 264.602, 264.1033, 264.1052, 264.1053, 264.1058, and 264.1083 through 264.1089 of this Section, where applicable.

* * * * *

(5) Performance Track member facilities that choose to reduce their inspection frequency must:

(i) Submit a request for a Class I permit modification with prior approval to the Director. The modification request must identify the facility as a member of the National Environmental Performance Track Program and identify the management units for reduced inspections and the proposed frequency of inspections. The modification request must also specify, in writing, that the reduced inspection frequency will apply for as long as the facility is a Performance Track member facility, and that within seven calendar days of ceasing to be a Performance Track member, the facility will revert to the non-Performance Track inspection frequency. Inspections must be conducted at least once each month.

(ii) Within 60 days, the Director will notify the Performance Track member facility, in writing, if the request is approved, denied, or if an extension to the 60-day deadline is needed. This notice must be placed in the facility's operating record. The Performance Track member facility should consider the application approved if the Director does not: deny the application; or notify the Performance Track member facility of an extension to the 60-day deadline. In these situations, the Performance Track member facility must adhere to the revised inspection schedule outlined in its request for a Class 1 permit modification and keep a copy of the application in the facility's operating record.

(iii) Any Performance Track member facility that discontinues their membership or is terminated from the program must immediately notify the Director of their change in status. The facility must place in its operating record a dated copy of this notification and revert back to the non-Performance Track inspection frequencies within seven calendar days.

* * * * *

40. **Section 264.16** is amended by adding new paragraph (a)(4) to read as follows:

§ 264.16 Personnel training.

(a)* * *

(4) For facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration (OSHA) regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the facility is not required to provide separate emergency response training pursuant to this section, provided that the overall facility training meets all the requirements of this section.

* * * * *

Subsection D—Contingency Plan and Emergency Procedures

41. **Section 264.52** is amended by revising paragraph (b) to read as follows:

§ 264.52 Content of contingency plan.

* * * * *

(b) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR Part 112, or 40 CFR Part 1510, or some other emergency or contingency plan, he need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this section. **The owner or operator may develop one contingency plan which meets all regulatory require-**

ments. EPA and the Department recommend that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan"). When modifications are made to non-RCRA provisions in an integrated contingency plan, the changes do not trigger the need for a RCRA permit modification.

* * * * *

42. **Section 264.56** is amended by removing paragraph (i) and redesignating paragraph (j) as paragraph (i).

§ 264.56 Emergency procedures.

*****

~~(i) The owner or operator must notify the Director, and appropriate State and local authorities, that the facility is in compliance with paragraph (h) of this section before operations are resumed in the affected area(s) of the facility.~~

~~(j)~~**(i)** The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to the Director. The report must include:

* * * * *

Subsection E—Manifest System, Recordkeeping, and Reporting

43. **Section 264.73** is amended by revising paragraphs (b) introductory text, (b)(1), (b)(2) (the comment to (b)(2) remains unchanged), (b)(6), (b)(8), and (b)(10), and by adding paragraphs (b)(18) and (b)(19) to read as follows:

§ 264.73 Operating record.

* * * * *

(b) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(1) A description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by Appendix I **of this section. This information must be maintained in the operating record until closure of the facility**;

(2) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest**. This information must be maintained in the operating record until closure of the facility.**

* * * * *

(6) Monitoring, testing or analytical data, and corrective action where required by Subsection F of this Section and §§ 264.19, 264.191, 264.193, 264.195, 264.222, 264.223, 264.226, 264.252-264.254, 264.276, 264.278, 264.280, 264.302-264.304, 264.309, 264.347, 264.602, 264.1034(c)-264.1034(f), 264.1035, 264.1063(d)-264.1063(i), 264.1064, and 264.1082 through 264.1090 of this Section. **Maintain in the operating record for three years, except for records and results pertaining to ground-water monitoring and cleanup which must be maintained in the operating record until closure of the facility.**

* * * * *

(8) All closure cost estimates under § 264.142, and for disposal facilities, all post-closure cost estimates under § 264.144 of this section. **This information must be maintained in the operating record until closure of the facility.**

* * * * *

(10) Records of the quantities and date of placement for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to § 268.5 of this Regulation, a petition pursuant to § 268.6 of this Regulation, or a certification under § 268.8 of this Regulation, and the applicable notice required by a generator under § 268.7(a) of this Regulation. **This information must be maintained in the operating record until closure of the facility.**

* * * * *

(18) Monitoring, testing or analytical data where required by § 264.347 must be maintained in the operating record for five years.

(19) Certifications as required by § 264.196(f) must be maintained in the operating record until closure of the facility.

* * * * *

Subsection F—Releases From Solid Waste Management Units

44. Amend **Section 264.97** as follows:

a. In paragraph (a)(1) introductory text, revise ''background water'' to read ''background ground water'';

b. In paragraph (a)(1)(i), revise ''background quality'' to read ''background ground-water quality'';

§ 264.97 General groundwater monitoring requirements.

* * * * *

(a) * * *

(1) Represent the quality of ~~background water~~ ***background ground water*** that has not been affected by leakage from a regulated unit;

* * * * *

(i) A determination of ~~background quality~~

background ground-water quality may include sampling of wells that are not hydraulically upgradient of the waste management area where:

* * * * *

45. Amend **Section 264.98** as follows:

a. Amend by revising paragraphs (d), (g)(2), and (g)(3) to read as follows:

b. In paragraph (g)(4)(i), revise ''concentration or any'' to read ''concentration of any''.

§ 264.98 Detection monitoring program.

* * * * *

(d) The Director will specify the frequencies for collecting samples and conducting statistical tests to determine whether there is statistically significant evidence of contamination for any parameter or hazardous constituent specified in the permit under paragraph (a) of this section in accordance with § 264.97(g). **A sequence of at least four samples from each well (background and compliance wells) must be collected at least semi-annually during detection monitoring.**

* * * * *

(g) ** *

(2) Immediately sample the ground water in all monitoring wells and determine whether constituents in the list of Appendix IX of Section 264 are present, and if so, in what concentration. **However, the Director, on a discretionary basis, may allow sampling for a site-specific subset of constituents from the Appendix IX list of this section and other representative/related waste constituents.**

(3) For any Appendix IX compounds found in the analysis pursuant to paragraph (g)(2) of this section, the owner or operator may resample within one month **or at an alternative site-specific schedule approved by the Director** and repeat the analysis for those compounds detected. If the results of the second analysis confirm the initial results, then these constituents will form the basis for compliance monitoring. If the owner or operator does not resample for the compounds in paragraph (g)(2) of this section, the hazardous constituents found during this initial Appendix IX analysis will form the basis for compliance monitoring.

* * * * *

(g)

(4)

(i) An identification of the ~~concentration or any~~ ***concentration of any*** Appendix IX constituent detected in the ground water at each monitoring well at the compliance point;

* * * * *

46. Amend **Section 264.99** as follows:

a. Amended by revising paragraphs (f) and (g) to read as follows:

b. Amended by paragraph (h)(2) introductory text, by revising the citation ''§ 264.98(h)(5)'' to read ''§ 264.98(g)(5)''.

§ 264.99 Compliance monitoring program.

* * * * *

(f) The Director will specify the frequencies for collecting samples and conducting statistical tests to determine statistically significant evidence of increased contamination in accordance with § 264.97(g). ~~A sequence of at least four samples from each well (background and compliance wells) must be collected at least semi-annually during the compliance period of the facility.~~

(g) ~~The owner or operator must analyze samples from all monitoring wells at the compliance point for all constituents contained in Appendix IX of Section 264 at least annually to determine whether additional hazardous constituents are present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in § 264.98(f). If the owner or operator finds Appendix IX constituents in the ground water that are not already identified in the permit as monitoring constituents, the owner or operator may resample within one month and repeat the Appendix IX analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentration of these additional constituents to the Director within seven days after the completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then he or she must report the concentrations of these additional constituents to the Director within seven days after completion of the initial analysis and add them to the monitoring list.~~ **Annually, the owner or operator must determine whether additional hazardous constituents from Appendix IX of this section, which could possibly be present but are not on the detection monitoring list in the permit, are actually present in the uppermost aquifer and, if so, at what concentration, pursuant to procedures in § 264.98(f). To accomplish this, the owner or operator must consult with the Director to determine on a case-by-case basis: which sample collection event during the year will involve enhanced sampling; the number of monitoring wells at the compliance point to undergo enhanced sampling; the number of samples to be collected from each of these monitoring wells; and, the specific constituents from Appendix IX of this section for which these samples must be analyzed. If the enhanced sampling event indicates that Appendix IX constituents are present in the ground water that are not already identified in the permit as monitoring constituents, the owner or operator may resample within one month or at an alternative site-specific schedule approved by the Director, and repeat the analysis. If the second analysis confirms the presence of new constituents, the owner or operator must report the concentration of these additional**

constituents to the Director within seven days after the completion of the second analysis and add them to the monitoring list. If the owner or operator chooses not to resample, then he or she must report the concentrations of these additional constituents to the Director within seven days after completion of the initial analysis, and add them to the monitoring list.

(h) * * *

(2) Submit to the Director an application for a permit modification to establish a corrective action program meeting the requirements of § 264.100 within 180 days, or within 90 days if an engineering feasibility study has been previously submitted to the Director under ~~§ 264.98(h)(5)~~ ***264.98(g)(5)***. The application must at a minimum include the following information:

* * * * *

47. **Section 264.100** is amended by revising paragraph (g) to read as follows:

§ 264.100 Corrective action program.

* * * * *

(g) The owner or operator must report in writing to the Director on the effectiveness of the corrective action program. The owner or operator must submit these reports ~~semi-annually~~ **annually**.

* * * * *

48. In **§ 264.101**, amend paragraph (d) by revising the phrase ''This does not apply'' to read ''This section does not apply''.

§ 264.101 Corrective action for solid waste management units.

* * * * *

(d) ~~This does not apply~~ ***This section does not apply*** to remediation waste management sites unless they are part of a facility subject to a permit for treating, storing or disposing of hazardous wastes that are not remediation wastes.

* * * * *

Subsection G—Closure and Post-Closure

49. In **§ 264.112**, amend paragraph (b)(8) by revising the citation ''264.110(d)'' to read ''264.110(c)''.

§ 264.112 Closure plan; amendment of plan.

* * * * *

(b) * * *

(8) For facilities where the Director has applied alternative requirements at a regulated unit under §§ 264.90(f), ~~264.110(d)~~ ***264.110(c)***, and/or § 264.140(d), either the alternative requirements applying to the regulated unit, or a reference to the enforceable document containing those alternative requirements.

* * * * *

50. **Section 264.113** is amended by revising paragraph (e)(5) to read as follows:

§ 264.113 Closure; time allowed for closure.

* * * * *

(e) ** *

(5) During the period of corrective action, the owner or operator shall provide ~~semi-annual~~ **annual** reports to the Director that describe the progress of the corrective action program, compile all ground-water monitoring data, and evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

* * * * *

51. **Section 264.115** is revised to read as follows:

§ 264.115 Certification of closure.

Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of the completion of final closure, the owner or operator must submit to the Director, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan.. The certification must be signed by the owner or operator and by an independent **qualified** Arkansas-registered Professional Engineer. Documentation supporting the Professional Engineer's certification must be furnished to the Director upon request until he releases the owner or operator from the financial assurance requirements for closure under § 264.143(i).

52. Amend **Section 264.116** by revising ''landfills cells'' to read ''landfill cells''.

§ 264.116 Survey plat.

No later than the submission of the certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the

authority with jurisdiction over local land use, and to the Director, a survey plat indicating the location and dimensions of ~~landfills cells~~ ***landfill cells*** or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use, must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable Subsection G regulations.

* * * * *

53. In **Section 264.118**, amend paragraph (c) by revising the citation ''§ 264.188(b)(3)'' to read ''§ 264.118(b)(3)''.

§ 264.118 Post-closure plan; amendment of plan.

* * * * *

(c) Until final closure of the facility, a copy of the approved post-closure plan must be furnished to the Director upon request, including request by mail. After final closure has been certified, the person or office specified in ~~§ 264.188(b)(3)~~ ***§ 264.118(b)(3)*** must keep the approved post-closure plan during the remainder of the post-closure period.

* * * * *

54. **Section 264.120** is revised to read as follows:

§ 264.120 Certification of completion of post-closure care.

No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Director, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent **qualified** Arkansas-registered Professional Engineer. Documentation supporting the Professional Engineer's certification must be furnished to the Director upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under § 264.145(i).

* * * * *

Subsection H—Financial Requirements

55. In **§ 264.140**, amend paragraph (d)(1) by revising the citation ''§ 264.110(d)'' to read ''§ 264.110(c)''.

§ 264.140 Applicability.

* * * * *

(d) * * *

(1) Prescribes alternative requirements for the regulated unit under § 264.90(f) and/or ~~§ 264.110(d)~~ **§ 264.110(c)**; and

* * * * *

56. In **§ 264.142**, amend paragraph (b)(2) by revising ''2)'' to read ''(2)''.

§ 264.142 Cost estimate for closure.

* * * * *

(b) * * *

~~2)~~ ***(2)*** Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

* * * * *

57. Amend **§ 264.143** as follows:

a. In paragraph (b)(7), revise ''then the penal sum'' to read ''than the penal sum'';

b. In paragraph (b)(8), revise ''as evidence by'' to read ''as evidenced by'';

c. Amended by revising paragraph (i) to read as follows:

§ 264.143 Financial assurance for closure.

* * * * *

(b) * * *

(7) Whenever the current closure cost estimate increases to an amount greater ~~then the penal sum~~ **than the penal sum**, the owner or operator, within 60 days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the Director, or obtain other financial assurance as specified in this section to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the Director.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director, ~~as evidence by~~ **as evidenced by** the return receipts.

* * * * *

(i) *Release of the owner or operator from the requirements of this section*. Within 60 days after receiving certifications from the owner or operator and an independent **qualified** Arkansas-registered Professional Engineer that final clo-

sure has been completed in accordance with the approved closure plan, the Director will notify the owner or operator in writing that he is no longer required by this section to maintain financial assurance for final closure of the facility, unless the Director has reason to believe that final closure has not been in accordance with the approved closure plan. The Director shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.
* * * * *

58. **Section 264.145** is amended as follows:

a. In paragraph (d)(6), revise ''issued in a amount'' to read ''issued in an amount'';

b. In paragraph (f)(11) introductory text, revise ''for this section'' to read ''of this section''; and revise ''the direct of higher-tier'' to read ''the direct or higher-tier''.

c. Amend by revising paragraph (i) to read as follows:

§ 264.145 Financial assurance for post-closure care.

* * * * *

(d) * * *

* * * * *

(6) The letter of credit must be ~~issued in a amount~~ **issued in an amount** at least equal to the current post-closure cost estimate, except as provided in § 264.145(g).

* * * * *

(f) * * *

* * * * *

(11) An owner or operator may meet the requirements ~~for this section~~ **of this section** by obtaining a written guarantee. The guarantor must be ~~the direct of higher-tier~~ **the direct or higher-tier** parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in paragraphs (f)(1) through (9) of this section and must comply with the terms of the guarantee. The wording of the guarantee must be identical to the wording specified in § 264.151(h). A certified copy of the guarantee must accompany the items sent to the Director as specified in paragraph (f)(3) of this section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee. The terms of the guarantee must provide that:

* * * * *

(i) *Release of the owner or operator from the requirements of this section*. Within 60 days after receiving certifications from the owner or operator and an independent **qualified** Arkansas-registered Professional Engineer that the post-closure care period has been completed for a hazardous waste disposal unit in accordance with the approved plan, the Director will notify the owner or operator that he is no longer required to maintain financial assurance for post-closure of that unit, unless the Director has reason to believe that post-closure care has not been in accordance with the approved post-closure plan. The Director shall provide the owner or operator a detailed written statement of any such reason to believe that post-closure care has not been in accordance with the approved post-closure plan.
* * * * *

59. **Section 264.147** is amended as follows:

a. Amended by revising paragraph (e) to read as follows:

b. Amend paragraph (h)(1) by revising ''letter or credit'' to read ''letter of credit''.

§ 264.147 Liability requirements.

* * * * *

(e) *Period of coverage*. Within 60 days after receiving certifications from the owner or operator and an independent **qualified** Arkansas-registered Professional Engineer that final closure has been completed in accordance with the approved closure plan, the Director will notify the owner or operator in writing that he is no longer required by this section to maintain liability coverage for that facility, unless the Director has reason to believe that closure has not been in accordance with the approved closure plan.

* * * * *

60. **Section 264.151** is amended as follows:

a. In paragraph (a), replace all references of "ADEQ Director" with "Director".

b. Delete the word "appropriate" in both instances in Section 16.;

c. In paragraph (b), in the section ''Corporate Surety(ies),'' remove the bracket (]) after ''State of incorporation'';

d. In paragraph (g), in the fifth paragraph of the LETTER FROM CHIEF FINANCIAL OFFICER, revise ""''nonsudden'' of'' to read ""'nonsudden'' or'';

e. In paragraph (g), in Part B, ALTERNATIVE I item 15., remove the comma after the word ''If'';

f. In paragraph (g), in Part B, ALTERNATIVE II item *7., remove the underline before the ''$'';

g–h. In paragraph (h)(2), under the section GUARAN-

TEE FOR LIABILITY COVERAGE, in the

second sentence, revise ''or which guarantor'' to read ''of which guarantor''; and revise the phrase ''[either 264.141(h)]'' to read ''[either 264.141(h) or 265.141(h)]'';

i. In paragraph (h)(2), under the section RECITALS, item 13.(a), under the subsection CERTIFICATION OF VALID CLAIM, insert a closing bracket (]) after ''[Principal's'';

j. Add a "space" between Paragraph (c)and paragraph (d);

k. In paragraph (k), in the section IRREVOCABLE STANDBY LETTER OF CREDIT, insert a closing bracket (]) at the end of the phrase after (2) to read ''Grantor's facility or group of facilities.]'';

l. In paragraph (l), revise the citations ''§ 264.147(h) or § 265.147(h)'' to read ''§ 264.147(i) or § 265.147(i)'';

m. In paragraph (m)(1), change the wording of the second paragraph as follows:

n. In paragraph (m)(1), in the CERTIFICATION OF VALID CLAIM Section 8.(c), revise both instances of ''depositary'' to read ''depository'';

o. In paragraph (m)(1), Section 10., replace "EPA Regional Administrator" with "Director":

p. In paragraph (m)(1), Section 14., replace "EPA" with "the Director":

q. In paragraph (n)(1), change the wording of the second paragraph as follows:

r.–s. In paragraph (n)(1), under STANDBY TRUST AGREEMENT, in Section 3.(c)(1), revise ''employee or'' to read ''employee of'';

t. In paragraph (n)(1), Section 12., third sentence, replace the semicolon after ''the appointment'' with a comma and replace "EPA Regional Administrator" with "Director";

u. In paragraph (n)(1), add a "space" before Section 16;

v. In paragraph (n)(1), Section 16., second sentence, revise ''reasonable'' to read ''reasonably''.

§ 264.151 Wording of the instruments.

(a) * * *

Section 4. Payment for Closure and Post-Closure Care. The Trustee shall make payments from the Fund as the ADEQ Director shall direct, in writing, to provide for the payment of the costs of closure and/or post-closure care of the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the ~~ADEQ Director~~**Director** from the Fund for closure and post-closure expenditures in such amounts as the ~~ADEQ Director~~**Director** shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the ~~ADEQ Director~~**Director** specifies in writing.

* * * * *

Section 10. Annual Valuation. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the ~~ADEQ Director~~ ***Director*** a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the ~~ADEQ Director~~***Director*** shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

* * * * *

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions.

The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the ~~ADEQ Director~~***Director***, and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the ~~ADEQ Director~~***Director*** to the Trustee shall be in writing, signed by the ~~ADEQ Director~~***Director*** or his designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or ADEQ hereunder has occurred.

* * * * *

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the ~~appropriate~~ Director, or by the Trustee and the ~~appropriate~~ ADEQ Director if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the ~~ADEQ Director~~***Director***, or by the Trustee and the ~~ADEQ Director~~***Director*** , if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the ~~ADEQ Director~~***Director*** issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

* * * * *

(b) * * *

* * * * *

Corporate Surety(ies)
[Name and address]
State of incorporation:~~]~~

* * * * *

(g) * * *

LETTER FROM CHIEF FINANCIAL OFFICER

* * * * *

The firm identified above guarantees, through the guarantee specified in subsection H of Regulation No. 23 Sections 264 and 265, liability coverage for [insert "sudden" or "~~nonsudden" of~~***"nonsudden" or*** "both sudden and nonsudden"] accidental occurrences at the following facilities

owned or operated by the following: . The firm identified above is [insert one or more: (1) The direct or higher-tier parent corporation of the owner or operator; (2) owned by the same parent corporation as the parent corporation of the owner or operator, and receiving the following value in consideration of this guarantee ; or (3) engaged in the following substantial business relationship with the owner or operator , and receiving the following value in consideration of this guarantee]. [Attach a written description of the business relationship or a copy of the contract establishing such relationship to this letter.]

* * * * *

LETTER FROM CHIEF FINANCIAL OFFICER

* * * * *

Part B, ALTERNATIVE I

* * * * *

*15. Are at least 90% of assets located in the U.S.? (Yes/No) If~~,~~ not, complete line 16.

* * * * *

Part B, ALTERNATIVE II

* * * * *

*7. Tangible net worth (if any portion of the closure or post-closure cost estimates is included in "total liabilities" on your financial statements you may add that portion to this line) ~~—~~$___

* * * * *

(h) * * *

(2) * * *

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of [if incorporated within the United States insert "the State of " and insert name of State; if incorporated outside the United States insert the name of the country in which incorporated, the principal place of business within the United States, and the name and address of the registered agent in the State of the principal place of business], herein referred to as guarantor. This guarantee is made on behalf of [owner or operator] of [business address], which is one of the following: "our subsidiary;" "a subsidiary of [name and address of common parent corporation], ~~or which guarantor~~ ***of which guarantor*** is a subsidiary;" or "an entity with which guarantor has a substantial business relationship, as defined in APC&EC Regulation ~~No. 23 § 264.141(h)]"~~ **'[either No. 23 § 264.141(h) or No. 23 § 265.141(h)]"**, to any and all third parties who have sustained or may sustain bodily injury or property damage caused by [sudden and/or nonsudden] accidental occurrences arising from operation of the facility(ies) covered by this guarantee.

Recitals

* * * * *

13. * * *

(a) * * *

CERTIFICATION OF VALID CLAIM

* * * * *

[Principal***]***

* * * * *

14. * * *

~~Signature of witness of notary~~ ***Signature of witness or notary***:

* * * * *

(j) * * *

2 * * *

* * * * *

(c) Whenever requested by the Director of the Arkansas Department of Environmental Quality (ADEQ), the Insurer agrees to furnish to the Director a signed duplicate original of the policy and all endorsements.

"SPACE"

(d) Cancellation of the insurance, whether by the insurer, the insured, a parent corporation providing insurance coverage for its subsidiary, or by a firm having an insurable interest in and obtaining liability insurance on behalf of the owner or operator of the hazardous waste management facility, will be effective only upon written notice and only after the expiration of 60 days after a copy of such written notice is received by the Director.

* * * * *

(k) * * *

IRREVOCABLE STANDBY LETTER OF CREDIT

* * * * *

or (2) a valid final court order establishing a judgment against the principal for bodily injury or property damage caused by a sudden or nonsudden accidental occurrence arising from operation of the principal's facility or group of facilities.***]***

* * * * *

(l) A surety bond, as specified in ~~§ 264.147(h) or § 265.147(h~~) ***§ 264.147(i) or § 265.147(i)*** of this regulation, must be worded as follows: except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

* * * * *

(m)(1) * * *

~~Whereas, the United States Environmental Protection Agency, "EPA," an agency of the United States Government, has established certain regulations applicable to the Grantor Grantor~~***Whereas, the Arkansas Department of Environmental Quality, "ADEQ", an agency of the State of Arkansas, has established certain regulations applicable to the Grantor requiring***, requiring that an owner or operator of a hazardous waste management facility or group of facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental and/or nonsudden accidental occurrences arising from operations of the facility or group of facilities.

* * * * *

Section 8. * * *

* * * * *

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central ~~depositary~~ ***depository*** even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such ~~depositary~~ ***depository*** with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

* * * * *

Section 10. Annual Valuations. The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Director, ADEQ a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the ~~EPA Regional Administrator~~ ***Director*** shall constitute a conclusively binding assent by the Grantor barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

* * * * *

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendments to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Director to the Trustee shall be in writing, signed by the Director, or his designee, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or ADEQ hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or ~~EPA~~***the Director***, except as provided for herein.

* * * * *

(n)(1) . * * *

~~Whereas the United States Environmental Protection Agency, "EPA," an agency of the United States Government, and the Arkansas Department of Environmental Quality, an agency of the State of Arkansas, have established certain regulations applicable to the Grantor~~ ***Whereas, the Arkansas Department of Environmental Quality, "ADEQ", an agency***

of the State of Arkansas, has established certain regulations applicable to the Grantor requiring, that an owner or operator of a hazardous waste management facility or group of facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental and/or nonsudden accidental occurrences arising from operations of the facility or group of facilities.
* * * * *
Section 3. . * * *
(c) * * *
(1) An ~~employee or~~ ***employee of*** [insert Grantor] arising from, and in the course of, employment by [insert Grantor]; or
* * * * *
(e) * * *
* * * * *
(3) Property loaned ***by*** [insert Grantor];
* * * * *
Section 12. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment~~;~~ , the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the ~~EPA Regional Administrator~~***Director*** and the present Trustee by certified mail 10 days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.
* * * * *
Section 15. * * *
The Director will agree to termination of the Trust when the owner or operator substitutes alternative financial assurance as specified in this section.
"SPACE"
Section 16. Immunity and indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor and the Director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses ~~reasonable~~ ***reasonably*** incurred in its defense in the event the Grantor fails to provide such defense.
* * * * *

Subsection I—Use and Management of Containers

61. **Section 264.174** is revised to read as follows:

§ 264.174 Inspections.

At least weekly, the owner or operator must inspect areas where containers are stored, ~~looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.~~ **except for Performance Track member facilities, that may conduct inspections at least once each month, upon approval by the Director. To apply for reduced inspection frequencies, the Performance Track member facility must follow the procedures identified in § 264.15(b)(5) of this section. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.**

[Comment: See §§ 264.15(c) and 264.171 for remedial action required if deterioration or leaks are detected.]
* * * * *

Subsection J—Tank Systems

62. **Section 264.191** is amended by revising paragraphs (a) and (b)(5)(ii) (the note to paragraph (b)(5)(ii) is unchanged) to read as follows:

§ 264.191 Assessment of existing tank system's integrity.

(a) For each existing tank system that does not have secondary containment meeting the requirements of § 264.193, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in paragraph (c) of this section, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent **qualified** Arkansas-registered Professional Engineer, in accordance with § 270.11(d) of this Regulation, that attests to the tank system's integrity by January 12, 1988.

(b) * * *

(5) * * *

(ii) For other than non-enterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination that is certified by an independent **qualified** Arkansas-registered Professional Engineer in accordance with § 270.11(d) of this Regulation, that addresses cracks, leaks, corrosion, and erosion.

* * * * *

63. **Section 264.192** is amended by revising paragraph (a) introductory text and paragraph (b) introductory text to read as follows:

§ 264.192 Design and installation of new tank systems or components.

(a) Owners or operators of new tank systems or components must obtain and submit to the Director, at time of submittal of part B information, a written assessment, reviewed and certified by an independent **qualified** Arkansas-registered Professional Engineer, in accordance with § 270.11(d) of this Regulation, attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The assessment must show that the foundation, structural support, seams, connections, and

pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. This assessment, which will be used by the Director to review and approve or disapprove the acceptability of the tank system design, must include, at a minimum, the following information:

* * * * *

(b) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent **qualified** installation inspector or an independent **qualified** Arkansas-registered Professional Engineer, either of whom is trained and experienced in the proper installation of tanks systems or components, must inspect the system for the presence of any of the following items:

* * * * *

64. **Section 264.193** is amended by:

a. Removing paragraphs (a)(2) through (a)(4);

b. Redesignating (a)(5) as (a)(2);

c. Revising paragraphs (a)(1), newly designated (a)(2) to read as follows:

d. In paragraph (d)(4), insert a period at the end of the sentence;

e. In paragraph (e)(2)(ii), replace the colon with a semicolon;

f. In paragraph (e)(2)(iii), replace the colon with a semicolon;

g. In paragraph (e)(2)(v)(B), revise the citation ''§ 262.21'' to read ''§ 261.23'', and replace the period after the word ''vapor'' with a semicolon and add the word ''and'';

h. In paragraph (e)(3)(i), replace the period at the end with a semicolon;

i. In paragraph (e)(3)(ii), replace the colon with a semicolon;

j. In paragraph (g)(1)(iii), replace the comma after the word ''water'' with a semi-colon;

k. In paragraph (g)(1)(iv), insert a period at the end of the paragraph;

l. In paragraph (g)(2)(i)(A), replace the period with a comma.

m. Revising paragraph (i)(2) to read as follows:

§ 264.193 Containment and detection of releases.

(a) ** *

(1) For all new **and existing** tank systems or components, prior to their being put into service.

~~(2) For all existing tank systems used to store or treat EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027, within two years after January 12, 1987;~~

~~(3) For those existing tank systems of known and documented age, within two years after January 12, 1987 or when the tank system has reached 15 years of age, whichever comes later;~~

~~(4) For those existing tank systems for which the age cannot be documented, within eight years of January 12, 1987; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age, or within two years of January 12, 1987, whichever comes later; and~~

~~(5)~~**(2)** For tank systems that store or treat materials that become hazardous wastes, within two years of the hazardous waste listing, or when the tank system has reached 15 years of age, whichever comes later.

* * * * *

(d) * * *

* * * * *

(4) An equivalent device as approved by the Director**.**

* * * * *

(e) * * *

(2) * * *

* * * * *

(ii) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event~~:~~**;**

(iii) Constructed with chemical-resistant water stops in place at all joints (if any)~~:~~**;**

* * * * *

(v) * * *

* * * * *

(B) Meets the definition of reactive waste under ~~§ 261.21~~***§ 261.23*** of this regulation, and may form an ignitable or explosive vapor.

* * * * *

(3) * * *

(i) Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell~~.~~**;**

* * * * *

(ii) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell~~.~~**;**

* * * * *

(g) * * *

(1) * * *

* * * * *

(iii) The hydrogeologic setting of the facility, including the thickness of soils present

between the tank system and ground water~~;~~ **;**

* * * * *

(iv) All other factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to ground water or surface water**.**

* * * * *

(2) * * *

(i) * * *

(A) The physical and chemical characteristics of the waste in the tank system, including its potential for migration~~;~~ **,**

* * * * *

(i) * * *

(2) For other than non-enterable underground tanks, the owner or operator must either conduct a leak test as in paragraph (i)(1) of this section or develop a schedule and procedure for an assessment of the overall condition of the tank system by an independent **qualified** Arkansas-registered Professional Engineer. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection, and the characteristics of the waste being stored or treated.

* * * * *

65. **Section 264.195** is amended by:

a. Revising paragraph (b) (the note to paragraph (b) is unchanged);

b. Redesignating existing paragraphs (c) and (d), as paragraphs (g) and (h), respectively;

c. Adding new paragraphs (c) through (f), to read as follows:

§ 264.195 Inspections.

* * * * *

(b) The owner or operator must inspect at least once each operating day **data gathered from monitoring and leak detection equipment (*e.g.*, pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.**

(1) Aboveground portions of the tank system, if any, to detect corrosion or releases of waste;

(2) Data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and

(3) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

[Note: Section 264.15(c) requires the owner or operator to remedy any deterioration or malfunction he finds. Section 264.196 requires the owner or operator to notify the Director within 24 hours of confirming a leak. Also, 40 CFR part 302 may require the owner or operator to notify the National Response Center of a release.]

(c) In addition, except as noted under paragraph (d) of this section, the owner or operator must inspect at least once each operating day:

(1) Above ground portions of the tank system, if any, to detect corrosion or releases of waste.

(2) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (*e.g.*, dikes) to detect erosion or signs of releases of hazardous waste (*e.g.*, wet spots, dead vegetation).

(d) Owners or operators of tank systems that either use leak detection systems to alert facility personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly those areas described in paragraphs (c)(1) and (c)(2) of this section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

(e) Performance Track member facilities may inspect on a less frequent basis, upon approval by the Director, but must inspect at least once each month. To apply for a less than weekly inspection frequency, the Performance Track member facility must follow the procedures described in § 264.15(b)(5).

(f) Ancillary equipment that is not provided with secondary containment, as described in § 264.193(f)(1) through (4), must be inspected at least once each operating day.

~~(c)~~**(g)** The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(1) The proper operation of the cathodic protection system must be confirmed within six months after initial installation and annually thereafter; and

(2) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

[Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85) — Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.]

~~(d)~~**(h)** The owner or operator must document in the operating record of the facility an inspection of those items in paragraphs (a) through (c) of this section.

66. **Section 264.196** is amended by revising paragraph (f) (the notes to paragraph (f) are unchanged) to read as follows:

§ 264.196 Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.

* * * * *

(f) *Certification of major repairs.* If the owner/operator has repaired a tank system in accordance with paragraph (e) of this section, and the repair has been extensive (*e.g.*, installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent **qualified** Arkansas-registered Professional Engineer in accordance with § 270.11(d) of this Regulation that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification must be placed in the operating record and maintained until closure of the facility.

* * * * *

Subsection K—Surface Impoundments

67. **Section 264.221** is amended as follows:

a. In paragraph (c)(1)(i)(B), revise ''1x10^{-7} cm/sec'' to read ''1x10^{-7} cm/sec'';

b. In paragraph (e)(1), revise ''EP toxicity characteristics in'' to read ''toxicity characteristic in'';

c. In paragraph (e)(2)(i)(B), revise the citation ''§ 144.3 of this chapter'' to read ''Section 270.2''; and add quotation marks around ''underground source of drinking water''.

§ 264.221 Design and operating requirements.

* * * * *

(c) * * *

(1)(i) * * *

(B) A composite bottom liner, consisting of at least two components. The upper component must be designed and constructed of materials (e.g., a geomembrane) to prevent the migration of hazardous constituents into this component during the active life and post-closure care period. The lower component must be designed and constructed of materials to minimize the migration of hazardous constituents if a breach in the upper component were to occur. The lower component must be constructed of at least 3 feet (91 cm) of compacted soil material with a hydraulic conductivity of no more than 1x10^{-7} cm/sec.

* * * * *

(e) * * *

(1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes hazardous for reasons other than the ~~EP toxicity characteristics in~~ ***toxicity characteristic in*** § 261.24 of this regulation; and

* * * * *

(2)(i) * * *

(B) The monofill is located more than one-quarter mile from an ~~"~~underground source of drinking water~~"~~ (as that term is defined in 40 CFR 144.3); and

* * * * *

68. **Section 264.223** is amended at paragraph (b)(1) by revising ''exceedence'' to read ''exceedance''.

§ 264.223 Response actions.

* * * * *

(b) * * *

(1) Notify the Director in writing of the ~~exceedence~~ ***exceedance*** within 7 days of the determination;

* * * * *

Subsection L—Waste Piles

69. **Section 264.251** is amended by revising the introductory text to paragraph (c) to read as follows:

§ 264.251 Design and operating requirements.

* * * * *

(c) The owner or operator of each new waste pile unit ~~on which construction commences after January 29, 1992~~, each lateral expansion of a waste pile unit ~~on which construction commences after July 29, 1992~~, and each replacement of an existing waste pile unit ~~that is to commence reuse after July 29, 1992~~ must install two or more liners and a leachate collection and removal system above and between such liners. ~~"Construction commences" is as defined in § 260.10 under "existing facility".~~

* * * * *

70. At **Section 264.251** paragraph (a) revise, ''surface impoundment units'' to read ''waste pile units'';

§ 264.252 Action leakage rate.

(a) The Director shall approve an action leakage rate for ~~surface impoundment units~~ ***waste pile units*** subject to § 264.251(c) or (d). The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding 1 foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

* * * * *

71. In **Section 264.259**, amend paragraph (b) by removing the comma between the word ‘‘and’’ and ‘‘F027’’.

§ 264.259 Special requirements for hazardous wastes F020, F021, F022, F023, F026, and F027.

* * * * *

(b) The Director may determine that additional design, operating, and monitoring requirements are necessary for piles managing hazardous wastes F020, F021, F022, F023, F026, and~~,~~ F027 in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

Subsection M—Land Treatment

72. **Section 264.280** is amended by revising paragraph (b) to read as follows:

a. Amend by revising paragraph (b) to read as follows:

b. In paragraph (c)(7), revise ‘‘expect that’’ to read ‘‘except that’’;

c. In paragraph (d), introductory text, revise ‘‘closure of post-closure’’ to read ‘‘closure or post-closure’’.

§ 264.280 Closure and post-closure care.

* * * * *

(b) For the purpose of complying with § 264.115 of this Regulation, when closure is completed the owner or operator may submit to the Director certification by an independent **qualified** soil scientist, in lieu of an independent **qualified** Arkansas-registered Professional Engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

(c) * * *

(7) Continue unsaturated zone monitoring in compliance with § 264.278, ~~expect that~~ ***except that*** soil-pore liquid monitoring may be terminated 90 days after the last application of waste to the treatment zone.

* * * * *

(d) The owner or operator is not subject to regulation under paragraphs (a)(8) and (c) of this section if the Director finds that the level of hazardous constituents in the treatment zone soil does not exceed the background value of those constituents by an amount that is statistically significant when using the test specified in paragraph (d)(3) of this section. The owner or operator may submit such a demonstration to the Director at any time during the ~~closure of post-closure~~ ***closure or post-closure*** care periods. For the purposes of this paragraph:

* * * * *

73. In **Section 264.283**, amend paragraph (a) by removing the comma between the word ‘‘and’’ and ‘‘F027’’.

§ 264.283 Special requirements for hazardous wastes F020, F021, F022, F023, F026, and F027.

(a) Hazardous Wastes F020, F021, F022, F023, F026 and~~,~~ F027 must not be placed in a land treatment unit unless the owner or operator operates the facility in accordance with a management plan for these wastes that is approved by the Director pursuant to the standards set out in this paragraph, and in accord with all other applicable requirements of this Section. The factors to be considered are:

* * * * *

Subsection N—Landfills

74. In **Section 264.301** paragraph (e)(2)(i)(B), revise the citation ‘‘§ 144.3 of this chapter’’ to read ‘‘40 CFR 270.2’’; and add quotation marks around ‘‘underground source of drinking water’’.

§ 264.301 Design and operating requirements.

* * * * *

(e) * * *

(2)(i) * * *

(B) The monofill is located more than one-quarter mile from an underground source of drinking water (as that term is defined in ~~40 CFR 144.3~~***40 CFR 270.2***); and

* * * * *

75. Amend **Section 264.302** as follows:

a. In paragraph (a), revise ‘‘surface impoundment units’’ to read ‘‘landfill units’’;

b. In paragraph (b), remove the comma after the citation ''§ 264.303(c)''.

§ 264.302 Action leakage rate.

(a) The Director shall approve an action leakage rate for ~~surface impoundment units~~ ***landfill units*** subject to § 264.301(c) or (d). The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding l foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

* * * * *

(b) To determine if the action leakage rate has been exceeded, the owner or operator must convert the weekly or monthly flow rate from the monitoring data obtained under § 264.303(c)~~,~~ to an average daily flow rate (gallons per acre per day) for each sump. Unless the Director approves a different calculation, the average daily flow rate for each sump must be calculated weekly during the active life and closure period, and monthly during the post-closure care period when monthly monitoring is required under § 264.303(c).

* * * * *

76. In **Section 264.304**, amend paragraph (b)(1) by revising ''exceedence'' to read ''exceedance''.

§ 264.304 Response actions.

(b) * * *

(1) Notify the Director in writing of the ~~exceedence~~ ***exceedance*** within 7 days of the determination;

* * * * *

77. **Section 264.314** is amended by:

a. Removing paragraph (a);

b. Redesignating paragraphs (b) through (f) as paragraphs (a) through (e); and,

c. Revising newly designated paragraphs (a) and newly designated paragraph (e) introductory text to read as follows:

d. amend paragraph (e)(2) by revising the citation ''§ 144.3 of this chapter'' to read ''40 CFR 270.2''; and by adding quotation marks around ''underground source of drinking water''.

§ 264.314 Special requirements for bulk and containerized liquids.

~~(a) The following materials shall not be disposed of in landfills permitted under this Regulation and Regulation:~~

~~(1) Bulk liquids, semisolids and sludges unless, before disposal, such waste is treated or stabilized into cement-like material.~~

~~(2) Containers holding free liquids unless all freestanding liquid has been removed or treated or stabilized into cement-like material; or the container is very small, such as an ampule, or is a lab pack as defined in 264.316 or 265.316, as applicable and is disposed of in accordance with 264.316 or 265.316 as applicable.~~

~~(3) Municipal refuse which is not hazardous waste.~~

~~(4) Ignitable wastes in containers, unless all free liquids therein have been removed or treated and stabilized into cement-like material.~~

~~(b)~~ **(a) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited.** Effective May 8, 1985, the placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited. Before disposal, liquid waste or waste containing free liquids must be treated or stabilized, (e.g. by mixing with a sorbent solid so that free liquids are no longer present and the waste meets the requirements of (a)(1) or (2) above).

~~(c)~~**(b)** To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095B (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in § 260.11 of this regulation.

~~(d)~~**(c)** Containers holding free liquids must not be placed in a landfill unless:

(1) All free-standing liquid:

(i) has been removed by decanting, or other methods;

(ii) has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or

(iii) has been otherwise eliminated; or

(2) The container is very small, such as an ampule; or

(3) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(4) The container is a lab pack as defined in § 264.316 and is disposed of in accordance with § 264.316.

~~(e)~~**(d)** Sorbents used to treat liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sor-

bents are materials listed or described in paragraph (e)(1) of this Subsection; or materials that are determined by the Department to be nonbiodegradable through the Section 260 petition process.

(1) Nonbiodegradable sorbents (i) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, micas (illite), vermiculites, zeolites, calcium carbonate (organic-free limestone), oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth, perlite (volcanic glass), expanded volcanic rock, volcanic ash, cement kiln dust, fly ash, rice hull ash, activated charcoal/activated carbon), or

(ii) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, polyisobutylene, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers). This does not include polymers derived from biological materials or polymers specifically designed to be degradable; or

(iii) Mixtures of these nonbiodegradable materials.

(2) Tests for nonbiodegradable sorbents. (i) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70(1984a) - Standard Practice for Determining Resistance of Synthetic Polymer Material to Fungi; or

(ii) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b)-Standard Practice for Determining Resistance of Plastics to Bacteria; or

(iii) The sorbent material is determined to be non-biodegradable under OECD test 301B: [CO_2 Evolution (Modified Sturm Test)].

* * * * *

~~(f)~~**(e)** ~~Effective November 8, 1985, the placement of any liquid which is not a hazardous waste in a landfill is prohibited unless the owner or operator of such landfill demonstrates to the Director, or the Director determines, that:~~ **The placement of any liquid which is not a hazardous waste in a landfill is prohibited unless the owner or operator of such landfill demonstrates to the Director, or the Director determines that:**

(1) The only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain, hazardous waste; and

(2) Placement in such owner or operator's landfill will not present a risk of contamination of any underground source of drinking water (as that term is defined in ~~40 CFR 144.3~~ **§ 270.2 of this regulation**.)

* * * * *

78. In **Section 264.317**, amend paragraph (a) introductory text by revising ''in a landfills'' to read ''in a landfill''.

§ 264.317 Special requirements for hazardous wastes F020, F021, F022, F023, F026, and F027.

(a) Hazardous Wastes F020, F021, F022, F023, F026, and F027 must not be ~~placed in a landfills~~ ***in a landfill*** unless the owner or operator operates the landfill in accord with a management plan for these wastes that is approved by the Director pursuant to the standards set out in this paragraph, and in accord with all other applicable requirements of this Section. The factors to be considered are:

* * * * *

79. **Section 264.340** is amended by revising the first sentence of paragraph (b)(1) and adding paragraph (b)(5) to read as follows:

§ 264.340 Applicability.

* * * * *

(b) * * *

(1) Except as provided by paragraphs (b)(2) ~~(b)(3), and (b)(4)~~ **through (b)(5)** of this section, the standards of this section **do not apply to a new hazardous waste incineration unit that becomes subject to RCRA permit requirements after October 12, 2005;** or no longer apply when an owner or operator **of an existing hazardous waste incineration uni**t demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR part 63, subsection EEE by conducting a comprehensive performance test and submitting to the Director a Notification of Compliance under 40 CFR §§ 63.1207(j) and 63.1210(d) documenting compliance with the requirements of 40 CFR part 63, subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this regulation will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.

* * * * *

(5) The particulate matter standard of § 264.343(c) remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of 40 CFR §§ 63.1206(b)(14) and 63.1219(e).

* * * * *

80. **Section 264.340** is amended by revising paragraph (b)(1) to read as follows:

§ 264.340 Applicability.

* * * * *

(b) Integration of the MACT standards:

(1) Except as provided by paragraphs (b)(2) and (b)(3) of this section, the standards of this section no longer apply when an owner or operator demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR part 63, subpart EEE by conducting a comprehensive performance test and submitting to the Director a Notification of Compliance under 40 CFR §§ 63.1207(j) and 63.1210~~(b)~~**(d)** documenting compliance with the requirements of 40 CFR part 63, subpart EEE.

* * * * *

81. **Section 264.343** is amended by revising paragraph (a)(2) to read as follows:

§ 264.343 Performance standards.

(a) * * *

(1) * * *

(2) An incinerator burning hazardous wastes F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999% for each principal organic hazardous constituent (POHC) designated (under § 264.342) in its permit. This performance must be demonstrated on POHCs that are more difficult to incinerate than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each POHC from the equation in § 264.343(a)(1). ~~In addition, the owner or operator of the incinerator must notify the Director of his intent to incinerate hazardous wastes FO20, FO21, FO22, FO23, FO26, or FO27.~~

* * * * *

82. **Section 264.347** is amended by revising paragraph (d) to read as follows:

§ 264.347 Monitoring and inspections.

* * * * *

(d) This monitoring and inspection data must be recorded and the records must be placed in the operating ~~log~~ **record** required by § 264.73 **of this section and maintained in the operating record for five years**.

Subsection S—Special Provisions for Cleanup

83. Amend **Section 264.552** as follows:

a. In paragraph (e)(4)(iii), replace the colon at the end of the paragraph with a period;

b. In paragraph (e)(4)(iv)(F), revise the citation ''40 CFR 260.11(11)'' to read ''40 CFR 260.11(a)(11)'';

c. In paragraph (e)(6)(iii)(E), revise ''Hydrological'' to read ''Hydrogeological''.

§ 264.552 Corrective Action Management Units (CAMU).

* * * * *

(e) * * *

(4) * * *

(iii) Waste that the Director determines contains principal hazardous constituents must meet treatment standards determined in accordance with paragraph (e)(4)(iv) or (e)(4)(v) of this section~~:~~ **.**

* * * * *

(iv) * * *

(F) Alternatives to TCLP. For metal bearing wastes for which metals removal treatment is not used, the Director may specify a leaching test other than the TCLP (SW-846 Method 1311, ~~40 CFR 260.11(11)~~ ***40 CFR 260.11(a)(11)***) to measure treatment effectiveness, provided the Director determines that an alternative leach testing protocol is appropriate for use, and that the alternative more accurately reflects conditions at the site that affect leaching.

* * * * *

(6) * * *

(iii) * * *

(E) ~~Hydrological~~ ***Hydrogeological*** and other relevant environmental conditions at the facility which may influence the migration of any potential or actual releases; and

* * * * *

84. Amend **Section 264.554** as follows:

a. Amend paragraph (a) introductory text by revising ''Director in according'' to read ''Director according''.

b. Amend by revising paragraph (c)(2) to read as follows:

§ 264.554 Staging piles.

(a) What is a staging pile? A staging pile is an accumulation of solid, non-flowing remediation waste (as defined in § 260.10 of this regulation) that is not a containment building and is used only during remedial operations for temporary storage at a facility. A staging pile must be located within

the contiguous property under the control of the owner/operator where the wastes to be managed in the staging pile originated. Staging piles must be designated by the ~~Director in according~~ ***Director according*** to the requirements in this section.

* * * * *

(c) ** *

(2) Certification by an independent qualified Arkansas-registered Professional Engineer for technical data, such as design drawings and specifications, and engineering studies, unless the Director determines, based on information that you provide, that this certification is not necessary to ensure that a staging pile will protect human health and the environment; and

* * * * *

Subsection W—Drip Pads

85. **Section 264.571** is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 264.571 Assessment of existing drip pad integrity.

(a) For each existing drip pad as defined in § 264.570 of this Subsection, the owner or operator must evaluate the drip pad and determine whether it meets all of the requirements of this Subsection, except the requirements for liners and leak detection systems of § 264.573(b). No later than the effective date of this rule, the owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent qualified Arkansas-registered Professional Engineer that attests to the results of the evaluation. The assessment must be reviewed, updated and re-certified annually until all upgrades, repairs, or modifications necessary to achieve compliance with all the standards of § 264.573 are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of § 264.573, except the standards for liners and leak detection systems, specified in § 264.573(b).

(b) *For immediate protection of the environment, all existing drip pads, regardless of age, must have an impermeable (as specified at § 264.573(a)(4)(i)) coating or cover in place not later than September 30, 1995.* In addition, the owner or operator must develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of § 264.573(b) and submit the plan to the Director no later than 2 years before the date that all repairs, upgrades, and modifications are complete. This written plan must describe all changes to be made to the drip pad in sufficient detail to document compliance with all the requirements of § 264.573. The plan must be reviewed and certified by an independent qualified Arkansas-registered Professional Engineer.

Note: A properly installed and maintained drip pad coating which is installed to meet the September 30, 1995 deadline should satisfy the eventual coating option of § 264.573(a)(4).

(c) Upon completion of all upgrades, repairs, and modifications, the owner or operator must submit to the Director or state Director, the as-built drawings for the drip pad together with a certification by an independent qualified Arkansas-registered Professional Engineer attesting that the drip pad conforms to the drawings.

* * * * *

86. Amend **Section 264.573** as follows:

a. In paragraph (a)(1), revise ''non-earthern'' to read ''non-earthen''; and replace the colon at the end of the paragraph with a semicolon;

b. Amend by revising paragraph (a)(4)(ii) and (g) to read as follows:

c. In paragraph (a)(5), revise ''perations'' to read ''operations'';

d. Amend by revising paragraph (g) to read as follows:

e. In paragraph (m)(2) and in paragraph (m)(3) twice, revise ''clean up'' to read ''cleanup''.

§ 264.573 Design and operating requirements.

(a) * * *

(1) Be constructed ~~of non-earthern~~ ***non-earthen*** materials, excluding wood and non-structurally supported asphalt:

* * * * *

(4) * * *

(ii) The owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent qualified Arkansas-registered Professional Engineer that attests to the results of the evaluation. The assessment must be reviewed, updated and recertified annually. The evaluation must document the extent to which the drip pad meets the design and operating standards of this section, except for paragraph (b) of this section.

* * * * *

(5) Be of sufficient structural strength and thickness to prevent failure due to physical contact, climatic conditions, the stress of daily ~~perations~~ ***operations***, e.g., variable and moving loads such as vehicle traffic, movement of wood, etc.

* * * * *

(m) * * *

(2) The Director will review the information submitted, make a determination regarding whether the pad must be removed from service completely or partially until repairs and ~~clean up~~ ***cleanup*** are complete and notify the owner or operator of the determination and the underlying rationale in writing.

(3) Upon completing all repairs and ~~clean up~~ ***cleanup***, the owner or operator must notify the Director in writing and provide a certification signed by an independent, qualified Arkansas-registered professional engineer, that the repairs and ~~clean up~~ ***cleanup*** have been completed according to the written plan submitted in accordance with paragraph (m)(1)(iv) of this section.

* * * * *

(g) The drip pad must be evaluated to determine that it meets the requirements of paragraphs (a) through (f) of this section and the owner or operator must obtain a statement from an independent qualified Arkansas-registered Professional Engineer certifying that the drip pad design meets the requirements of this section.

* * * * *

87. **Section 264.574** is amended by revising paragraph (a) to read as follows:

§ 264.574 Inspections.

(a) During construction or installation, liners and cover systems (*e.g.*, membranes, sheets, or coatings) must be inspected for uniformity, damage and imperfections (*e.g.*, holes, cracks, thin spots, or foreign materials). Immediately after construction or installation, liners must be inspected and certified as meeting the requirements in § 264.573 of this Subsection by an independent qualified Arkansas-registered Professional Engineer. This certification must be maintained at the facility as part of the facility operating record. After installation, liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters.

* * * * *

Subsection AA—Air Emission Standards for Process Vents

88. Amend § 264.1030(c) by revising ''owner and operator receives'' to read ''owner and operator receive''; and revise ''owner and operator is subject'' to read ''owner and operator are subject''.

§ 264.1030 Applicability.

* * * * *

(d). Until such date when the ~~owner and operator receives~~ ***owner and operator receive*** a final permit incorporating the requirements of this subsection, the ~~owner and operator is subject~~ ***owner and operator are subject*** to the requirements of § 265, subsection AA.

* * * * *

89. In **Section 264.1033**, amend paragraph (f)(2)(vii)(B) by replacing the period after the word ''regular'' with a comma.

§ 264.1033 Standards: Closed-vent systems and control devices.

* * * * *

(f) * * *

(2) * * *

(vii) * * *

(B) A monitoring device equipped with a continuous recorder to measure a parameter that indicates the carbon bed is regenerated on a regular~~.~~ , predetermined time cycle.

* * * * *

90. Amend **Section 264.1035** as follows:

a. In paragraph (c)(4)(i), replace the period after the first instance of ''760 ?C'' with a comma;

b. In paragraph (c)(4)(ii), insert a comma after the word ''greater''.

§ 264.1035 Recordkeeping requirements.

* * * * *

(c) * * *

(4)

(i) For a thermal vapor incinerator designed to operate with a minimum residence time of 0.50 second at a minimum temperature of 760°C~~.~~ , period when the combustion temperature is below 760°C.

(ii) For a thermal vapor incinerator designed to operate with an organic emission reduction efficiency of 95 weight percent or greater, period when the combustion zone temperature is more than 28°C below the design average combustion zone temperature established as a requirement of paragraph (b)(4)(iii)(A) of this section.

* * * * *

Subsection BB—Air Emission Standards for Equipment Leaks

91. In **Section 264.1050**, amend paragraph (f) by revising the citation ''§ 264,1064(g)(6)'' to read ''§ 264.1064(g)(6)''.

§ 264.1050 Applicability.

* * * * *

(f) Equipment that contains or contacts hazardous waste with an organic concentration of at least 10 percent by weight

for less than 300 hours per calendar year is excluded from the requirements of §§ 264.1052 through 264.1060 of this subsection if it is identified as required in ~~§ 264,1064(g)(6)~~ ***§ 264.1064(g)(6)*** of this subsection.

* * * * *

92. In **Section 264.1058**, amend paragraph (c)(1) by replacing the period after the second occurrence of the word ''detected'' with a comma.

§ 264.1058 Standards: Pumps and valves in heavy liquid service, pressure relief devices in light liquid or heavy liquid service, and flanges and other connectors.

* * * * *

(c) * * *

(1) When a leak is detected, it shall be repaired as soon as practicable, but not later than 15 calendar days after it is detected~~.~~ except as provided in § 264.1059.

* * * * *

93. **Section 264.1061** is amended by:

a. Removing paragraphs (b)(1) and (d); and,

b. Redesignating paragraphs (b)(2) and (b)(3) as paragraphs (b)(1) and (b)(2).

§ 264.1061 Alternative standards for valves in gas/vapor service or in light liquid service: percentage of valves allowed to leak.

* * *

(b) The following requirements shall be met if an owner or operator decides to comply with the alternative standard of allowing 2 percent of valves to leak:

~~(1) An owner or operator must notify the Director that the owner or operator has elected to comply with the requirements of this section.~~

~~(2)~~**(1)** A performance test as specified in paragraph (c) of this section shall be conducted initially upon designation, annually, and at other times requested by the Director.

~~(3)~~**(2)** If a valve leak is detected, it shall be repaired in accordance with § 264.1057(d) and (e).

* * *

~~(d) If an owner or operator decides to comply with this section no longer, the owner or operator must notify the Director in writing that the work practice standard described in § 264.1057(a) through (e) will be followed.~~

94. **Section 264.1062** is amended by removing paragraph (a)(2) and redesignating paragraph (a)(1) as paragraph (a).

§ 264.1062 Alternative standards for valves in gas/vapor service or in light liquid service; skip period leak detection and repair.

(a)~~(1)~~ An owner or operator subject to the require-ments of § 264.1057 may elect for all valves within a hazardous waste management unit to comply with one of the alternative work practices specified in paragraphs (b) (2) and (3) of this section.

~~(2) An owner or operator must notify the Director before implementing one of the alternative work practices.~~

* * * * *

Subsection CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

95. Amend **Section 264.1080** as follows:

a. In paragraph (a), revise ''Subsections I, J, or K'' to read ''Subsection ''I, J, or K'';

b. In paragraph (c), last sentence, revise ''owner and operator is subject'' to read ''owner and operator are subject''.

§ 264.1080 Applicability.

(a) The requirements of this subsection apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either subsection~~s~~ I, J, or K of this Section except as § 264.1 and paragraph (b) of this section provide otherwise.

* * * * *

(c) For the owner and operator of a facility subject to this subsection who received a final permit under RCRA section 3005 prior to December 6, 1996, the requirements of this subsection shall be incorporated into the permit when the permit is reissued in accordance with the requirements of 40 CFR 124.15 or is reviewed in accordance with the requirements of § 270.50(d) of this regulation. Until such date when the permit is reissued in accordance with the requirements of 40 CFR 124.15 or is reviewed in accordance with the requirements of § 270.50(d), the ~~owner and operator is subject~~ ***owner and operator are subject*** to the requirements of Section 265, subsection CC.

* * * * *

Subsection DD—Containment Buildings

96. **Section 264.1100** is amended by revising the introductory text to read as follows:

§ 264.1100 Applicability.

The requirements of this Subsection apply to owners or operators who store or treat hazardous waste in units de-

signed and operated under § 264.1101 of this Subsection. ~~These provisions will become effective on February 18, 1993, although owner or operator may notify the Director of his intent to be bound by this Subsection at an earlier time.~~ The owner or operator is not subject to the definition of land disposal in RCRA section 3004(k) provided that the unit:

* * * * *

97. Amend **Section 264.1101** as follows:

a. In paragraph (b)(3)(iii), revise the citation ''§ 264.193(d)(1)'' to read ''§ 264.193(e)(1)'';

b. Amend by revising paragraph (c)(2) to read as follows:

c. In paragraph (c)(3) introductory text, revise ''hazardous waste, must repair'' to read ''hazardous waste, the owner or operator must repair'';

d. In paragraph (c)(3)(i), revise ''lead'' to read ''led'';

e. Amend by revising paragraph (c)(4) to read as follows:

f. In paragraph (d) introductory text, revise ''For containment buildings that contain areas both'' to read ''For a containment building that contains both areas''.

§ 264.1101 Design and operating standards.

* * * * *

(b) * * *

(3) * * *

(iii) The secondary containment system must be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building. (Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions. A containment building can serve as an external liner system for a tank, provided it meets the requirements of ~~§ 264.193(d)(1)~~ ***§ 264.193(e)(1)***. In addition, the containment building must meet the requirements of § 264.193(b) and §§ 264.193(c)(1) and (2) to be considered an acceptable secondary containment system for a tank.)

* * * * *

(c) ** *

(2) Obtain and keep on-site a certification by an independent qualified Arkansas-registered Professional Engineer that the containment building design meets the requirements of paragraphs (a), (b), and (c) of this section. ~~For units placed into operation prior to February 18, 1993, this certification must be placed in the facility's operating record (on-site files for generators who are not formally required to have operating records) no later than 60 days after the date of initial operation of the unit. After February 18, 1993, PE certification will be required prior to operation of the unit.~~

(3) Throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of ~~hazardous waste, must repair~~ ***hazardous waste, the owner or operator must repair*** the condition promptly, in accordance with the following procedures.

(i) Upon detection of a condition that has ~~lead~~ ***led*** to a release of hazardous waste (e.g., upon detection of leakage from the primary barrier) the owner or operator must:

* * * * *

(4) Inspect and record in the facility's operating record, at least once every seven days, **except for Performance Track member facilities that must inspect at least once each month,** upon approval by the Director, data gathered from monitoring and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste. **To apply for reduced inspection frequency, the Performance Track member facility must follow the procedures described in § 264.15(b)(5).**

* * * * *

(d) ~~For containment buildings that contain areas both~~ ***For a containment building that contains both areas*** with and without secondary containment, the owner or operator must:

* * * * *

98. Amend **Appendix I to Section 264** as follows:

a. In Table 1, add unit of measure codes for ''Pounds'', ''''Pounds'', ''Kilograms'', and ''Tons'' at the end of the table to read as set forth below; and

b. In Table 2 at Section 2.(d), revise the line ''T75 Tricking filter'' to read ''T75 Trickling filter''.

Appendix I to Section 264—Recordkeeping Instructions.

TABLE 1

* * * * *

Pounds ..... P
Short tons ..... T
Kilograms ..... K
Tons ..... M

[1] Single digit symbols are used here for data processing purposes.

* * * * *

Table 2.

~~T75 Tricking filter~~
T75 Trickling filter

* * * * *

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

99. **Section 265.1** paragraph (c)(6), revise ''Subsections C, D, F, or G'' to read ''Subsections C, F, G, or H''.

§ 265.1 Purpose, scope, and applicability.

* * * * *

(c) * * *

(6) The owner and operator of a facility managing recyclable materials described in § 261.6 (a)(2), (3) and (4) of this regulation (except to the extent that requirements of this Section are referred to in Section 279 or Subsections ~~C, F, or G~~ ***C, F, G, or H*** of Section 266 of this regulation).

* * * * *

Subsection B—General Facility Standards

100. In **Section 265.12**, amend paragraph (a)(1) by revising ''of the date of the waste'' to read ''of the date the waste''.

§ 265.12 Required notices.

(a)(1) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the EPA Regional Administrator in writing at least four weeks in advance ~~of the date of the waste~~ ***of the date the waste*** is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

* * * * *

101. In **Section 265.14**, amend paragraph (b)(1) by revising ''guards of facility personnel'' to read ''guards or facility personnel''.

§ 265.14 Security.

* * * * *

(b) * * *

(1) A 24-hour surveillance system (e.g., television monitoring or surveillance by ~~guards of facility personnel~~ ***guards or facility personnel***) which continuously monitors and controls entry onto the active portion of the facility; or

* * * * *

102. **Section 265.15** is amended by revising paragraph (b)(4) and adding paragraph (b)(5) to read as follows:

§ 265.15 General inspection requirements.

* * * * *

(b) * * *

(4) The frequency of inspection may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use, **except for Performance Track member facilities, that must inspect at least once each month, upon approval by the Director, as described in paragraph (b)(5) of this section.** At a minimum, the inspection schedule must include the items and frequencies called for in §§ 265.174, 265.193, 265.195, 265.226, 265.260, 265.278, 265.304, 265.347, 265.377, 265.403, 265.1033, 265.1052, 265.1053, 265.1058, and 265.1084 through 265.1090, where applicable.

(5) Performance Track member facilities that choose to reduce inspection frequencies must:

(i) Submit an application to the Director. The application must identify the facility as a member of the National Environmental Performance Track Program and identify the management units for reduced inspections and the proposed frequency of inspections. Inspections must be conducted at least once each month.

(ii) Within 60 days, the Director will notify the Performance Track member facility, in writing, if the application is approved, denied, or if an extension to the 60-day deadline is needed. This notice must be placed in the facility's operating record. The Performance Track member facility should consider the application approved if the Director does not: (1) Deny the application; or (2) notify the Performance Track member facility of an extension to the 60-day deadline. In these situations, the Performance Track member facility must adhere to the revised inspection schedule outlined in its application and maintain a copy of the application in the facility's operating record.

(iii) Any Performance Track member facility that discontinues its membership or is terminated from the program must immediately notify the Director of its change in status. The facility must place in its operating record a dated copy of this notifi-

cation and revert back to the non-Performance Track inspection frequencies within seven calendar days.

* * * * *

103. **Section 265.16** is amended by adding new paragraph (a)(4) to read as follows:

§ 265.16 Personnel training.

(a) ** *

(4) For facility employees that receive emergency response training pursuant to Occupational Safety and Health Administration (OSHA) regulations 29 CFR 1910.120(p)(8) and 1910.120(q), the facility is not required to provide separate emergency response training pursuant to this section, provided that the overall facility training meets all the requirements of this section.

* * * * *

104. In **Section 265.19**, amend paragraph (c)(2) last sentence, by revising ''264.254(c)(1)'' to read ''264.251(c)(1)''.

§ 265.19 Construction quality assurance program.

* * * * *

(c) * * *

(2) The CQA program shall include test fills for compacted soil liners, using the same compaction methods as in the full-scale unit, to ensure that the liners are constructed to meet the hydraulic conductivity requirements of §§ 264.221(c)(1), 264.251(c)(1), and 264.301(c)(1) of this regulation in the field. Compliance with the hydraulic conductivity requirements must be verified by using in-situ testing on the constructed test fill. The test fill requirement is waived where data are sufficient to show that a constructed soil liner meets the hydraulic conductivity requirements of §§ 264.221(c)(1), ~~264.254(c)(1)~~ ***264.251(c)(1)***, and 264.301(c)(1) of this regulation in the field.

* * * * *

Subsection D—Contingency Plans and Emergency Procedures

105. **Section 265.52** is amended by revising paragraph (b) to read as follows:

§ 265.52 Content of contingency plan.

* * * * *

(b) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR Part 112, or 40 CFR Part 1510 ~~of Chapter V,~~, or some other emergency or contingency plan, he need only amend that plan to incorporate hazardous waste management provisions that are sufficient to comply with the requirements of this Section. **The owner or operator may develop one contingency plan which meets all regulatory requirements. EPA and the Department recommend that the plan be based on the National Response Team's Integrated Contingency Plan Guidance ("One Plan"). When modifications are made to non-RCRA provisions in an integrated contingency plan, the changes do not trigger the need for a RCRA permit modification.**

* * * * *

106. **Section 265.56** is revised to read as follows:

§ 265.56 Emergency procedures.

* * * * *

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and ~~a real~~ ***areal*** extent of any released materials. He may do this by observation or review of facility records or manifests and, if necessary, by chemical analysis.

* * * * *

~~(i) The owner or operator must notify the Director, and appropriate local authorities, that the facility is in compliance with paragraph (h) of this section before operations are resumed in the affected area(s) of the facility.~~

~~(j)~~ **(i)** The owner or operator must note in the operating record the time, date, and details of any incident that requires implementing the contingency plan. Within 15 days after the incident, he must submit a written report on the incident to the Director. The report must include:

* * * * *

Subsection E—Manifest System, Recordkeeping, and Reporting

107. **Section 265.73** is amended by revising the introductory text to paragraph (b), (b)(1), (b)(2) (the comment to paragraph (b)(2) is unchanged), (b)(6) (the comment to paragraph (b)(6) is unchanged), (b)(7), and (b)(8) and adding a new (b)(15) to read as follows:

§ 265.73 Operating record.

* * * * *

(b) The following information must be recorded, as it becomes available, and maintained in the operating record ~~until closure of the facility~~ **for three years unless noted**

below:

(1) A description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as required by Appendix I **to this Section. This information must be maintained in the operating record until closure of the facility**;

(2) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to manifest document numbers if the waste was accompanied by a manifest. **This information must be maintained in the operating record until closure of the facility;**

* * * * *

(6) Monitoring, testing or analytical data, and corrective action where required by Subsection F of this section and by §§ 265.19, 265.94, 265.191, 265.193, 265.195, 265.224, 265.226, 265.255, 265.260, 265.276, 265.278, 265.280(d)(1), 265.302, 265.304, 265.347, 265.377, 265.1034(c) through 265.1034(f), 265.1035, 265.1063(d) through 265. 265.1063(i), 265.1064, and 265.1083 through 265.1090 of this regulation. **Maintain in the operating record for three years, except for records and results pertaining to ground-water monitoring and cleanup, and response action plans for surface impoundments, waste piles, and landfills, which must be maintained in the operating record until closure of the facility.**

* * * * *

(7) All closure cost estimates under § 265.142 and, for disposal facilities, all post-closure cost estimates under § 265.144 **must be maintained in the operating record until closure of the facility**.

(8) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to ~~40 CFR~~ **§** 268.5 **of this Regulation**, monitoring data required pursuant to a petition under ~~40 CFR~~ **§** 268.6 **of this Regulation**, or a certification under ~~40 CFR~~ **§** 268.8 of this Regulation, and the applicable notice required by a generator under § 268.7(a) of this Regulation. **All of this information must be maintained in the operating record until closure of the facility**.

* * * * *

(15) Monitoring, testing or analytical data, and corrective action where required by §§ 265.90, 265.93(d)(2), and 265.93(d)(5), and the certification as required by § 265.196(f) must be maintained in the operating record until closure of the facility.

* * * * *

108. Section **265.76** is revised as follows:

a. In paragraphs (a) through (g) to read as shown:

b. Add paragraph (b) to read:

§ 265.76 Unmanifested waste report.

(a) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in § 263.20(e)(2) of this regulation, and if the waste is not excluded from the manifest requirement by § 261.5 of this regulation, then the owner or operator must prepare and submit a single copy of a report to the Director within fifteen (15) days after receiving the waste. The unmanifested waste report must contain the following information:

~~(a)~~***(1)*** The EPA identification number, name, and address of the facility;

~~(b)~~***(2)*** The date the facility received the waste;

~~(c)~~***(3)*** The EPA identification number, name, and address of the generator and the transporter, if available;

~~(d)~~***(4)*** A description and the quantity of each unmanifested hazardous waste the facility received;

~~(e)~~***(5)*** The method of treatment, storage, or disposal for each hazardous waste;

~~(f)~~***(6)*** The certification signed by the owner or operator of the facility or his authorized representative; and

~~(g)~~***(7)*** A brief explanation of why the waste was unmanifested, if known.

* * * * *

(b) [Reserved]

* * * * *

Subsection F—Ground-Water Monitoring

109. **Section 265.90** is amended as follows:

a. Amend paragraph (d) introductory text by removing the comma after the phrase ''he may''.

b. Amend by revising paragraphs (d)(1) and (d)(3) to read as follows

§ 265.90 Applicability.

* * * * *

(d) If an owner or operator assumes (or knows) that ground-water monitoring of indicator parameters in accordance with §§ 265.91 and 265.92 would show statistically significant increases (or decreases in the case of pH) when evaluated under § 265.93(b), he may~~,~~ install, operate, and maintain an alternate ground-water monitoring system (other than the one described in §§ 265.91 and 265.92). If the owner

or operator decides to use an alternate ground-water monitoring system he must:

(1) Within one year after the effective date of these regulations, develop a specific plan, certified by a qualified geologist or geotechnical engineer, which satisfies the requirements of § 265.93(d)(3), for an alternate ground-water monitoring system. **This plan is to be placed in the facility's operating record and maintained until closure of the facility**.

* * * * *

(3) Prepare a report in accordance with § 265.93(d)(5) **and place it in the facility's operating record and maintain until closure of the facility**.

* * * * *

110. **Section 265.93** is amended by revising paragraphs (d)(2) and (d)(5) to read as follows:

§ 265.93 Preparation, evaluation, and response.

* * * * *

(d)(1) * * *

(2) Within 15 days after the notification under paragraph (d)(1) of this section, the owner or operator must develop a specific plan, based on the outline required under paragraph (a) of this section and certified by a qualified geologist or geotechnical engineer, for a ground-water quality assessment at the facility. **This plan must be placed in the facility operating record and be maintained until closure of the facility.**

* * * * *

(5) The owner or operator must make his first determination under paragraph (d)(4) of this section, as soon as technically feasible, and prepare a report containing an assessment of ground-water quality. **This report must be placed in the facility operating record and be maintained until closure of the facility.**

* * * * *

Subsection G—Closure and Post-Closure

111. Amend **Section 265.112** paragraph (b)(5), revise ''partial and final closure period'' to read ''partial and final closure periods'';

§ 265.112 Closure plan; amendment of plan.

* * * * *

(b) * * *

(5) A detailed description of other activities necessary during the ~~partial and final closure period~~ ***partial and final closure periods*** to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground-water monitoring, leachate collection, and run-on and run-off control; and

* * * * *

112. **Section 265.113** is amended by revising paragraph (e)(5) to read as follows:

§ 265.113 Closure; time allowed for closure.

* * * * *

(e) ** *

* * * * *

(5) During the period of corrective action, the owner or operator shall provide ~~semi-annual~~ **annual** reports to the Director describing the progress of the corrective action program, compile all ground-water monitoring data, and evaluate the effect of the continued receipt of non-hazardous wastes on the effectiveness of the corrective action.

* * * * *

113. **Section 265.115** is revised to read as follows:

§ 265.115 Certification of closure.

Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of completion of final closure, the owner or operator must submit to the Director, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent qualified Arkansas-registered Professional Engineer. Documentation supporting the Professional Engineer's certification must be furnished to the Director upon request until he releases the owner or operator from the financial assurance requirements for closure under § 265.143(h).

114. In **Section 265.119**, amend paragraph (b)(1)(ii) by revising the citation "Subsection G'' to read ''§ 265, Subsection G''.

§ 265.119 Post-closure notices.

* * * * *

(b) * * *

(1) * * *

(ii) Its use is restricted under ***§ 265*** Subsection G regulations; and

* * * * *

115. **Section 265.120** is revised to read as follows:

§ 265.120 Certification of completion of post-closure care.

No later than 60 days after the completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Director, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent qualified Arkansas-registered Professional Engineer. Documentation supporting the Professional Engineer's certification must be furnished to the Director upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under § 265.145(h).

Subsection H—Financial Requirements

116. Amend **Section 265.140** paragraph (b) introductory text, revise the citation ''265.146'' to read ''265.145'';

§ 265.140 Applicability.

* * * * *

(b) The requirements of §§ 265.144 and ~~265.146~~***265.145*** apply only to owners and operators of

* * * * *

117. In **Section 265.142**, amend paragraph (a) by removing ''265.178'' from the list of sections.

§ 265.142 Cost estimate for closure.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in §§ 265.111 through 265.115 and applicable closure requirements of §§ ~~265.178,~~ 265.197, 265.228, 265.258, 265.280, 265.310, 265.351, 265.381 and 265.404.

* * * * *

118. **Section 265.143** is amended by revising paragraph (h) to read as follows:

§ 265.143 Financial assurance for closure.

* * * * *

(h) Release of the owner or operator from the requirements of this section. Within 60 days after receiving certifications from the owner or operator and an independent qualified Arkansas-registered Professional Engineer that final closure has been completed in accordance with the approved closure plan, the Director will notify the owner or operator in writing that he is no longer required by this section to maintain financial assurance for final closure of the facility, unless the Director has reason to believe that final closure has not been in accordance with the approved closure plan. The Director shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.

119. **Section 265.145** is amended by revising paragraph (h) to read as follows:

§ 265.145 Financial assurance for post-closure care.

* * * * *

(h) Release of the owner or operator from the requirements of this section. Within 60 days after receiving certifications from the owner or operator and an independent qualified Arkansas-registered Professional Engineer that the post-closure care period has been completed for a hazardous waste disposal unit in accordance with the approved plan, the Director will notify the owner or operator in writing that he is no longer required to maintain financial assurance for post-closure care of that unit, unless the Director has reason to believe that post-closure care has not been in accordance with the approved post-closure plan. The Director shall provide the owner or operator a detailed written statement of any such reason to believe that post-closure care has not been in accordance with the approved post-closure plan.

120. Amend **Section 265.147** as follows:

a. Amend paragraph (b)(1) by adding paragraphs (i) and (ii) to read as follows:

b. Amend by revising paragraph (e) to read as follows:

§ 265.147 Liability requirements.

* * * * *

(b) * * *

(1) * * *

(i) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The wording of the endorsement must be identical to the wording specified in § 264.151(i). The wording of the certificate of insurance must be identical to the wording specified in § 264.151(j). The owner or operator must submit a signed

duplicate original of the endorsement or the certificate of insurance to the Director, or Regional Administrators if the facilities are located in more than one Region. If requested by the Director or a Regional Administrator, the owner or operator must provide a signed duplicate original of the insurance policy.

(ii) Each insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more States.

* * * * *

(e) *Period of coverage.* Within 60 days after receiving certifications from the owner or operator and an independent qualified Arkansas-registered Professional Engineer that final closure has been completed in accordance with the approved closure plan, the Director will notify the owner or operator in writing that he is no longer required by this section to maintain liability coverage for that facility, unless the Director has reason to believe that closure has not been in accordance with the approved closure plan.

* * * * *

Subsection I—Use and Management of Containers

121. **Section 265.174** is revised to read as follows:

§ 265.174 Inspections.

~~The owner or operator must inspect areas where containers are stored, at least weekly, looking for leaks and for deterioration caused by corrosion or other factors.~~ **At least weekly, the owner or operator must inspect areas where containers are stored, except for Performance Track member facilities, that must conduct inspections at least once each month, upon approval by the Director. To apply for reduced inspection frequency, the Performance Track member facility must follow the procedures described in § 265.15(b)(5) of this section. The owner or operator must look for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.**

Subsection J—Tank Systems

122. **Section 265.191** is amended by revising paragraphs (a) and (b)(5)(ii) (the note to paragraph (b)(5)(ii) is unchanged) to read as follows:

§ 265.191 Assessment of existing tank system's integrity.

(a) For each existing tank system that does not have secondary containment meeting the requirements of § 265.193, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in paragraph (c) of this section, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent qualified Arkansas-registered Professional Engineer in accordance with § 270.11(d) of this Regulation, that attests to the tank system's integrity by January 12, 1988.

(b) * * *

(5) * * *

(ii) For other than non-enterable underground tanks and for ancillary equipment, this assessment must be either a leak test, as described above, or an internal inspection and/or other tank integrity examination certified by an independent qualified Arkansas-registered Professional Engineer in accordance with § 270.11(d) of this Regulation that addresses cracks, leaks, corrosion, and erosion.

* * * * *

123. **Section 265.192** is amended by revising paragraphs (a) introductory text and (b) introductory text to read as follows:

§ 265.192 Design and installation of new tank systems or components.

(a) Owners or operators of new tank systems or components must ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment reviewed and certified by an independent qualified Arkansas-registered Professional Engineer in accordance with § 270.11(d) of this Regulation attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. This assessment must include the following information:

* * * * *

(b) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent qualified Arkansas-registered Professional Engineer, either of whom is trained and experienced in the proper installation of tank systems, must inspect the system or component for the presence of any of the following items:

* * * * *

124. **Section 265.193** is amended by:

a. Removing paragraphs (a)(2) through (a)(4);

b. Redesignating (a)(5) as (a)(2);

c. Revising paragraphs (a)(1), newly designated (a)(2) and (i)(2) (the note to (i)(2) is unchanged) to read as follows.

d. In paragraph (e)(2)(v)(B), revise the citation ''§ 262.21'' to read ''§ 261.23'';

265.193 Containment and detection of releases.

(a) ** *

(1) For all new and existing tank systems or components, prior to their being put into service.

~~(2) For all existing tanks used to store or treat EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027, within two years after January 12, 1987;~~

~~(3) For those existing tank systems of known and documentable age, within two years after January 12, 1987, or when the tank systems have reached 15 years of age, whichever comes later;~~

~~(4) For those existing tank system for which the age cannot be documented, within eight years of January 12, 1987; but if the age of the facility is greater than seven years, secondary containment must be provided by the time the facility reaches 15 years of age, or within two years of January 12, 1987, whichever comes later; and~~

~~(5)~~ **(2)** For tank systems that store or treat materials that become hazardous wastes, ~~subsequent to January 12, 1987, within the time intervals required in paragraphs (a)(1) through (a)(4) of this section, except that the date that a material becomes a hazardous waste must be used in place of January 12, 1987~~ **within 2 years of the hazardous waste listing, or when the tank system has reached 15 years of age, whichever comes later.**

* * * * *

(i) * **

(2) For other than non-enterable underground tanks, and for all ancillary equipment, the owner or operator must either conduct a leak test as in paragraph (i)(1) of this section or an internal inspection or other tank integrity examination by an independent qualified Arkansas-registered Professional Engineer that addresses cracks, leaks, and corrosion or erosion at least annually. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tanks surfaces to be assessed.

* * * * *

(e) * * *

(2) * * *

(v) * * *

(B) Meets the definition of reactive waste under ~~§ 261.21~~ ***§ 261.23*** of this regulation and may form an ignitable or explosive vapor; and

* * * * *

125. In **Section 265.194**, amend paragraphs (b)(1) and (b)(2) by inserting a period after ''e.g'' in both paragraphs, and in paragraph (b)(1), by revising ''discount'' to read ''disconnect''.

§ 265.194 General operating requirements.

* * * * *

(b) * * *

(1) Spill prevention controls (e.g. , check valves, dry ~~discount~~ ***disconnect*** couplings);

(2) Overfill prevention controls (e.g. , level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and

* * * * *

126. **Section 265.195** is amended by:

a. Revising paragraph (a) (the note to paragraph (a) is unchanged);

b. Redesignating existing paragraphs (b) and (c), as paragraphs (f) and (g), respectively; and,

c. Adding new paragraphs (b) through (e).

§ 265.195 Inspections.

(a) The owner or operator must inspect, where present, at least once each operating day, **data gathered from monitoring and leak detection equipment (e.g., pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.**

~~(1) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;~~

~~(2) The aboveground portions of the tank system, if any, to detect corrosion or releases of waste;~~

~~(3) Data gathered from monitoring equipment and leak-detection equipment, (e.g., pressure and temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and~~

~~(4) The construction materials and the area immediately surrounding the externally accessible portion of the tank system including secondary containment structures (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation);~~

Note: Section 265.15(c) requires the owner or operator to remedy any deterioration or malfunction he finds. Section 265.196 requires the owner or operator to notify the Director

within 24 hours of confirming a release. Also, 40 CFR part 302 may require the owner or operator to notify the National Response Center of a release.

(b) Except as noted under the paragraph (c) of this section, the owner or operator must inspect at least once each operating day:

(1) Overfill/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;

(2) Above ground portions of the tank system, if any, to detect corrosion or releases of waste; and

(3) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

(c) Owners or operators of tank systems that either use leak detection equipment to alert facility personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly those areas described in paragraphs (b)(1) through (3) of this section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

(d) Performance Track member facilities may inspect on a less frequent basis, upon approval by the Director, but must inspect at least once each month. To apply for a less than weekly inspection frequency, the Performance Track member facility must follow the procedures described in § 265.15(b)(5).

(e) Ancillary equipment that is not provided with secondary containment, as described in § 265.193(f)(1) through (4), must be inspected at least once each operating day.

~~(b)~~ **(f)** The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(1) The proper operation of the cathodic protection system must be confirmed within six months after initial installation, and annually thereafter; and

(2) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

Note: The practices described in the National Association of Corrosion Engineers (NACE) standard, "Recommended Practice (RP-02-85) — Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems," and the American Petroleum Institute (API) Publication 1632, "Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," may be used, where applicable, as guidelines in maintaining and inspecting cathodic protection systems.

~~(c)~~ **(g)** The owner or operator must document in the operating record of the facility an inspection of those items in paragraphs (a) and (b) of this section.

127. **Section 265.196** is amended by revising paragraph (f) (the notes to paragraph (f) are unchanged) to read as follows:

§ 265.196 Response to leaks or spills and disposition of leaking or unfit-for-use tank systems.

* * * * *

(f) *Certification of major repairs.* If the owner/operator has repaired a tank system in accordance with paragraph (e) of this section, and the repair has been extensive (e.g., installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent qualified Arkansas-registered Professional Engineer in accordance with § 270.11(d) that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification is to be placed in the operating record and maintained until closure of the facility.

* * * * *

128. In **Section 265.197**, amend paragraph (b) by inserting a period after the closing parenthesis of the citation ''(265.310)''.

§ 265.197 Closure and post-closure care.

* * * * *

(b) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in paragraph (a) of this section, then the owner or operator must close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to landfills (§ 265.310)**.** In addition, for the purposes of closure, postclosure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements for landfills specified in Subsections G and H of this Section.

* * * * *

129. **Section 265.201** is amended by:

a. Revising the paragraph (c) introductory text;

b. Redesignating paragraph (d) through (f), as paragraphs (f) through (h), respectively; and,

c. Adding new paragraphs (d) and (e).

§ 265.201 Special requirements for generators of between 100 and 1,000 kg/mo. that accumulate hazardous waste in tanks.

* * * * *

(c) **Except as noted in paragraph (d) of this section**, generators ~~of~~ **who accumulate** between 100 and 1,000 kg/mo of hazardous in tanks must inspect, where present:

(1) Discharge control equipment (e.g., waste feed cutoff systems, by-pass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;

(2) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

(3) The level of waste in the tank at least once each operating day to ensure compliance with § 265.201(b)(3);

(4) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

(5) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

Note: As required by § 265.15(c), the owner or operator must remedy any deterioration or malfunction he finds.

(d) Generators who accumulate between 100 and 1,000 kg/mo of hazardous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert facility personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, must inspect at least weekly, where applicable, the areas identified in paragraphs (c)(1) through (5) of this section. Use of the alternate inspection schedule must be documented in the facility's operating record. This documentation must include a description of the established workplace practices at the facility.

(e) Performance Track member facilities may inspect on a less frequent basis, upon approval by the Director, but must inspect at least once each month. To apply for a less than weekly inspection frequency, the Performance Track member facility must follow the procedures described in § 265.15(b)(5).

~~(d)~~ **(f)** Generators of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks must, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures.

Note: At closure, as throughout the operating period, unless the owner or operator can demonstrate, in accordance with § 261.3(c) or (d) of this regulation, that any solid waste removed from his tank is not a hazardous waste, the owner or operator becomes a generator of hazardous waste and must manage it in accordance with all applicable requirements of Sections 262, 263, and 265 of this regulation.

~~(e)~~ **(g)** Generators of between 100 and 1,000 kg/mo must comply with the following special requirements for ignitable or reactive waste:

(1) Ignitable or reactive waste must not be placed in a tank, unless:

(i) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that (A) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under § 261.21 or § 261.23 of this regulation, and (B) § 265.17(b) is complied with; or

(ii) The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(iii) The tank is used solely for emergencies.

(2) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981) (incorporated by reference, see § 260.11).

~~(f)~~ **(h)** Generators of between 100 and 1,000 kg/mo must comply with the following special requirements for incompatible wastes:

(1) Incompatible wastes, or incompatible wastes and materials, (see Appendix V for examples) must not be placed in the same tank, unless § 265.17(b) is complied with.

(2) Hazardous waste must not be placed in an unwashed tank which previously held an incompatible waste or material, unless § 265.17(b) is complied with.

Subsection K—Surface Impoundments

127. Amend § 265.221 as follows:

a. Amend by revising paragraph (a) to read as follows:

b. In paragraph (d)(2)(i)(A), revise ''in leaking?'' to read ''is leaking''; revise ''soil it is not'' to read ''soil is not''; and revise ''the owner of operator'' to read ''the owner or operator'';

c. In paragraph (d)(2)(i)(B), revise the citation ''§ 144.3 of this chapter'' to read ''40 CFR 270.2''; and add quotation marks around ''underground source of drinking water''.

§ 265.221 Design and operating requirements.

(a) The owner or operator of each new surface impoundment unit ~~on which construction commences after January 29, 1992~~, each lateral expansion of a surface impoundment unit ~~on which construction commences after July 29, 1992~~, and each replacement of an existing surface impoundment unit ~~that is to commence reuse after July 29, 1992~~ must install two or more liners and a leachate collection and removal system **above and** between ~~such~~ **the** liners, and operate the leachate collection and removal system, in accordance with § 264.221(c), unless exempted under §

264.221(d), (e), or (f), of this Regulation. ~~"Construction commences" is as defined in § 260.10 of this regulation under "existing facility."~~

* * * * *

(d) * * *

(2)(i)(A) The monofill has at least one liner for which there is no evidence that such liner ~~in leaking~~ ***is leaking***. For the purposes of this paragraph the term "liner" means a liner designed, constructed, installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility, or a liner designed, constructed, installed, and operated to prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, ground water, or surface water at any time during the active life of the facility. In the case of any surface impoundment which has been exempted from the requirements of paragraph (a) of this section on the basis of a liner designed, constructed, installed, and operated to prevent hazardous waste from passing beyond the liner, at the closure of such impoundment the owner or operator must remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated ~~soil it is not~~ ***soil is not*** removed or decontaminated, the ~~owner of operator~~ ***the owner or operator*** of such impoundment must comply with appropriate postclosure requirements, including but not limited to ground-water monitoring and corrective action;

(B) The monofill is located more than one-quarter mile from an underground source of drinking water (as that term is defined in ~~40 CFR 144.3~~***40 CFR 270.2***); and

* * * * *

128. **Section 265.223** titled "Response actions" is redesignated as § 265.224, and § 265.224 titled "Containment system" is redesignated as § 265.223. and the newly designated § 265.224 is amended by revising paragraph (a) to read as follows:

a. Section 265.223 is moved to **265.224**.

b. Section 265.224 is moved to **Section 265.223**.

129. Amend **Section 265.224** as follows:

a. Amend by revising paragraph (a) to read as follows:

b. Amend paragraph (b)(1) by revising ''exceedence'' to read ''exceedance''.

§ 265.224 Containment system.

(a) The owner or operator of surface impoundment units subject to § 265.221(a) ~~must submit a response action plan to the Director when submitting the proposed action leakage rate under § 265.222~~ **must develop and keep on site until closure of the facility a response action plan.** The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in paragraph (b) of this section.

(b) * * *

(1) Notify the Director in writing of the ~~exceedence~~***exceedance*** within 7 days of the determination;

* * * * *

Subsection L—Waste Piles

130. Amend § 265.255 in paragraph (b) by revising ''surface impoundment units'' to read ''waste pile units''.

§ 265.255 Action leakage rates.

* * * * *

(b) The Director shall approve an action leakage rate for ~~surface impoundment units~~ ***waste pile units*** subject to § 265.254. The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding 1 foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

* * * * *

131. Amend **Section 265.259** as follows:

a. Amend by revising the first sentence of paragraph (a) to read as follows:

b. amend paragraph (b)(1) by revising ''exceedence'' to read ''exceedance''.

§ 265.259 Response actions.

(a) The owner or operator of waste pile units subject to § 265.254 must ~~submit a response action plan to the Director when submitting the proposed action leakage rate under § 265.255~~ **develop and keep on-site until closure of the facility a response action plan.** The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in paragraph (b) of

this section.

(b) * * *

(1) Notify the Director in writing of the ~~exceedence~~ ***exceedance*** within 7 days of the determination;

* * * * *

Subsection M—Land Treatment

132. **Section 265.280** is amended by revising paragraph (e) to read as follows:

§ 265.280 Closure and post-closure.

* * * * *

(e) For the purpose of complying with § 265.115, when closure is completed the owner or operator may submit to the Director certification both by the owner or operator and by an independent, qualified soil scientist, in lieu of an independent qualified Arkansas-registered Professional Engineer, that the facility has been closed in accordance with the specifications in the approved closure plan.

* * * * *

133. In **Section 265.281**, amend paragraph (a)(1) by revising the citation ''§ 265.21'' to read ''§ 261.21''.

§ 265.281 Special requirements for ignitable or reactive waste.

(a) * * *

(1) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under ~~§ 265.21~~**§ 261.21** or § 261.23 of this regulation; and

* * * * *

Subsection N—Landfills

134. Amend **Section 265.301** as follows:

a. Amended by revising paragraph (a) to read as follows:

b. In paragraph (d)(1), revise ''such waste does not'' to read ''such wastes do not''; revise the citation ''§ 261.4'' to read ''§ 261.24''; and revise ''Hazardous Waste Number'' to read ''Hazardous Waste Numbers'';

c. In paragraph (d)(2)(i)(B), revise the citation ''§ 144.3 of this chapter'' to read ''§ 270.2''; and add quotation marks around ''underground source of drinking water''.

§ 265.301 Design and operating requirements.

(a) The owner or operator of each new landfill unit ~~on which construction commences after January 29, 1992~~, each lateral expansion of a landfill unit ~~on which construction commences after July 29, 1992~~, and each replacement of an existing landfill unit ~~that is to commence reuse after July 29, 1992~~ must install two or more liners and a leachate collection and removal system above and between such liners, and operate the leachate collection and removal systems, ~~in accordance with § 264.301(d), (e), or (f), of this regulation~~ **in accordance with § 264.301(c), unless exempted under § 264.301(d), (e), or (f) of this regulation**. ~~"Construction commences" is as defined in § 260.10 of this regulation under "existing facility".~~

* * * * *

(d) * * *

(1) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes hazardous for reasons other than the toxicity characteristic in § 261.24 of this regulation, with EPA ~~Hazardous Waste Number~~ **Hazardous Waste Numbers** D004 through D017; and

* * * * *

(B) The monofill is located more than one-quarter mile from an underground source of drinking water (as that term is defined in ~~40 CFR 144.3~~ **§ 270.2 of this regulation**); and

* * * * *

135. In **Section 265.302**, amend paragraph (b) by revising ''surface impoundment units'' to read ''landfill units''.

§ 265.302 Action Leakage rate.

* * * * *

(b) The Director shall approve an action leakage rate for ~~surface impoundment units~~ **landfill units** subject to § 265.301(a). The action leakage rate is the maximum design flow rate that the leak detection system (LDS) can remove without the fluid head on the bottom liner exceeding 1 foot. The action leakage rate must include an adequate safety margin to allow for uncertainties in the design (e.g., slope, hydraulic conductivity, thickness of drainage material), construction, operation, and location of the LDS, waste and leachate characteristics, likelihood and amounts of other sources of liquids in the LDS, and proposed response actions (e.g., the action leakage rate must consider decreases in the flow capacity of the system over time resulting from siltation and clogging, rib layover and creep of synthetic components of the system, overburden pressures, etc.).

* * * * *

136. Amend **Section 265.303** as follows:

a. Amend by revising paragraph (a) to read as follows

b. Amend paragraph (b)(1) by revising ''exceedence''

to read ''exceedance''.

§ 265.303 Response actions.

(a) The owner or operator of landfill units subject to § 265.301(a) must ~~submit a response action plan to the Director when submitting the proposed action leakage rate under § 265.302~~ **develop and keep on site until closure of the facility a response action plan.** The response action plan must set forth the actions to be taken if the action leakage rate has been exceeded. At a minimum, the response action plan must describe the actions specified in paragraph (b) of this section.

(b) * * *

(1) Notify the Director in writing of the ~~exceedence~~ **exceedance** within 7 days of the determination;

* * * * *

137. In **Section 265.312**, amend paragraph (a)(1) by revising ''dissolution or material'' to read ''dissolution of material''.

§ 265.312 Special requirements for ignitable or reactive waste.

(a) * * *

(1) The resulting waste, mixture, or ~~dissolution or material~~ **dissolution of material** no longer meets the definition of ignitable or reactive waste under § 261.21 or § 261.23 of this regulation; and

* * * * *

138. **Section 265.314** is amended by:

a. Removing paragraph (a);

b. Redesignating paragraphs (b) through (g) as paragraphs (a) through (f); and,

c. Revising newly designated paragraph (a), and the introductory text of newly designated paragraph (f) to read as follows:

d. In paragraph (e)(1)(ii), revise ''polysobutylene'' to read ''polyisobutylene'';

e. In paragraph (f)(2), revise the citation ''§ 144.3 of this chapter'' to read ''40 CFR 270.2''; and add quotation marks around ''underground source of drinking water''.

§ 265.314 Special requirements for bulk and containerized liquids.

~~(a) The following materials shall not be disposed of in landfills permitted under this Regulation and Regulation:~~

~~(1) Bulk liquids, semisolids and sludges unless, before disposal, such waste is treated or stabilized into cement-like material.~~

~~(2) Containers holding free liquids unless all freestanding liquid has been removed or treated or stabilized into cement-like material; or the container is very small, such as an ampule, or is a lab pack as defined in 264.316 or 265.316, as applicable and is disposed of in accordance with 264.316 or 265.316 as applicable.~~

~~(3) Municipal refuse which is not hazardous waste.~~

~~(4) Ignitable wastes in containers, unless all free liquids therein have been removed or treated and stabilized into cement-like material.~~

~~(b)~~ **(a)** ~~Effective May 8, 1985,~~ **T**he placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids (whether or not sorbents have been added) in any landfill is prohibited. Before disposal, liquid waste or waste containing free liquids must be treated or stabilized, (e.g. by mixing with a sorbent solid so that free liquids are no longer present and the waste meets the requirements of (a)(1) or (2) above).

~~(c)~~ **(b)** Containers holding free liquids must not be placed in a landfill unless:

(1) All free-standing liquid,

(i) has been removed by decanting, or other methods,

(ii) has been mixed with sorbent or solidified so that free-standing liquid is no longer observed; or

(iii) had been otherwise eliminated; or

(2) The container is very small, such as an ampule; or

(3) The container is designed to hold free liquids for use other than storage, such as a battery or capacitor; or

(4) The container is a lab pack as defined in § 265.316 and is disposed of in accordance with § 265.316.

~~(d)~~ **(c)** To demonstrate the absence or presence of free liquids in either a containerized or a bulk waste, the following test must be used: Method 9095B (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in § 260.11 of this regulation.

~~(e)~~ **(d)** The date for compliance with paragraph (a) of this section is November 19, 1981. The date for compliance with paragraph (c) of this section is March 22, 1982.

~~(f)~~ **(e)** Sorbents used to treat liquids to be disposed of in landfills must be nonbiodegradable. Nonbiodegradable sorbents are materials listed or described in paragraph (e)(1) of this Subsection; or materials that are determined by the Commission to be nonbiodegradable through the Section 260 petition process.

(1) Nonbiodegradable sorbents (i) Inorganic minerals, other inorganic materials, and elemental carbon (e.g., aluminosilicates, clays, smectites, Fuller's earth, bentonite, calcium bentonite, montmorillonite, calcined montmorillonite, kaolinite, mi-

cas (illite), vermiculites, zeolites, calcium carbonate (organic-free limestone), oxides/hydroxides, alumina, lime, silica (sand), diatomaceous earth, perlite (volcanic glass), expanded volcanic rock, volcanic ash, cement kiln dust, fly ash, rice hull ash, activated charcoal/activated carbon), or

(ii) High molecular weight synthetic polymers (e.g., polyethylene, high density polyethylene (HDPE), polypropylene, polystyrene, polyurethane, polyacrylate, polynorborene, ~~polyisobutylene,~~ **polyisobutylene**, ground synthetic rubber, cross-linked allylstyrene and tertiary butyl copolymers). This does not include polymers derived from biological materials or polymers specifically designed to be degradable; or

(iii) Mixtures of these nonbiodegradable materials.

(2) Tests for nonbiodegradable sorbents. (i) The sorbent material is determined to be nonbiodegradable under ASTM Method G21-70(1984a) - Standard Practice for Determining Resistance of Synthetic Polymer Material to Fungi; or

(ii) The sorbent material is determined to be nonbiodegradable under ASTM Method G22-76 (1984b)-Standard Practice for Determining Resistance of Plastics to Bacteria; or

(iii) The sorbent material is determined to be non-biodegradable under OECD test 301B: [CO_2 Evolution (Modified Sturm Test)].

~~(g)~~ **(f)** ~~Effective November 8, 1985,~~ **T**he placement of any liquid which is not a hazardous waste in a landfill is prohibited unless the owner or operator of such landfill demonstrates to the Director, or the Director determines, that:

(1) The only reasonably available alternative to the placement in such landfill is placement in a landfill or unlined surface impoundment, whether or not permitted or operating under interim status, which contains, or may reasonably be anticipated to contain, hazardous waste; and

(2) Placement in such owner or operator's landfill will not present a risk of contamination of any underground source of drinking water (as that term is defined in ~~40 CFR 144.3~~ **§ 270.2 of this regulation**).

* * * * *

139. At **Section 265.316** paragraph (d), revise ''§ 260.10(a)'' to read ''§ 260.10''.

§ 265.316 Disposal of small containers of hazardous waste in overpacked drums ("lab packs").

* * * * *

(d) Incompatible wastes, as defined in ~~§ 260.10(a)~~**§ 260.10** of this regulation, must not be placed in the same outside container.

* * * * *

Subsection Q—Chemical, Physical, and Biological Treatment

140. In **Section 265.405**, amend paragraph (a)(1) by revising the citation ''§ 261.21 or 261.23 or this chapter'' to read ''§§ 261.21 or 261.23 of this chapter''.

§ 265.405 Special requirements for ignitable or reactive waste.

(a) * * *

(1) The waste is treated, rendered, or mixed before or immediately after placement in the treatment process or equipment so that (i) the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under ~~§ 261.21 or 261.23 or this~~**§§ 261.21 or 261.23 of this** regulation, and (ii) § 265.17(b) is complied with; or

* * * * *

Subsection W—Drip Pads

141. **Section 265.441** is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 265.441 Assessment of existing drip pad integrity.

(a) For each existing drip pad as defined in § 265.440, the owner or operator must evaluate the drip pad and determine that it meets all of the requirements of this Subsection, except the requirements for liners and leak detection systems of § 265.443(b). No later than the effective date of this rule, the owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent qualified Arkansas-registered Professional Engineer that attests to the results of the evaluation. The assessment must be reviewed, updated, and re-certified annually until all upgrades, repairs, or modifications necessary to achieve compliance with all the standards of § 265.443 are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of § 265.443, except the standards for liners and leak detection systems, specified in § 265.443(b).

(b) The owner or operator must develop a written plan for upgrading, repairing, and modifying the drip pad to meet the requirements of § 265.443(b), and submit the plan to the Director no later than 2 years before the date that all repairs, upgrades, and modifications are complete. This written plan must describe all changes to be made to the drip pad in suf-

ficient detail to document compliance with all the requirements of § 265.443. The plan must be reviewed and certified by an independent qualified Arkansas-registered Professional Engineer.

(c) Upon completion of all repairs and modifications, the owner or operator must submit to the Director or state Director, the as-built drawings for the drip pad together with a certification by an independent qualified Arkansas-registered Professional Engineer attesting that the drip pad conforms to the drawings.

* * * * *

142. **Section 265.443** is amended by revising paragraphs (a)(4)(ii) and (g) to read as follows:

§ 265.443 Design and operating requirements.

(a) ** *

(4)(i) * * *

(ii) The owner or operator must obtain and keep on file at the facility a written assessment of the drip pad, reviewed and certified by an independent qualified Arkansas-registered Professional Engineer that attests to the results of the evaluation. The assessment must be reviewed, updated and recertified annually. The evaluation must document the extent to which the drip pad meets the design and operating standards of this section, except for paragraph (b) of this section.

* * * * *

(g) The drip pad must be evaluated to determine that it meets the requirements of paragraphs (a) through (f) of this section and the owner or operator must obtain a statement from an independent qualified Arkansas-registered Professional Engineer certifying that the drip pad design meets the requirements of this section.

* * * * *

143. **Section 265.444** is amended by revising paragraph (a) to read as follows:

§ 265.444 Inspections.

(a) During construction or installation, liners and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation, liners must be inspected and certified as meeting the requirements of § 265.443 by an independent qualified Arkansas-registered Professional Engineer. This certification must be maintained at the facility as part of the facility operating record. After installation, liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters.

* * * * *

144. In **Section 265.445**, amend paragraph (b) by revising ''post/closure care'' to read ''post-closure care''.

§ 265.445 Closure.

* * * * *

(b) If, after removing or decontaminating all residues and making all reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required in paragraph (a) of this section, the owner or operator finds that not all contaminated subsoils can be practically removed or decontaminated, he must close the facility and perform ~~post/closure care~~ **post-closure care** in accordance with closure and post-closure care requirements that apply to landfills (§ 265.310). For permitted units, the requirement to have a permit continues throughout the ~~postclosure~~ **post-closure care** period.

* * * * *

Subsection AA—Air Emission Standards for Process Vents

145. In **Section 265.1033,** amend paragraph (f)(2)(ii) by replacing the period with a comma after 0.5 °C''.

§ 265.1033 Standards: Closed-vent systems and control devices.

* * * * *

(f) * * *

(2) * * *

(ii) For a catalytic vapor incinerator, a temperature monitoring device equipped with a continuous recorder. The device shall be capable of monitoring temperature at two locations and have an accuracy of ±1 percent of the temperature being monitored in °C or ±0.5 °C~~.~~ **,** whichever is greater. One temperature sensor shall be installed in the vent stream at the nearest feasible point to the catalyst bed inlet and a second temperature sensor shall be installed in the vent stream at the nearest feasible point to the catalyst bed outlet.

* * * * *

146. Amend **Section 265.1035** as follows:

a. In paragraph (b)(2) introductory text, replace the period with a comma after the citation ''§ 265.1032'';

b. In paragraph (b)(2)(i), revise ''annual throughput end operating hours'' to read ''annual throughput and operating hours'';

c. In paragraph (c)(4)(i), replace the period with a comma after the first occurrence of ''760 ?C''.

§ 265.1035 Recordkeeping requirements.

* * * * *

(b) * * *

(2) Up-to-date documentation of compliance with the process vent standards in § 265.1032~~.~~ **,** including:

* * * * *

(b) * * *

(2) * * *

(i) Information and data identifying all affected process vents, ~~annual throughput and operating hours~~ **annual throughput and operating hours** of each affected unit, estimated emission rates for each affected vent and for the overall facility (i.e., the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (e.g., identify the hazardous waste management units on a facility plot plan); and

* * * * *

(c) * * *

(4) * * *

(i) For a thermal vapor incinerator designed to operate with a minimum residence time of 0.50 seconds at a minimum temperature of 760°C~~.~~ **,** period when the combustion temperature is below 760°C.

* * * * *

Subsection BB—Air Emission Standards for Equipment Leaks

147. **Section 265.1061** is amended by removing paragraphs (b)(1) and (d), and redesignating paragraphs (b)(2) and (b)(3) as paragraphs (b)(1) and (b)(2).

§ 265.1061 Alternative standards for valves in gas/vapor service or in light liquid service; percentage of valves allowed to leak.

(a) An owner or operator subject to the requirements of § 265.1057 may elect to have all valves within a hazardous waste management unit comply with an alternative standard which allows no greater than 2 percent of the valves to leak.

(b) The following requirements shall be met if an owner or operator decides to comply with the alternative standard of allowing 2 percent of valves to leak:

~~(1) An owner or operator must notify the Director that the owner or operator has elected to comply with the requirements of this section.~~

~~(2)~~ **(1)** A performance test as specified in paragraph (c) of this section shall be conducted initially upon designation, annually, and at other times requested by the Director.

~~(3)~~ **(2)** If a valve leak is detected, it shall be repaired in accordance with § 265.1057 (d) and (e).

(c) * * *

~~(d) If an owner or operator decides no longer to comply with this section, the owner or operator must notify the Director in writing that the work practice standard described in § 265.1057 (a) through (e) will be followed.~~

148. **Section 265.1062** is amended by removing paragraph (a)(2) and redesignating paragraph (a)(1) as paragraph (a).

§ 265.1062 Alternative standards for valves in gas/vapor or in light liquid service; skip period leak detection and repair.

(a)~~(1)~~ An owner or operator subject to the requirements of § 265.1057 may elect for all valves within a hazardous waste management unit to comply with one of the alternative work practices specified in paragraphs (b) (2) and (3) of this section.

~~(2) An owner or operator must notify the Director before implementing one of the alternative work practices.~~

149. In § 265.1063, amend paragraph (b)(4)(ii) by replacing the period in ''10.000'' with a comma.

§ 265.1063 Test methods and procedures.

* * * * *

(b) * * *

(4) * * *

(ii) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10~~.~~ **,** 000 ppm methane or n-hexane.

* * * * *

SubSection CC—Air Emission Standards for Tanks, Surface Impoundments, and Containers

150. In **Section 265.1080**, amend paragraph (a) by revising the citation ''Subsections I, J, or K'' to read ''Subsection I, J, or K''.

§ 265.1080 Applicability.

(a) The requirements of this subsection apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste in tanks, surface impoundments, or containers subject to either ~~subsections I, J, or K~~ **subsection I, J, or K** of this Section except as § 265.1 and paragraph (b) of this section provide otherwise.

* * * * *

151. In **Section 265.1085**, amend paragraph (h)(3) introductory text, by revising ''under either or the following'' to read ''under either of the following''.

§ 265.1085 Standards: Tanks.

* * * * *

(h) * * *

(3) Whenever a hazardous waste is in the tank, the tank shall be operated as a closed system that does not vent to the atmosphere except ~~under either or the following~~ ***under either of the following*** conditions as specified in paragraph (h)(3)(i) or (h)(3)(ii) of this section.

* * * * *

152. In **Section 265.1090**, amend paragraph (f)(1) by revising the citation ''§ 265.1084(c)(2)(i)'' to read ''§ 265.1083(c)(2)(i)''.

§ 265.1090 Recordkeeping requirements.

* * * * *

(f) * * *

(1) For tanks, surface impoundments, or containers exempted under the hazardous waste organic concentration conditions specified in § 265.1083(c)(1) or or ~~§ 265.1084(c)(2)(i)~~ **§ 265.1083(c)(2)(i)** through (c)(2)(vi) of this subsection, the owner or operator shall record the information used for each waste determination (e.g., test results, measurements, calculations, and other documentation) in the facility operating log. If analysis results for waste samples are used for the waste determination, then the owner or operator shall record the date, time, and location that each waste sample is collected in accordance with applicable requirements of § 265.1084 of this subsection.

* * * * *

Subsection DD—Containment Buildings

153. Amend **Section 265.1035** as follows:

a. amended by revising the introductory text to read as follows:

b. amend paragraph (d) by revising ''permit'' to read ''prevent''.

§ 265.1100 Applicability.

The requirements of this Subsection apply to owners or operators who store or treat hazardous waste in units designed and operated under § 265.1101 of this subsection. ~~These provisions became effective on February 18, 1993, although the owner or operator may notify the Director of his intent to be bound by this subsection at an earlier time.~~ The owner or operator is not subject to the definition of land disposal in RCRA section 3004(k) provided that the unit:

* * * * *

(d) Has controls as needed to ~~permit~~ **prevent** fugitive dust emissions; and

* * * * *

154. Amend **Section 265.1101** as follows:

a. In paragraph (b)(3)(iii), revise the citation ''§ 265.193(d)(1)'' to read ''§ 265.193(e)(1)'';

b. Amend revising paragraphs (c)(2) to read as follows:

c. In paragraph (c)(3) introductory text, revise ''hazardous waste, must repair'' to read ''hazardous waste, the owner or operator must repair'';

d. Amend revising paragraphs (c)(4) to read as follows:

e. In paragraph (d) introductory text, revise ''For containment'' to read ''For a containment''.

§ 265.1101 Design and operating standards.

* * * * *

(b) * * *

(3) * * *

(iii) The secondary containment system must be constructed of materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building. (Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions. A containment building can serve as an external liner system for a tank, provided it meets the requirements of ~~§ 265.193(d)(1)~~ **§ 265.193(e)(1)**. In addition, the containment building must meet the requirements of § 265.193 (b) and (c) to be considered an acceptable secondary containment system for a tank.)

* * * * *

(c) ** *

(2) Obtain and keep on-site a certification by an independent qualified Arkansas-registered Professional Engineer that the containment building design meets the requirements of paragraphs (a), (b), and (c) of this section.

* * * * *

(3) Throughout the active life of the containment building, if the owner or operator detects a condition that could lead to or has caused a release of ~~hazardous waste, must repair~~ **hazardous waste, the owner or operator must repair** the condition promptly, in accordance with the following proce-

dures.

* * * * *

(4) Inspect and record in the facility's operating record at least once every seven days, **except for Performance Track member facilities, that must inspect up to once each month, upon approval of the director**, data gathered from monitoring and leak detection equipment as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste. **To apply for reduced inspection frequency, the Performance Track member facility must follow the procedures described in § 265.15(b)(5).**

* * * *

(d) ~~For containment~~ **For a containment** building that contains both areas with and without secondary containment, the owner or operator must:

* * * * *

155. Amend **Appendix I to Section 265** as follows:

a. In Table 1, add unit of measure codes for ''Pounds,'' ''Short tons,'' ''Kilograms,'' and ''Tons'' at the end of the table to read as set forth below;

b. In Table 2, Section 2.(d), revise ''T75 Tricking filter'' to read ''T75 Trickling filter'';

c. In Table 2, Section 4., revise the heading ''Miscellaneous (Subsection X)'' to read ''Miscellaneous'';

Appendix I — Recordkeeping Instructions

Table 1

* * * * *

Unit of measure	Code1
Gallons	G
Gallons per Hour	E
Gallons per Day	U
Liters	L
Liters per Hour	H
Liters per Day	V
Short Tons per Hour	D
Metric Tons per Hour	W
Short Tons per Day	N
Metric Tons per Day	S
Pounds per Hour	J
Kilograms per Hour	R
Cubic Yards	Y
Cubic Meters	C
Acres	B
Acre-feet	A
Hectares	Q
Hectare-meter	F
Btu's per Hour	I
Pounds	**P**
Short tons	**T**
Kilograms	**K**
Tons	**M**

* * * * *

Table 2.

Handling Codes for Treatment, Storage and Disposal Methods

* * * * *

2. Treatment

* * * * *

(d) Biological Treatment

* * * * *

~~T75 Tricking filter~~

T75 Trickling filter

* * * * *

4. ~~Miscellaneous (Subsection X)~~ **Miscellaneous**

* * * * *

156. In the table in **Appendix V to Section 26**5, under the Group 1–A column, revise the phrase ''Akaline caustic liquids'' to read ''Alkaline caustic liquids''; and revise ''Lime sludge and other corrosive alkalines'' to read ''Lime sludge and other corrosive alkalies''.

* * * * *

Appendix V — Examples of Potentially Incompatible Waste

Group 1-A

* * * * *

~~Akaline caustic liquids~~ **Alkaline caustic liquids**

* * * * *

157. Amend **Appendix VI to Section 265** as follows:

a. In the entry ''Dichlorvos (DDVP)'', revise the CAS No. ''62737'' to read ''62–73–7'';

b. In the entry ''Ethylene thiourea (2-imidazolidinethione)'' revise the CAS No. ''9–64–'' to read ''96–45–7'';

c. In the entry ''Neopentyl glycol (dimethylolpropane)'' revise ''dimethylolpropane'' to read ''dimethylpropane'';

d. In the entry ''1,3-Propane sulfone'', revise ''sulfone'' to read ''sultone''.

Appendix VI to Section 265 — Compounds With Henry's Law Constant Less Than 0.1 Y/X

* * * * *

Dichlorvos (DDVP)..... ~~62737~~**62–73–7**

* * * * *

Ethylene thiourea (2-imidazolidinethione)..... .. ~~9-64-57~~**96–45–7**

* * * * *

Neopentyl glycol (~~dimethylolpropane~~ **dimethylpropane**)..... 126-30-7

* * * * *

1,3-Propane ~~sulfone~~ **sultone**..... 1120-71-4

* * * * *

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

158. In **§ 266.80,** amend the Table in paragraph (a) by inserting, in the third column, a comma after ''(except for § 262.11)'' in all four instances and change "undernotification" to read under notification.

§ 266.80 Applicability and requirements.

* * * * *

(a)

Then you * **

#3

are exempt from Reg. 23 262 (except for 262.11)**,** 263, 264, 265, 266, 270, and the provisions ~~undernotification~~ **under notification** requirements at section 3010 of RCRA.

#5

are exempt from Reg. 23 Sections 262 (except for 262.11)**,** 263, 264, 265, 266, 270, and the notification requirements at section 3010 of RCRA.

* * * * *

159. Amend **Section 266.100** as follows:

a. Revise the first sentence of paragraph (b)(1) and adding paragraphs (b)(3) and (b)(4) to read as follows:

b. In paragraph (d)(2)(iv), revise ''266.212'' to read ''266.112'';

c. In paragraph (d)(3)(i)(A), revise ''appendix IX'' to read ''appendix XI'';

§ 266.100 Applicability.

* * * * *

(b) * * *

(1) Except as provided by paragraphs (b)(2)**,** **(b)(3), and (b)(4)** of this section, the standards of this section ~~no longer apply when an affected source demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR Part 63, subpart EEE, by conducting a comprehensive performance test and submitting to the Director a Notification of Compliance under 40 CFR §§ 63.1207(j) and 63.1210(b) documenting compliance with the requirements of 40 CFR Part 63, subpart EEE. Nevertheless, even after this demonstration of compliance with the MACT standards, RCRA permit conditions that were based on the standards of this part will continue to be in effect until they are removed from the permit or the permit is terminated or revoked, unless the permit expressly provides otherwise.~~ **do not apply to a new hazardous waste boiler or industrial furnace unit that becomes subject to RCRA permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing hazardous waste boiler or industrial furnace unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR part 63, subpart EEE by conducting a comprehensive performance test and submitting to the Director a Notification of Compliance under 40 CFR §§ 63.1207(j) and 63.1210(d) documenting compliance with the requirements of 40 CFR part 63, subpart EEE.**

* * * * *

(2) * * *

(iv) The standards for regulation of residues of ~~§ 266.212~~ **§ 266.112***;* and

* * * * *

(3) If you own or operate a boiler or hydrochloric acid production furnace that is an area source under 40 CFR § 63.2 and you elect not to comply with the emission standards under 40 CFR §§ 63.1216, 63.1217, and 63.1218 for particulate matter, semivolatile and low volatile metals, and total chlorine, you also remain subject to:

(i) Section 266.105—Standards to control particulate matter;

(ii) Section 266.106—Standards to control metals emissions, except for mercury; and

(iii) Section 266.107—Standards to control hydrogen chloride and chlorine gas.

(4) The particulate matter standard of § 266.105 remains in effect for boilers that elect to comply with the alternative to the particulate matter standard under 40 CFR §§ 63.1216(e) and 63.1217(e).

* * * * *

(d) * * *

(3) * * *

(i) * * *

(A) A waste listed in ~~appendix IX~~ **appendix XI** of this section must contain recoverable levels of lead, a waste listed in Appendix XII of this section must contain recoverable levels of nickel or chromium, a waste listed in Appendix XIII of this section must contain recoverable levels of mercury and contain less than 500 ppm of Section 261, Appendix VIII organic constituents, and baghouse bags used to capture metallic dusts emitted by steel manufacturing must contain recov-

erable levels of metal; and
* * * * *

160. Amend **Section 266.102** as follows:

a. In paragraph (a)(2)(vi), revise ''(Corrective Action)'' to read ''(Releases from Solid Waste Management Units)'';

b. In paragraph (e)(3)(i)(E), revise the citation ''§ 266.111(b)'' to read ''§ 266.105(a)'';

c. In paragraph (e)(5)(i)(C), revise ''chorline'' to read ''chlorine''; and revise ''feestocks'' to read ''feedstocks'';

d. In paragraph (e)(6)(ii)(B)(2), revise ''of preceding'' to read ''of the preceding'';

e. In paragraph (e)(8)(iii), revise ''values'' to read ''valves''.

f. Amend by revising paragraph (e)(10) to read as follows:

§ 266.102 Permit standards for burners.

(a) * * *

(2) * * *

(vi) In subsection F (~~Corrective Action~~ **Releases from Solid Waste Management Units**), §§ 264.90 and 264.101;

* * * * *

(e) * * *

(3)(i) * * *

(E) Such other operating requirements as are necessary to ensure that the particulate standard in § ~~266.111(b)~~ **§ 266.105(a)** is met.

* * * * *

(5) * * *

(i) * * *

(C) A sampling and analysis program for total chloride and chlorine for the hazardous waste, other fuels, and industrial furnace ~~feestocks~~ **feedstocks**;

* * * * *

(6) * * *

(ii) * * *

(B) * * *

(*2*) The rolling average for the selected averaging period is defined as the arithmetic mean of one hour block averages for the averaging period. A one hour block average is the arithmetic mean of the one minute averages recorded during the 60- minute period beginning at one minute after the beginning ~~of preceding~~ **of the preceding** clock hour; and

* * * * *

(8) * * *

(iii) The boiler or industrial furnace and associated equipment (pumps, ~~values~~ **valves**, pipes, fuel storage tanks, etc.) must be subjected to thorough visual inspection when it contains hazardous waste, at least daily for leaks, spills, fugitive emissions, and signs of tampering.

* * * * *

(10) Recordkeeping. The owner or operator must ~~keep~~ **maintain** in the operating record of the facility all information and data required by this section ~~until closure of the facility~~ **for five years.**

* * * * *

161. Amend **Section 266.103** as follows:

a. In paragraph (a)(4)(vii), revise the citation ''265.147–265.151'' to read ''265.147–265.150'';

b. In paragraph (b)(2)(v)(B)(2), revise ''meterological'' to read ''meteorological'';

c. In paragraph (b)(5)(ii)(A), revise ''on a hourly'' to read ''on an hourly'';

d. Revise paragraphs (c)(1)(i) introductory text to read as follows:

e. In paragraph (c)(1)(ii)(A)(2), revise ''feedsteams'' to read ''feedstreams'';

f. Revise paragraphs (c)(1)(ix) introductory text to read as follows:

g. In paragraph (c)(1)(ix)(A), revise ''ration'' to read ''ratio'';

h. In paragraph (c)(4)(iv)(C)(1), revise ''on a hourly'' to read ''on an hourly'';

i. Amend by revising paragraph (d) to read as follows:

j. In paragraph (g)(1)(i), revise ''on a hourly'' to read ''on an hourly''.

k. Amend by revising paragraph (k) to read as follows:

§ 266.103 Interim status standards for burners.

(a) * * *

(4) * * *

(vii) In subsection H (Financial requirements), §§ 265.141, 265.142, 265.143, and ~~265.147-265.151~~**265.147–265.150**, except that States and the Federal government are exempt from the requirements of subsection H; and

* * * * *

(b) * * *

(2) * * *

(v) * * *

(B) * * *

(*2*) Source of ~~meterological~~ **meteorological** data;

* * * * *

(5) * * *

(ii)

(A) The feed rate of each metal shall be

limited at any time to ten times the feed rate

that would be allowed ~~on a hourly~~ **on an hourly** rolling average basis;

* * * * *

(c) * * *

(1) * * *

~~(i) Feed rate of total hazardous waste and (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under § 266.1~~

(i) Feed rate of total hazardous waste and (unless complying with the Tier I or adjusted Tier I metals feed rate screening limits under § 266.106(b) or (e)), pumpable hazardous waste;

* * * * *

(ii) * * *

(A) * * *

(*2*) Industrial furnaces that must comply with the alternative metals implementation approach under paragraph (c)(3)(ii) of this section must specify limits on the concentration of each metal in the collected particulate matter in lieu of feed rate limits for total ~~feedsteams~~ ***feedstreams***;

* * * * *

~~(ix) For systems using wet scrubbers, including wet ionizing scrubbers (unless complying with Tier I or Adjusted Tier I metals feed rate screening limits under § 266.106(b) or (e) and the total chlorine and chloride feed rate screening limits under § 266.107(b)(1) or (e)):~~ **(ix) For systems using wet scrubbers, including wet ionizing scrubbers (unless complying with the Tier I or Adjusted Tier I metals feed rate screening limits under § 266.106(b) or (e) and the total chlorine and chloride feed rate screening limits under § 266.107(b)(1) or (e)):**

(A) Minimum liquid to flue gas ~~ration~~ **ratio**;

* * * * *

(4) * * *

(iv) * * *

(C) * * *

(*1*) The feed rate of each metal shall be limited at any time to ten times the feed rate that would be allowed ~~on a hourly~~ **on an hourly** rolling average basis;

* * * * *

(d) *Periodic Recertifications*. The owner or operator must conduct compliance testing and submit to the Director a recertification of compliance under provisions of paragraph (c) of this section within ~~three~~ **five** years from submitting the previous certification or recertification. If the owner or operator seeks to recertify compliance under new operating conditions, he/she must comply with the requirements of paragraph (c)(8) of this section.

* * * * *

(g) * * *

(1) * * *

(i) If compliance with the combustion chamber temperature limit is based ~~on a hourly~~ **on an hourly** rolling average, the minimum temperature during the compliance test is considered to be the average over all runs of the lowest hourly rolling average for each run; or

* * * * *

(k) *Recordkeeping*. The owner or operator must keep in the operating record of the facility all information and data required by this section ~~until closure of the boiler or industrial furnace unit.~~ **for five years.**

* * * * *

162. In **Section 266.106**, amend paragraph (d)(1) by deleting the second appearance of the phrase ''dispersion modeling to predict the maximum annual average off-site ground level concentration for each''.

§ 266.106 Standards to control metals emissions.

* * * * *

(d) * * *

(1) General. Conformance with the Tier III metals controls must be demonstrated by emissions testing to determine the emission rate for each metal. In addition, conformance with either the Tier III or Adjusted Tier I metals controls must be demonstrated by air dispersion modeling to predict the maximum annual average off-site ground level concentration for each ~~dispersion modeling to predict the maximum annual average off-site ground level concentration for each~~ metal, and a demonstration that acceptable ambient levels are not exceeded.

* * * * *

163. Amend § 266.109 paragraph (a)(2)(ii), revise ''constitutent'' to read ''constituent'' in both instances;

§ 266.109 Low risk waste exemption.

(a) * * *

(2) * * *

(ii) Calculate reasonable, worst case emission rates for each ~~constitutent~~ **constituent** identified in paragraph (a)(2)(i) of this section by assuming the device achieves 99.9 percent destruction and removal efficiency.

That is, assume that 0.1 percent of the mass weight of each ~~constitutent~~ **constituent** fed to the device is emitted.

* * * * *

Subsection N—Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal.

164. Amend **Section 266** by revising the Subsection heading to read as set forth above.

~~**Subsection N—Conditional Exemption for Low-Level Mixed Waste Storage and Disposal**~~
Subsection N—Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation and Disposal.
* * * * *

165. Amend **Section 266, Appendix III** column headings by revising ''$C1_2$'' to read ''Cl_2,'' three times, and by revising ''HC1'' to read ''HCl'' three times (i.e., revise the ''1'' (one) to be a lower-case letter L in all six cases).

Appendix III-Tier II Emission Rate Screening Limits for Free Chlorine and Hydrogen Chloride Noncomplex terrain Complex terrain
* * * * *
~~Cl2 (g/hr) HC1 (g/hr) C12 (g/hr) HC1 (g/hr) C12 (g/hr) HC1 (g/hr)~~
Cl_2 (g/hr) HCl (g/hr) Cl_2 (g/hr) HCl (g/hr) Cl_2 (g/hr) HCl (g/hr)
* ~~*~~ * * *

166. Amend **Section 266, Appendix IV** by Revising the entry ''Maleic Anyhdride'' to read ''Maleic Anhydride'';

Appendix IV-Reference Air Concentrations*

* * * * *
~~Maleic Anyhdride~~ **Maleic Anhydride**
* * * * *

167. Amend **Section 266, Appendix V** as follows:

a. Revise the third column heading ''Unit risk (m3/?g)'' to read ''Unit risk (m3/?g)'';

b. Revise the fourth column heading ''RsD (?g/m3)'' to read ''RsD (?g/m3)'';

c. Revise the entry ''Benxene'' to read ''Benzene'';

d. Revise the entry ''Hexachlorodibenxo-p-dioxin (1,2 Mixture)'' to read ''Hexachlorodibenzo-p-dioxin (1,2 Mixture)''.

Appendix V-Risk Specific Doses (10^{-5})
* * * * *
~~Unit risk~~
~~(m3/ug)~~
Unit risk (m3/⌈g)
* * * * *
~~RsD~~
~~(ug/m3)~~
RsD (⌈g/m3)
* * * * *
~~Benxene~~ **Benzene**
* * * * *
~~Hexachlorodibenxo- p-dioxin(1,2 Mixture)~~ **Hexachlorodibenzo-p-dioxin (1,2 Mixture)**
* * * * *

168. Amend **Section 266, Appendix VI** by revising the first column heading ''Flow rate (m^3/s)'' to read ''Flow rate (m^3/s)''.

Appendix VI-Stack Plume Rise

* * * * *
~~Flow rate (m3/s)~~
Flow rate (m3/s)
* * * * *

169. Amend **Section 266, Appendix XIII** at item number 14 by revising ''levels or mercury'' to read ''levels of mercury''.

Appendix XIII to Section 266 - Mercury Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

* * * * *
Recoverable ~~levels or mercury~~ **levels of mercury** contained in soil
* * * * *

170. **Section 267** is added to read as follows:

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

Subsection A—General

§ 267.1 What are the purpose, scope and applicability of this section?

(a) The purpose of this section is to establish minimum national standards which define the acceptable management of hazardous waste under a Section 270, subsection J standardized permit.

(b) This section applies to owners and operators of facilities who treat or store hazardous waste under a

Section 270, subsection J standardized permit, except as provided otherwise in Section 261, subsection A, or Section 264.1(f) and (g) of this Regulation.

§ 267.2 What is the relationship to interim status standards?

If you are a facility owner or operator who has fully complied with the requirements for interim status—as defined in Section 3005(e) of RCRA and Section 270.70 of this Regulation—you must comply with the regulations specified in Section 265 of this Regulation instead of the regulations in this section, until final administrative disposition of the standardized permit application is made, except as provided under Section 264, subsection S.

§ 267.3 How does this section affect an imminent hazard action?

Notwithstanding any other provisions of this section, enforcement actions may be brought pursuant to section 7003 of RCRA.

Subsection B—General Facility Standards

§ 267.10 Does this subsection apply to me?

This subsection applies to you if you own or operate a facility that treats or stores hazardous waste under a Section 270, subsection J standardized permit, except as provided in § 267.1(b) of this Regulation.

§ 267.11 What must I do to comply with this subsection?

To comply with this subsection, you must obtain an EPA identification number, and follow the requirements below for waste analysis, security, inspections, training, special waste handling, and location standards.

§ 267.12 How do I obtain an EPA identification number?

You must apply to the Department for an EPA identification number following the current notification procedures and using forms as provided by the Department. You may obtain these forms by contacting the Department, or from the ADEQ web site at http://www.adeq.state.ar.us

§ 267.13 What are my waste analysis requirements?

(a) Before you treat or store any hazardous wastes, you must obtain a detailed chemical and physical analysis of a representative sample of the wastes. At a minimum, the analysis must contain all the information needed to treat or store the waste to comply with this section and Section 268 of this Regulation.

(1) You may include data in the analysis that was developed under Section 261, and published or documented data on the hazardous waste or on hazardous waste generated from similar processes.

(2) You must repeat the analysis as necessary to ensure that it is accurate and up to date. At a minimum, you must repeat the analysis if the process or operation generating the hazardous wastes has changed.

(b) You must develop and follow a written waste analysis plan that describes the procedures you will follow to comply with paragraph (a) of this section. You must keep this plan at the facility. If you receive wastes generated from off-site, and are eligible for a standardized permit, you also must have submitted the waste analysis plan with the Notice of Intent. At a minimum, the plan must specify all of the following:

(1) The hazardous waste parameters that you will analyze and the rationale for selecting these parameters (that is, how analysis for these parameters will provide sufficient information on the waste's properties to comply with paragraph (a) of this section).

(2) The test methods you will use to test for these parameters.

(3) The sampling method you will use to obtain a representative sample of the waste to be analyzed. You may obtain a representative sample using either:

(i) One of the sampling methods described in appendix I of Section 261; or

(ii) An equivalent sampling method.

(4) How frequently you will review or repeat the initial analysis of the waste to ensure that the analysis is accurate and up to date.

(5) Where applicable, the methods you will use to meet the additional waste analysis requirements for specific waste management methods as specified in §§ 264.17, 264.1034(d), 264.1063(d), and 264.1083.

§ 267.14 What are my security requirements?

(a) You must prevent, and minimize the possibility for, livestock and unauthorized people from entering the active portion of your facility.

(b) Your facility must have:

(1) A 24-hour surveillance system (for example, television monitoring or surveillance by guards or facility personnel) that continuously monitors and controls entry onto the active portion of the facility; or

(2) An artificial or natural barrier (for example, a fence in good repair or a fence combined with a cliff) that completely surrounds the active portion of the facility; and

(3) A means to control entry, at all times, through the gates or other entrances to the active portion of the facility (for example, an attendant, television monitors, locked entrance, or controlled roadway access to the facility).

(c) You must post a sign at each entrance to the active portion of a facility, and at other prominent locations, in sufficient numbers to be seen from any approach to this active portion. The sign must bear the legend "Danger—Unauthorized Personnel Keep Out." The legend must be in English and in any other language predominant in the area surrounding the facility (for example, facilities in counties bordering the Canadian province of Quebec must post signs in French, and facilities in counties bordering Mexico must post signs in Spanish), and must be legible from a distance of at least 25 feet. You may use existing signs with a legend other than "Danger—Unauthorized Personnel Keep Out" if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion, and that entry onto the active portion can be dangerous.

§ 267.15 What are my general inspection requirements?

(a) You must inspect your facility for malfunctions and deterioration, operator errors, and discharges that may be causing, or may lead to:

(1) Release of hazardous waste constituents to the environment; or

(2) A threat to human health. You must conduct these inspections often enough to identify problems in time to correct them before they result in harm to human health or the environment.

(b) You must develop and follow a written schedule for inspecting, monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.

(1) You must keep this schedule at the facility.

(2) The schedule must identify the equipment and devices you will inspect and what problems you look for, such as malfunctions or deterioration of equipment (for example, inoperative sump pump, leaking fitting, etc.).

(3) The frequency of your inspections may vary for the items on the schedule. However, the frequency should be based on the rate of deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies required in §§ 267.174, 267.193, 267.195, 267.1103, and §§ 264.1033, 264.1052, 264.1053, 264.1058, and 264.1083 through 264.1089, where applicable.

(c) You must remedy any deterioration or malfunction of equipment or structures that the inspection reveals in time to prevent any environmental or human health hazard. Where a hazard is imminent or has already occurred, you must take remedial action immediately.

(d) You must record all inspections. You must keep these records for at least three years from the date of inspection. At a minimum, you must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

§ 267.16 What training must my employees have?

(a) Your facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this section. You must ensure that this program includes all the elements described in the documents that are required under paragraph (d)(3) of this section.

(1) A person trained in hazardous waste management procedures must direct this program, and must teach facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to their employment positions.

(2) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by including instruction on emergency procedures, emergency equipment, and emergency systems, including all of the following, where applicable:

(i) Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment

(ii) Key parameters for automatic waste feed cut-off systems.

(iii) Communications or alarm systems.

(iv) Response to fires or explosions.

(v) Response to ground water contamination incidents.

(vi) Shutdown of operations.

(b) Facility personnel must successfully complete the program required in paragraph (a) of this section within six months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of your standardized permit must not work in unsupervised positions until they have completed the training requirements of paragraph (a) of this section.

(c) Facility personnel must take part in an annual review of the initial training required in paragraph (a) of this section.

(d) You must maintain the following documents and records at your facility:

(1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

(2) A written job description for each position listed under paragraph (d)(1) of this section. This description must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position;

(3) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (d)(1) of this section;

(4) Records that document that facility personnel have received and completed the training or job experience required under paragraphs (a), (b), and (c) of this section.

(e) You must keep training records on current personnel until your facility closes. You must keep training records on former employees for at least three years from the date the employee last worked at your facility. Personnel training records may accompany personnel transferred within your company.

(f) Additionally, you must meet the following requirements:

(1) No employee may be assigned the duties of transferring, handling, sorting, mixing, treating or disposing of hazardous waste unless that employee meets the requirements set out in § 267.16 (a), (b) and (c) above.

(2) No employee may be assigned the duties of transferring, handling, sorting, mixing, treating or disposing of hazardous waste unless that employee has demonstrated his/her capabilities of:

(i) Reading and comprehending label instructions, operational procedures, contingency plans and regulatory directives;

(ii) Understanding the basic nature of the materials which he/she is assigned to transfer, handle, sort, mix, treat or dispose relative to the material's reactivity, toxicity, explosiveness and flammability; and

(iii) Operating all equipment which he/she is assigned to operate, including personal safety and emergency equipment.

(3) You must promptly modify the training required of your employees whenever required to do so upon the direction of the Department or whenever modification in training is required as a condition of permit; provided, however, that preliminary training, approved by the Department, shall have been completed prior to commencement of operation of a new hazardous waste management facility or prior to commencement of an operation in an existing facility for which a permit has been issued or modified.

§ 267.17 What are the requirements for managing ignitable, reactive, or incompatible wastes?

(a) You must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste by following these requirements:

(1) You must separate these wastes and protect them from sources of ignition or reaction such as: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (for example, from heat-producing chemical reactions), and radiant heat.

(2) While ignitable or reactive waste is being handled, you must confine smoking and open flames to specially designated locations.

(3) "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(b) If you treat or store ignitable or reactive waste, or mix incompatible waste or incompatible wastes and other materials, you must take precautions to prevent reactions that:

(1) Generate extreme heat or pressure, fire or explosions, or violent reactions.

(2) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment.

(3) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosions.

(4) Damage the structural integrity of the device or facility.

(5) Threaten human health or the environment in any similar way.

(c) You must document compliance with paragraph (a) or (b) of this section. You may base this documentation on references to published scientific or engineering

literature, data from trial tests (for example bench scale or pilot scale tests), waste analyses (as specified in § 267.13), or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

§ 267.18 What are the standards for selecting the location of my facility?

(a) You may not locate portions of new facilities where hazardous waste will be treated or stored within 61 meters (200 feet) of a fault that has had displacement in Holocene time.

(1) "Fault" means a fracture along which rocks on one side have been displaced with respect to those on the other side.

(2) "Displacement" means the relative movement of any two sides of a fault measured in any direction.

(3) "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present.

Note to paragraph (a)(3): Procedures for demonstrating compliance with this standard are specified in Section 270.14(b)(11) of this Regulation. Facilities which are located in political jurisdictions other than those listed in appendix VI to Section 264, are assumed to be in compliance with this requirement.

(b) If your facility is located in a 100-year flood plain, it must be designed, constructed, operated, and maintained to prevent washout of any hazardous waste by a 100-year flood.

(1) "100-year flood plain" means any land area that is subject to a one percent or greater chance of flooding in any given year from any source.

(2) "Washout" means the movement of hazardous waste from the active portion of the facility as a result of flooding.

(3) "100-year flood" means a flood that has a one percent chance of being equaled or exceeded in any given year.

Subsection C—Preparedness and Prevention

§ 267.30 Does this subsection apply to me?

This subsection applies to you if you own or operate a facility that treats or stores hazardous waste under a Section 270, subsection J standardized permit, except as provided in § 267.1(b).

§ 267.31 What are the general design and operation standards?

You must design, construct, maintain, and operate your facility to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment.

§ 267.32 What equipment am I required to have?

Your facility must be equipped with all of the following, unless none of the hazards posed by waste handled at the facility could require a particular kind of equipment specified below:

(a) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel.

(b) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or State or local emergency response teams.

(c) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment, and decontamination equipment.

(d) Water at adequate volume and pressure to supply water hose streams, or foam-producing equipment, or automatic sprinklers, or water spray systems.

§ 267.33 What are the testing and maintenance requirements for the equipment?

You must test and maintain all required facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, as necessary, to assure its proper operation in time of emergency.

§ 267.34 When must personnel have access to communication equipment or an alarm system?

(a) Whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation must have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless the device is not required under § 267.32.

(b) If just one employee is on the premises while the facility is operating, that person must have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless not required under § 267.32.

§ 267.35 How do I ensure access for personnel and equipment during emergencies?

You must maintain enough aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, as appropriate, considering the type of waste being stored or treated.

§ 267.36 What arrangements must I make with local authorities for emergencies?

(a) You must attempt to make the following arrangements, as appropriate, for the type of waste handled at your facility and the potential need for the services of these organizations:

(1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of hazardous waste handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to and roads inside the facility, and possible evacuation routes.

(2) Agreements designating primary emergency authority to a specific police and a specific fire department where more than one police and fire department might respond to an emergency, and agreements with any others to provide support to the primary emergency authority.

(3) Agreements with State emergency response teams, emergency response contractors, and equipment suppliers.

(4) Arrangements to familiarize local hospitals with the properties of hazardous waste handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility.

(b) If State or local authorities decline to enter into such arrangements, you must document the refusal in the operating record.

Subsection D—Contingency Plan and Emergency Procedures

§ 267.50 Does this subsection apply to me?

This subsection applies to you if you own or operate a facility that treats or stores hazardous waste under a Section 270, subsection J standardized permit, except as provided in § 267.1(b).

§ 267.51 What is the purpose of the contingency plan and how do I use it?

(a) You must have a contingency plan for your facility. You must design the plan to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water.

(b) You must implement the provisions of the plan immediately whenever there is a fire, explosion, or release of hazardous waste or hazardous waste constituents which could threaten human health or the environment.

§ 267.52 What must be in the contingency plan?

(a) Your contingency plan must:

(1) Describe the actions facility personnel will take to comply with §§ 267.51 and 267.56 in response to fires, explosions, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water at the facility.

(2) Describe all arrangements agreed upon under § 267.36 by local police departments, fire departments, hospitals, contractors, and state and local emergency response teams to coordinate emergency services.

(3) List names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see § 267.55), and you must keep the list up to date. Where more than one person is listed, one must be named as primary emergency coordinator and others must be listed in the order in which they will assume responsibility as alternates.

(4) Include a current list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. In addition, you must include the location and a physical description of each item on the list, and a brief outline of its capabilities.

(5) Include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. You must describe signal(s) to be used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of hazardous waste or fires).

(b) If you have already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan under 40 CFR part 112, or some other emergency or contingency plan, you need only amend that plan to incorporate haz-

ardous waste management provisions that will comply with the requirements of this section.

§ 267.53 Who must have copies of the contingency plan?

(a) You must maintain a copy of the plan with all revisions at the facility; and

(b) You must submit a copy with all revisions to all local police departments, fire departments, hospitals, and state and local emergency response teams that may be called upon to provide emergency services.

§ 267.54 When must I amend the contingency plan?

You must review, and immediately amend the contingency plan, if necessary, whenever:

(a) The facility permit is revised.

(b) The plan fails in an emergency.

(c) You change the facility (in its design, construction, operation, maintenance, or other circumstances) in a way that materially increases the potential for fires, explosions, or releases of hazardous waste or hazardous waste constituents, or changes the response necessary in an emergency.

(d) You change the list of emergency coordinators.

(e) You change the list of emergency equipment.

§ 267.55 What is the role of the emergency coordinator?

At least one employee must be either on the facility premises or on call at all times (that is, available to respond to an emergency by reaching the facility within a short period of time) who has the responsibility for coordinating all emergency response measures. This emergency coordinator must be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristics of waste handled, the location of all records within the facility, and the facility layout. In addition, this person must have the authority to commit the resources needed to carry out the contingency plan.

§ 267.56 What are the required emergency procedures for the emergency coordinator?

(a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or his designee when the emergency coordinator is on call) must immediately:

(1) Activate internal facility alarm or communication systems, where applicable, to notify all facility personnel, and

(2) Notify appropriate State or local agencies with designated response roles if their help is needed.

(b) Whenever there is a release, fire, or explosion, the emergency coordinator must:

(1) Immediately identify the character, exact source, amount, and areal extent of any released materials. He may do this by observation or review of facility records or manifests, and, if necessary, by chemical analysis.

(2) Assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment must consider both direct and indirect effects of the release, fire, or explosion. For example, the assessment would consider the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-off from water or chemical agents used to control fire and heat-induced explosions.

(c) If the emergency coordinator determines that the facility has had a release, fire, or explosion which could threaten human health, or the environment, outside the facility, he must report his findings as follows:

(1) If his assessment indicates that evacuation of local areas may be advisable, he must immediately notify appropriate local authorities. He must be available to help appropriate officials decide whether local areas should be evacuated; and

(2) He must immediately notify either the government official designated as the on-scene coordinator for that geographical area, or the National Response Center (using their 24-hour toll-free number 800/ 424–8802). The report must include:

(i) Name and telephone number of the reporter.

(ii) Name and address of facility.

(iii) Time and type of incident (for example, a release or a fire).

(iv) Name and quantity of material(s) involved, to the extent known.

(v) The extent of injuries, if any.

(vi) The possible hazards to human health or the environment outside the facility.

(d) During an emergency, the emergency coordinator must take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other hazardous waste at the facility. These measures must include, where applicable, stopping processes and operations, collecting and containing release waste, and removing or isolating containers.

(e) If the facility stops operations in response to a fire, explosion, or release, the emergency coordinator

must monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, when appropriate.

§ 267.57 What must the emergency coordinator do after an emergency?

(a) Immediately after an emergency, the emergency coordinator must provide for treating, storing, or disposing of recovered waste, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility.

(b) The emergency coordinator must ensure that, in the affected area(s) of the facility:

(1) No waste that may be incompatible with the released material is treated, stored, or disposed of until cleanup procedures are completed.

(2) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed.

§ 267.58 What notification and recordkeeping must I do after an emergency?

(a) You must notify the Director, and other appropriate State and local authorities, that the facility is in compliance with § 267.57(b) before operations are resumed in the affected area(s) of the facility.

(b) You must note the time, date, and details of any incident that requires implementing the contingency plan in the operating record. Within 15 days after the incident, you must submit a written report on the incident to the Director. You must include the following in the report:

(1) The name, address, and telephone number of the owner or operator.

(2) The name, address, and telephone number of the facility.

(3) The date, time, and type of incident (e.g., fire, explosion).

(4) The name and quantity of material(s) involved.

(5) The extent of injuries, if any.

(6) An assessment of actual or potential hazards to human health or the environment, where this is applicable.

(7) The estimated quantity and disposition of recovered material that resulted from the incident.

Subsection E—Recordkeeping, Reporting, and Notifying

§ 267.70 Does this subsection apply to me?

This subsection applies to you if you own or operate a facility that stores or non-thermally treats a hazardous waste under a Section 270, subsection J standardized permit, except as provided in § 267.1(b). In addition, you must comply with the manifest requirements of Section 262 of this Regulation whenever a shipment of hazardous waste is initiated from your facility.

§ 267.71 Use of the manifest system.

(a) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or his agent, must:

(1) Sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;

(2) Note any significant discrepancies in the manifest (as defined in § 267.72(a)) on each copy of the manifest;

(3) Immediately give the transporter at least one copy of the signed manifest;

(4) Within 30 days after the delivery, send a copy of the manifest to the generator; and

(5) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

(b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(1) Sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

(2) Note any significant discrepancies (as defined in § 267.72(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper. Note that the Commission does not intend that the owner or operator of a facility whose procedures under § 267.13(c) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 267.72(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

(3) Immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);

(4) Within 30 days after the delivery, send a

copy of the signed and dated manifest to the generator; however, if the manifest has not been received within 30 days after delivery, the owner or operator, or his agent, must send a copy of the shipping paper signed and dated to the generator. Note that § 262.23(c) of this Regulation requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment); and

(5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

(c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of section 262 of this Regulation. The Commission notes that the provisions of § 262.34 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of § 262.34 only apply to owners or operators who are shipping hazardous waste which they generated at that facility.

(d) Within three working days of the receipt of a shipment subject to Section 262, subsection H, the owner or operator of the facility must provide a copy of the tracking document bearing all required signatures to the notifier, to the Office of Enforcement and Compliance Assurance, Office of Compliance, Enforcement Planning, Targeting and Data Division (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and to competent authorities of all other concerned countries. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.

§ 267.72 Manifest discrepancies.

(a) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are:

(1) For bulk waste, variations greater than 10 percent in weight; and

(2) For batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(b) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within 15 days after receiving the waste, the owner or operator must immediately submit to the Director a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

§ 267.73 What information must I keep?

(a) You must keep a written operating record at your facility.

(b) You must record the following information, as it becomes available, and maintain the operating record until you close the facility:

(1) A description and the quantity of each type of hazardous waste generated, and the method(s) and date(s) of its storage and/or treatment at the facility as required by Appendix I of Section 264;

(2) The location of each hazardous waste within the facility and the quantity at each location;

(3) Records and results of waste analyses and waste determinations you perform as specified in §§ 267.13, 267.17, and Sections 264.1034, 264.1063, 264.1083, and 268.7;

(4) Summary reports and details of all incidents that require you to implement the contingency plan as specified in § 267.58(b));

(5) Records and results of inspections as required by § 267.15(d) (except you need to keep these data for only three years);

(6) Monitoring, testing or analytical data, and corrective action when required by subsection F of this section and §§ 267.191, 267.193, 267.195, and Sections 264.1034(c) through 264.1034(f), 264.1035, 264.1063(d) through 264.1063(i), 264.1064, 264.1088, 264.1089, and 264.1090;

(7) All closure cost estimates under § 267.142;

(8) Your certification, at least annually, that you have a program in place to reduce the volume and toxicity of hazardous waste that you generate to the degree that you determine to be economically practicable; and that the proposed method of treatment or storage is that practicable method currently available to you that minimizes the present and future threat to human health and the environment;

(9) For an on-site treatment facility, the information contained in the notice (except the manifest number), and the certification and demonstration, if applicable, required by you under Section 268.7 of this Regulation; and

(10) For an on-site storage facility, the information in the notice (except the manifest number), and the certification and demonstration, if applicable, required by you under § 268.7.

(11) For an off-site treatment facility, a copy

of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under § 268.7 or § 268.8;

(12) For an off-site storage facility, a copy of the notice, and the certification and demonstration, if applicable, required by the generator or the owner or operator under § 268.7 or § 268.8.

§ 267.74 Who sees the records?

(a) You must furnish all records, including plans, required under this section upon the request of any officer, employee, or representative of ADEQ who is duly designated by the Director, and make them available at all reasonable times for inspection.

(b) The retention period for all records required under this section is extended automatically during the course of any unresolved enforcement action involving the facility or as requested by the Director.

§ 267.75 What reports must I prepare and to whom do I send them?

You must prepare an annual report and other reports listed in paragraph (b) of this section.

(a) Annual report. You must prepare and submit a single copy of an annual report to the Director by March 1 of each year. The annual report must be submitted on forms as provided by the Department. The report must cover facility activities during the previous calendar year and must include:

(1) The EPA identification number, name, and address of the facility;

(2) The calendar year covered by the report;

(3) The method of treatment or storage for each hazardous waste;

(4) The most recent closure cost estimate under § 267.142;

(5) A description of the efforts undertaken during the year to reduce the volume and toxicity of generated waste.

(6) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984.

(7) The certification signed by you.

(b) Additional reports. In addition to submitting the biennial reports, you must also report to the Director:

(1) Releases, fires, and explosions as specified in § 267.58(b);

(2) Facility closures specified in § 267.117; and

(3) As otherwise required by subsections I, J, and DD of this section and Section 264, subsections AA, BB, CC.

(c) For off-site facilities, the EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;

(d) A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities, this information must be listed by EPA identification number of each generator.

§ 267.76 What notifications must I make?

Before transferring ownership or operation of a facility during its operating life, you must notify the new owner or operator in writing of the requirements of this section and Section 270, subsection J.

Subsection F—Releases from Solid Waste Management Units

§ 267.90 Who must comply with this section?

This subsection applies to you if you own or operate a facility that treats or stores hazardous waste under a Section 270, subsection J standardized permit, except as provided in § 267.1(b), or unless your facility already has a permit that imposes requirements for corrective action under Section 264.101 of this Regulation.

§ 267.91–267.100 [Reserved]

§ 267.101 What must I do to address corrective action for solid waste management units?

(a) You must institute corrective action as necessary to protect human health and the environment for all releases of hazardous waste or constituents from any solid waste management unit at the facility, regardless of the time at which waste was placed in such unit.

(b) The Director will specify corrective action in the supplemental portion of your standardized permit in accordance with this section and Section 264, subsection S of this Regulation. The Director will include in the supplemental portion of your standardized permit schedules of compliance for corrective action (where corrective action cannot be completed prior to issuance of the permit) and assurances of financial responsibility for completing corrective action.

(c) You must implement corrective action beyond the facility property boundary, where necessary to protect human health and the environment, unless you demonstrate to the satisfaction of the Director that, despite your best efforts, you were unable to obtain the necessary permission to undertake such actions. You are not relieved

of all responsibility to clean up a release that has migrated beyond the facility boundary where off -site access is denied. On-site measures to address such releases will be determined on a case-by-case basis. You must provide assurances of financial responsibility for such corrective action.

(d) You do not have to comply with this section if you are the owner or operator of a remediation waste site unless your site is part of a facility that is subject to a permit for treating, storing, or disposing of hazardous wastes that are not remediation wastes.

Subsection G—Closure

§ 267.110 Does this subsection apply to me?

This subsection applies to you if you own or operate a facility that treats or stores hazardous waste under a Section 270, subsection J standardized permit, except as provided in § 267.1(b).

§ 267.111 What general standards must I meet when I stop operating the unit?

You must close the storage and treatment units in a manner that:

(a) Minimizes the need for further maintenance; and

(b) Controls, minimizes, or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere; and

(c) Meets the closure requirements of this subsection and the requirements of §§ 267.176, 267.201, and 267.1108. If you determine that, when applicable, the closure requirements of § 267.201(tanks) or § 267.1108 (containment buildings) cannot be met, then you must close the unit in accordance with the requirements that apply to landfills (§ 264.310). In addition, for the purposes of post-closure and financial responsibility, such a tank system or containment building is then considered to be a landfill, and you must apply for a post-closure care permit in accordance with Section 270 of this Regulation.

§ 267.112 What procedures must I follow?

(a) To close a facility, you must follow your approved closure plan, and follow notification requirements.

(1) Your closure plan must be submitted at the time you submitted your Notice of Intent to operate under a standardized permit. Final issuance of the standardized permit constitutes approval of the closure plan, and the plan becomes a condition of the RCRA standardized permit.

(2) The Director's approval of the plan must ensure that the approved plan is consistent with §§ 267.111 through 267.115, 267.176, 267.201, and 267.1108.

(b) Satisfy the requirements for content of closure plan. The closure plan must identify steps necessary to perform partial and/or final closure of the facility. The closure plan must include, at least:

(1) A description of how each hazardous waste management unit at the facility subject to this subsection will be closed following § 267.111.

(2) A description of how final closure of the facility will be conducted in accordance with § 267.111. The description must identify the maximum extent of the operations which will be unclosed during the active life of the facility.

(3) An estimate of the maximum inventory of hazardous wastes ever on site during the active life of the facility and a detailed description of the methods you will use during partial and /or final closure, such as methods for removing, transporting, treating, storing, or disposing of all hazardous wastes, and identification of the type(s) of off-site hazardous waste management units to be used, if applicable.

(4) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial or final closure. These might include procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard;

(5) A detailed description of other activities necessary during the closure period to ensure that partial or final closure satisfies the closure performance standards.

(6) A schedule for closure of each hazardous waste management unit, and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities that allow tracking of progress of partial or final closure.

(7) For facilities that use trust funds to establish financial assurance under § 267.143 and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.

(c) You may submit a written notification to the Director for a permit modification to amend the closure

plan at any time prior to the notification of partial or final closure of the facility, following the applicable procedures in 40 CFR 124.211.

(1) Events leading to a change in the closure plan, and therefore requiring a modification, may include:

(i) A change in the operating plan or facility design;

(ii) A change in the expected year of closure, if applicable; or

(iii) In conducting partial or final closure activities, an unexpected event requiring a modification of the approved closure plan.

(2) The written notification or request must include a copy of the amended closure plan for review or approval by the Director. The Director will approve, disapprove, or modify this amended plan in accordance with the procedures in 40 CFR 124.211, 270.320 of this Regulation, and Regulation No. 8.

(d) Notification before final closure.

(1) You must notify the Director in writing at least 45 days before the date that you expect to begin final closure of a treatment or storage tank, container storage area, or containment building.

(2) The date when you "expect to begin closure" must be no later than 30 days after the date that any hazardous waste management unit receives the known final volume of hazardous wastes.

(3) If your facility's permit is terminated, or if you are otherwise ordered, by judicial decree or final order under section 3008 of RCRA, to cease receiving hazardous wastes or to close, then the requirements of this paragraph (d) do not apply. However, you must close the facility following the deadlines established in § 267.115.

§ 267.113 Will the public have the opportunity to comment on the plan?

(a) The Director will provide you and the public, when the draft standardized permit is public noticed, the opportunity to submit written comments on the plan and to the draft permit as allowed by Regulation No. 8. The Director will also, in response to a request or at his/her own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning the closure plan, and the permit.

(b) The Director will give public notice of the hearing 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.

§ 267.114 [Reserved]

§ 267.115 After I stop operating, how long until I must close?

(a) Within 90 days after the final volume of hazardous waste is sent to a unit, you must treat or remove from the unit all hazardous wastes following the approved closure plan.

(b) You must complete final closure activities in accordance with the approved closure plan within 180 days after the final volume of hazardous wastes is sent to the unit. The Director may approve an extension of 180 days to the closure period if you comply with all applicable requirements for requesting a modification to the permit and demonstrate that:

(1) The final closure activities will take longer than 180 days to complete due to circumstances beyond your control, excluding ground water contamination; and

(2) You have taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed, but not operating hazardous waste management unit or facility, including compliance with all applicable permit requirements.

(3) The demonstration must be made at least 30 days prior to the expiration of the initial 180-day period.

(c) Nothing in this section precludes you from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved final closure plan at any time before or after notification of final closure.

§ 267.116 What must I do with contaminated equipment, structure, and soils?

You must properly dispose of or decontaminate all contaminated equipment, structures, and soils during the partial and final closure periods. By removing any hazardous wastes or hazardous constituents during partial and final closure, you may become a generator of hazardous waste and must handle that waste following all applicable requirements of Section 262 of this Regulation.

§ 267.117 How do I certify closure?

Within 60 days of the completion of final closure of each unit under a Section 270 subsection J standardized permit, you must submit to the Director, by registered mail, a certification that each hazardous waste management unit or facility, as applicable, has been closed following the specifications in the closure plan. Both you and an independent qualified Arkansas-registered professional engineer must sign the certification. You must furnish

documentation supporting the independent registered professional engineer's certification to the Director upon request until he releases you from the financial assurance requirements for closure under § 267.143(i).

Subsection H—Financial Requirements

§ 267.140 Who must comply with this subsection, and briefly, what do they have to do?

(a) The regulations in this subsection apply to owners and operators who treat or store hazardous waste under a standardized permit, except as provided in § 267.1(b), or § 267.140(d) below.

(b) The owner or operator must:

(1) Prepare a closure cost estimate as required in § 267.142;

(2) Demonstrate financial assurance for closure as required in § 267.143; and

(3) Demonstrate financial assurance for liability as required in § 267.147.

(c) The owner or operator must notify the Director if the owner or operator is named as a debtor in a bankruptcy proceeding under Title 11 (Bankruptcy), U.S. Code (See also § 267.148).

(d) States and the Federal government are exempt from the requirements of this subsection.

§ 267.141 Definitions of terms as used in this subsection.

(a) Closure plan means the plan for closure prepared in accordance with the requirements of § 267.112.

(b) Current closure cost estimate means the most recent of the estimates prepared in accordance with § 267.142 (a), (b), and (c).

(c) [Reserved]

(d) Parent corporation means a corporation which directly owns at least 50 percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

(e) [Reserved]

(f) The following terms are used in the specifications for the financial tests for closure and liability coverage. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices:

"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

"Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 40 CFR 144.62(a), (b), and (c).

"Independently audited" refers to an aud it performed by an independent certified public accountant in accordance with generally accepted auditing standards.

"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

"Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(g) In the liability insurance requirements, the terms bodily injury and property damage shall have the meanings given these terms by applicable State law. However, these terms do not include those liabilities which, consistent with standard industry practices, are excluded from coverage in liability policies for bodily injury and property damage. The Commission intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

"Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

"Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

"Sudden accidental occurrence" means an occurrence which is not continuous or repeated in nature.

(h) "Substantial business relationship" means the extent of a business relationship necessary under applicable State law to make a guarantee contract issued incident to that relationship valid and enforceable. A "substantial business relationship" must arise from a pattern of recent or ongoing business transactions, in addition to the guarantee itself, such that a currently existing business relationship between the guarantor and the owner or operator is demonstrated to the satisfaction of the Director.

§ 267.142 Cost estimate for closure.

(a) The owner or operator must have at the facility a

detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in §§ 267.111 through 267.115 and applicable closure requirements in §§ 267.176, 267.201, 267.1108.

(1) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by the closure plan (see § 267.112(b)); and

(2) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in § 267.141(d).) The owner or operator may use costs for onsite disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.

(3) The closure cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous wastes, or non-hazardous wastes, facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure.

(4) The owner or operator may not incorporate a zero cost for hazardous wastes, or non-hazardous wastes that might have economic value.

(b) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with § 267.143. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Director as specified in § 267.143(f)(2)(iii). The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross Domestic Product published by the U.S. Department of Commerce in its Survey of Current Business, as specified in paragraphs (b)(1) and (2) of this section. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(1) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(2) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(c) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than 30 days after the Director has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in § 267.142(b).

(d) The owner or operator must keep the following at the facility during the operating life of the facility: The latest closure cost estimate prepared in accordance with paragraphs (a) and (c) of this section and, when this estimate has been adjusted in accordance with paragraph (b) of this section, the latest adjusted closure cost estimate.

§ 267.143 Financial assurance for closure.

The owner or operator must establish financial assurance for closure of each storage or treatment unit that he owns or operates. In establishing financial assurance for closure, the owner or operator must choose from the financial assurance mechanisms in paragraphs (a), (b), (c), (d), (e), (f), and (g) of this section. The owner or operator can also use a combination of mechanisms for a single facility if they meet the requirement in paragraph (h) of this section, or may use a single mechanism for multiple facilities as in paragraph (i) of this section. The Director will release the owner or operator from the requirements of this section after the owner or operator meets the criteria under paragraph (j) of this section.

(a) Closure Trust Fund. Owners and operators can use the "closure trust fund," that is specified in Sections 264.143(a)(1) and (2), and 264.143(a)(6)–(11) of this Regulation. For purposes of this paragraph, the following provisions also apply:

(1) Payments into the trust fund for a new facility must be made annually by the owner or operator over the remaining operating life of the facility as estimated in the closure plan, or over 3 years, whichever period is shorter. This period of time is hereafter referred to as the "pay-in period."

(2) For a new facility, the first payment into the closure trust fund must be made before the facility may accept the initial storage. A receipt from the trustee must be submitted by the owner or operator to the Director before this initial storage of waste. The first payment must be at least equal to the current closure cost estimate, divided by the number of years in the pay-in period, except as provided in paragraph (h) of this section for multiple mechanisms. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The owner or operator determines the amount of each subsequent payment by subtracting the current value of the trust fund from the current closure cost estimate, and dividing this difference by the number of years remaining in the pay-in period. Mathematically, the formula is Next Payment =

(Current Closure Estimate ¥ Current Value of the Trust Fund) Divided by Years Remaining in the Pay-In Period.

(3) The owner or operator of a facility existing on the effective date of this paragraph can establish a trust fund to meet this paragraph's financial assurance requirements. If the value of the trust fund is less than the current closure cost estimate when a final approval of the permit is granted for the facility, the owner or operator must pay the difference into the trust fund within 60 days.

(4) The owner or operator may accelerate payments into the trust fund or deposit the full amount of the closure cost estimate when establishing the trust fund. However, he must maintain the value of the fund at no less than the value that the fund would have if annual payments were made as specified in paragraph (a)(2) or (a)(3) of this section.

(5) The owner or operator must submit a trust agreement with the wording specified in § 264.151(a)(1).

(b) Surety Bond Guaranteeing Payment into a Closure Trust Fund. Owners and operators can use the "surety bond guaranteeing payment into a closure trust fund," as specified in § 264.143(b) of this Regulation, including the use of the surety bond instrument specified at § 264.151(b), and the standby trust specified at § 264.143(b)(3).

(c) Surety Bond Guaranteeing Performance of Closure. Owners and operators can use the "surety bond guaranteeing performance of closure," as specified in § 264.143(c), the submission and use of the surety bond instrument specified at § 264.151(c), and the standby trust specified at § 264.143(c)(3).

(d) Closure Letter of Credit. Owners and operators can use the "closure letter of credit" specified in § 264.143(d), the submission and use of the irrevocable letter of credit instrument specified in § 264.151(d), and the standby trust specified in § 264.143(d)(3).

(e) Closure Insurance. Owners and operators can use "closure insurance," as specified in § 264.143(e), utilizing the certificate of insurance for closure specified at § 264.151(e).

(f) Corporate financial test. An owner or operator that satisfies the requirements of this paragraph may demonstrate financial assurance up to the amount specified in this paragraph:

(1) Financial component.

(i) The owner or operator must satisfy one of the following three conditions:

(A) A current rating for its senior unsecured debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; or

(B) A ratio of less than 1.5 comparing total liabilities to net worth; or

(C) A ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus $10 million, to total liabilities.

(ii) The tangible net worth of the owner or operator must be greater than:

(A) The sum of the current environmental obligations (see paragraph (f)(2)(i)(A)(1) of this section), including guarantees, covered by a financial test plus $10 million, except as provided in paragraph (f)(1)(ii)(B) of this section.

(B) $10 million in tangible net worth plus the amount of any guarantees that have not been recognized as liabilities on the financial statements provided all of the environmental obligations (see paragraph (f)(2)(i)(A)(1) of this section) covered by a financial test are recognized as liabilities on the owner's or operator's audited financial statements, and subject to the approval of the Director.

(iii) The owner or operator must have assets located in the United States amounting to at least the sum of environmental obligations covered by a financial test as described in paragraph (f)(2)(i)(A)(1) of this section.

(2) Recordkeeping and reporting requirements.

(i) The owner or operator must submit the following items to the Director:

(A) A letter signed by the owner's or operator's chief financial officer that:

(1) Lists all the applicable current types, amounts, and sums of environmental obligations covered by a financial test. These obligations include both obligations in the programs which EPA directly operates and obligations where EPA has delegated authority to a State or approved a State's program. These obligations include, but are not limited to:

(i) Liability, closure, post-closure and corrective action cost estimates required for hazardous waste treatment, storage, and disposal facilities under §§ 264.101, 264.142, 264.144, 264.147, 265.142, 265.144, and 265.147 of this Regulation;

(ii) Cost estimates required

for municipal solid waste management facilities under 40 CFR 258.71, 258.72, and 258.73;

(iii) Current plugging cost estimates required for UIC facilities under 40 CFR 144.62;

(iv) Cost estimates required for petroleum underground storage tank facilities under 40 CFR 280.93;

(v) Cost estimates required for PCB storage facilities under 40 CFR 761.65;

(vi) Any financial assurance required under, or as part of an action undertaken under, the Comprehensive Environmental Response, Compensation, and Liability Act; and

(vii) Any other environmental obligations that are assured through a financial test.

(2) Provides evidence demonstrating that the firm meets the conditions of either paragraph (f)(1)(i)(A) or (f)(1)(i)(B) or (f)(1)(i)(C) of this section and paragraphs (f)(1)(ii) and (f)(1)(iii) of this section.

(B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Director may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Director deems that the matters which form the basis for the qualification are insufficient to warrant disallowance of the test. If the Director does not allow use of the test, the owner or operator must provide alternate financial assurance that meets the requirements of this section within 30 days after the notification of disallowance.

(C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies paragraph (f)(1)(i)(B) or (f)(1)(i)(C) of this section that are different from data in the audited financial statements referred to in paragraph (f)(2)(i)(B) of this section or any other audited financial statement or data filed with the SEC, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report shall be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

(D) If the chief financial officer's letter provides a demonstration that the firm has assured for environmental obligations as provided in paragraph (f)(1)(ii)(B) of this section, then the letter shall include a report from the independent certified public accountant that verifies that all of the environmental obligations covered by a financial test have been recognized as liabilities on the audited financial statements, how these obligations have been measured and reported, and that the tangible net worth of the firm is at least $10 million plus the amount of any guarantees provided.

(ii) The owner or operator of a new facility must submit the items specified in paragraph (f)(2)(i) of this section to the Director at least 60 days before placing waste in the facility.

(iii) After the initial submission of items specified in paragraph (f)(2)(i) of this section, the owner or operator must send updated information to the Director within 90 days following the close of the owner or operator's fiscal year. The Director may provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in paragraph (f)(2)(i) of this section.

(iv) The owner or operator is no longer required to submit the items specified in this paragraph (f)(2) of this section or comply with the requirements of this paragraph (f) when:

(A) The owner or operator substitutes alternate financial assurance as specified in this section that is not subject to these recordkeeping and reporting requirements; or

(B) The Director releases the owner or operator from the requirements of this section in accordance with paragraph (j) of this section.

(v) An owner or operator who no longer meets the requirements of paragraph (f)(1) of this section cannot use the financial test to demonstrate financial assurance. Instead an owner or operator who no longer meets the requirements of paragraph (f)(1) of this section, must:

(A) Send notice to the Director of intent to establish alternate financial assurance as specified in this section. The owner or operator must send this notice by certified mail within 90 days following the close the owner or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of this section.

(B) Provide alternative financial assurance within 120 days after the end of such fiscal year.

(vi) The Director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of paragraph (f)(1) of this section, require at any time the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation as specified in paragraph (f)(2) of this section. If the Director finds that the owner or operator no longer meets the requirements of paragraph (f)(1) of this section, the owner or operator must provide alternate financial assurance that meets the requirements of this section.

(g) Corporate Guarantee.

(1) An owner or operator may meet the requirements of this section by obtaining a written guarantee. The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in paragraph (f) of this section and must comply with the terms of the guarantee. The wording of the guarantee must be identical to the wording in § 264.151(h). The certified copy of the guarantee must accompany the letter from the guarantor's chief financial officer and accountants' opinions. If the guarantor's parent corporation is also the parent corporation of the owner or operator, the letter from the guarantor's chief financial officer must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee.

(2) For a new facility, the guarantee must be effective and the guarantor must submit the items in paragraph (g)(1) of this section and the items specified in paragraph (f)(2)(i) of this section to the Director at least 60 days before the owner or operator places waste in the facility.

(3) The terms of the guarantee must provide that:

(i) If the owner or operator fails to perform closure at a facility covered by the guarantee, the guarantor will:

(A) Perform, or pay a third party to perform closure (performance guarantee); or

(B) Establish a fully funded trust fund as specified in paragraph (a) of this section in the name of the owner or operator (payment guarantee).

(ii) The guarantee will remain in force for as long as the owner or operator must comply with the applicable financial assurance requirements of this subsection unless the guarantor sends prior notice of cancellation by certified mail to the owner or operator and to the Director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Director as evidenced by the return receipts.

(iii) If notice of cancellation is given, the owner or operator must, within 90 days following receipt of the cancellation notice by the owner or operator and the Director, obtain alternate financial assurance, and submit documentation for that alternate financial assurance to the Director. If the owner or operator fails to provide alternate financial assurance and obtain the written approval of such alternative assurance from

the Director within the 90-day period, the guarantor must provide that alternate assurance in the name of the owner or operator and submit the necessary documentation for the alternative assurance to the Director within 120 days of the cancellation notice.

(4) If a corporate guarantor no longer meets the requirements of paragraph (f)(1) of this section, the owner or operator must, within 90 days, obtain alternative assurance, and submit the assurance to the Director for approval. If the owner or operator fails to provide alternate financial assurance within the 90-day period, the guarantor must provide that alternate assurance within the next 30 days, and submit it to the Director for approval.

(5) The guarantor is no longer required to meet the requirements of this paragraph (g) when:

(i) The owner or operator substitutes alternate financial assurance as specified in this section; or

(ii) The owner or operator is released from the requirements of this section in accordance with paragraph (j) of this section.

(h) Use of Multiple Financial Mechanisms. An owner or operator may use more than one mechanism at a particular facility to satisfy the requirements of this section. The acceptable mechanisms are trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, insurance, the financial test, and the guarantee, except owners or operators cannot combine the financial test with the guarantee. The mechanisms must be as specified in paragraphs (a), (b), (d), (e), (f), and (g) respectively of this section, except it is the combination of mechanisms rather than a single mechanism that must provide assurance for an amount at least equal to the cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or letter of credit, he may use the trust fund as the standby trust for the other mechanisms. A single trust fund can be established for two or more mechanisms. The Director may use any or all of the mechanisms to provide for closure of the facility.

(i) Use of a financial mechanism for multiple facilities. An owner or operator may use a financial mechanism for multiple facilities, as specified in § 264.143(h) of this Regulation.

(j) Release of the owner or operator from the requirements of this section. Within 60 days after receiving certifications from the owner or operator and an independent Arkanas-registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Director will notify the owner or operator in writing that the owner or operator is no longer required by this section to maintain financial assurance for final closure of the facility, unless the Director has reason to believe that final closure has not been completed in accordance with the approved closure plan. The Director shall provide the owner or operator with a detailed written statement of any such reasons to believe that closure has not been conducted in accordance with the approved closure plan.

§ 267.144–267.146 [Reserved]

§ 267.147 Liability requirements.

(a) Coverage for sudden accidental occurrences. An owner or operator of a hazardous waste treatment or storage facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least $1 million per occurrence with an annual aggregate of at least $2 million, exclusive of legal defense costs. This liability coverage may be demonstrated as specified in paragraphs (a)(1) through (a)(7) of this section:

(1) Trust fund for liability coverage. An owner or operator may meet the requirements of this section by obtaining a trust fund for liability coverage as specified in 40 CFR 264.147(j).

(2) Surety bond for liability coverage. An owner or operator may meet the requirements of this section by obtaining a surety bond for liability coverage as specified in 40 CFR 264.147(i).

(3) Letter of credit for liability coverage. An owner or operator may meet the requirements of this section by obtaining a letter of credit for liability coverage as specified in 40 CFR 264.147(h).

(4) Insurance for liability coverage. An owner or operator may meet the requirements of this section by obtaining liability insurance as specified in 40 CFR 264.147(a)(1).

(5) Financial test for liability coverage. An owner or operator may meet the requirements of this section by passing a financial test as specified in paragraph (f) of this section.

(6) Guarantee for liability coverage. An owner or operator may meet the requirements of this section by obtaining a guarantee as specified in paragraph (g) of this section.

(7) Combination of mechanisms. An owner or operator may demonstrate the required liability coverage through the use of combinations of mechanisms as allowed by 40 CFR 264.147(a)(6).

(8) An owner or operator shall notify the Director in writing within 30 days whenever:

(i) A claim results in a reduction in the amount of financial assurance for liability coverage provided by a financial instrument authorized in paragraphs (a)(1) through (a)(7) of this section; or

(ii) A Certification of Valid Claim for bodily injury or property damages caused by a sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is entered between the owner or operator and third-party claimant for liability coverage under paragraphs (a)(1) through (a)(7) of this section; or

(iii) A final court order establishing a judgment for bodily injury or property damage caused by a sudden accidental occurrence arising from the operation of a hazardous waste treatment, storage, or disposal facility is issued against the owner or operator or an instrument that is providing financial assurance for liability coverage under paragraphs (a)(1) through (a)(7) of this section.

(b)–(d) [Reserved]

(e) Period of coverage. Within 60 days after receiving certifications from the owner or operator and an independent Arkansas-registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Director will notify the owner or operator in writing that he is no longer required by this section to maintain liability coverage from that facility, unless the Director has reason to believe that closure has not been in accordance with the approved closure plan.

(f) Financial test for Liability Coverage. An owner or operator that satisfies the requirements of this paragraph (f) may demonstrate financial assurance for liability up to the amount specified in this paragraph (f):

(1) Financial component.

(i) If using the financial test for only liability coverage, the owner or operator must have tangible net worth greater than the sum of the liability coverage to be demonstrated by this test plus $10 million.

(ii) The owner or operator must have assets located in the United States amounting to at least the amount of liability covered by this financial test.

(iii) An owner or operator who is demonstrating coverage for liability and any other environmental obligations, including closure under § 267.143(f), through a financial test must meet the requirements of § 267.143(f).

(2) Recordkeeping and reporting requirements.

(i) The owner or operator must submit the following items to the Director:

(A) A letter signed by the owner's or operator's chief financial officer that provides evidence demonstrating that the firm meets the conditions of paragraphs (f)(1)(i) and (f)(1)(ii) of this section. If the firm is providing only liability coverage through a financial test for a facility or facilities with a permit under § 267, the letter should use the wording in § 267.151(b). If the firm is providing only liability coverage through a financial test for facilities regulated under part 267 and also Section 264 or Section 265, it should use the letter in § 264.151(g). If the firm is providing liability coverage through a financial test for a facility or facilities with a permit under § 267, and it assures closure costs or any other environmental obligations through a financial test, it must use the letter in § 267.151(a) for the facilities issued a permit under § 267.

(B) A copy of the independent certified public accountant's unqualified opinion of the owner's or operator's financial statements for the latest completed fiscal year. To be eligible to use the financial test, the owner's or operator's financial statements must receive an unqualified opinion from the independent certified public accountant. An adverse opinion, disclaimer of opinion, or other qualified opinion will be cause for disallowance, with the potential exception for qualified opinions provided in the next sentence. The Director may evaluate qualified opinions on a case-by-case basis and allow use of the financial test in cases where the Director deems that the matters which form the basis for the qualification are insufficient to warrant disallowance of the test. If the Director does not allow use of the test, the owner or operator must provide alternate financial assurance that meets the requirements of this section (§ 267.147) within 30 days after the notification of disallowance.

(C) If the chief financial officer's letter providing evidence of financial assurance includes financial data showing that the owner or operator satisfies paragraphs (f)(1)(i) and (ii) of this section that are different from data in the audited financial statements referred to

in paragraph (f)(2)(i)(B) of this section or any other audited financial statement or data filed with the SEC, then a special report from the owner's or operator's independent certified public accountant to the owner or operator is required. The special report shall be based upon an agreed upon procedures engagement in accordance with professional auditing standards and shall describe the procedures performed in comparing the data in the chief financial officer's letter derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements, the findings of that comparison, and the reasons for any differences.

(ii) The owner or operator of a new facility must submit the items specified in paragraph (f)(2)(i) of this section to the Director at least 60 days before placing waste in the facility.

(iii) After the initial submission of items specified in paragraph (f)(2)(i) of this section, the owner or operator must send updated information to the Director within 90 days following the close of the owner or operator's fiscal year. The Director may provide up to an additional 45 days for an owner or operator who can demonstrate that 90 days is insufficient time to acquire audited financial statements. The updated information must consist of all items specified in paragraph (f)(2)(i) of this section.

(iv) The owner or operator is no longer required to submit the items specified in this paragraph (f)(2) or comply with the requirements of this paragraph (f) when:

(A) The owner or operator substitutes alternate financial assurance as specified in this section that is not subject to these recordkeeping and reporting requirements; or

(B) The Director releases the owner or operator from the requirements of this section in accordance with paragraph (j) of this section.

(v) An owner or operator who no longer meets the requirements of paragraph (f)(1) of this section cannot use the financial test to demonstrate financial assurance. An owner or operator who no longer meets the requirements of paragraph (f)(1) of this section, must:

(A) Send notice to the Director of intent to establish alternate financial assurance as specified in this section. The owner or operator must send this notice by certified mail within 90 days following the close of the owner or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of this section.

(B) Provide alternative financial assurance within 120 days after the end of such fiscal year.

(vi) The Director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of paragraph (f)(1) of this section, require at any time the owner or operator to provide reports of its financial condition in addition to or including current financial test documentation as specified in paragraph (f)(2) of this section. If the Director finds that the owner or operator no longer meets the requirements of paragraph (f)(1) of this section, the owner or operator must provide alternate financial assurance that meets the requirements of this section.

(g) Guarantee for liability coverage. (1) Subject to paragraph (g)(2) of this section, an owner or operator may meet the requirements of this section by obtaining a written guarantee, hereinafter referred to as "guarantee." The guarantor must be the direct or higher-tier parent corporation of the owner or operator, a firm whose parent corporation is also the parent corporation of the owner or operator, or a firm with a "substantial business relationship" with the owner or operator. The guarantor must meet the requirements for owners or operators in paragraphs (f)(1) through (f)(3) of this section. The wording of the guarantee must be identical to the wording specified in 40 CFR 264.151(h)(2). A certified copy of the guarantee must accompany the items sent to the Director as specified in paragraph (f)(2) of this section. One of these items must be the letter from the guarantor's chief financial officer. If the guarantor's parent corporation is also the parent corporation of the owner or operator, this letter must describe the value received in consideration of the guarantee. If the guarantor is a firm with a "substantial business relationship" with the owner or operator, this letter must describe this "substantial business relationship" and the value received in consideration of the guarantee.

(i) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden accidental occurrences arising from the operation guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury

or damage, the guarantor will do so up to the limits of coverage.

(ii) [Reserved]

(2)(i) In the case of corporations incorporated in the United States, a guarantee may be used to satisfy the requirements of this section only if the Attorneys General or Insurance Commissioners of the State in which the guarantor is incorporated, and each State in which a facility covered by the guarantee is located, have submitted a written statement to EPA that a guarantee executed as described in this section and § 264.151(h)(2) is a legally valid and enforceable obligation in that State.

(ii) In the case of corporations incorporated outside the United States, a guarantee may be used to satisfy the requirements of this section only if:

(A) The non-U.S. corporation has identified a registered agent for service of process in each State in which a facility covered by the guarantee is located and in the State in which it has its principal place of business; and

(B) The Attorney General or Insurance Commissioner of each State in which a facility covered by the guarantee is located and the State in which the guarantor corporation has its principal place of business, has submitted a written statement to EPA that a guarantee executed as described in this section and § 264.151(h)(2) is a legally valid and enforceable obligation in that State.

§ 267.148 Incapacity of owners or operators, guarantors, or financial institutions.

(a) An owner or operator must notify the Director by certified mail of the commencement of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming the owner or operator as debtor, within 10 days after commencement of the proceeding. A guarantor of a corporate guarantee as specified in §§ 267.143(g) and 267.147 (g) must make such a notification if he is named as debtor, as required under the terms of the corporate guarantee (§ 264.151(h)).

(b) An owner or operator who fulfills the requirements of § 267.143 or § 267.147 by obtaining a trust fund, surety bond, letter of credit, or insurance policy will be deemed to be without the required financial assurance or liability coverage in the event of bankruptcy of the trustee or issuing institution, or a suspension or revocation of the authority of the trustee institution to act as trustee or of the institution issuing the surety bond, letter of credit, or insurance policy to issue such instruments. The owner or operator must establish other financial assurance or liability coverage within 60 days after such an event.

§ 267.149 [Reserved]

§ 267.150 State assumption of responsibility.

(a) If a State either assumes legal responsibility for an owner's or operator's compliance with the closure care or liability requirements of this section or assures that funds will be available from State sources to cover those requirements, the owner or operator will be in compliance with the requirements of § 267.143 or § 267.147 if the Director determines that the State's assumption of responsibility is at least equivalent to the financial mechanisms specified in this subsection. The Director will evaluate the equivalency of State guarantees principally in terms of: Certainty of the availability of funds for the required closure care activities or liability coverage; and the amount of funds that will be made available. The Director may also consider other factors as he deems appropriate. The owner or operator must submit to the Director a letter from the State describing the nature of the State's assumption of responsibility together with a letter from the owner or operator requesting that the State's assumption of responsibility be considered acceptable for meeting the requirements of this subsection. The letter from the State must include, or have attached to it, the following information: The facility's EPA Identification Number, name, and address, and the amount of funds for closure care or liability coverage that are guaranteed by the State. The Director will notify the owner or operator of his determination regarding the acceptability of the State's guarantee in lieu of financial mechanisms specified in this subsection. The Director may require the owner or operator to submit additional information as is deemed necessary to make this determination. Pending this determination, the owner or operator will be deemed to be in compliance with the requirements of § 267.143 or § 267.147, as applicable.

(b) If a State's assumption of responsibility is found acceptable as specified in paragraph (a) of this section except for the amount of funds available, the owner or operator may satisfy the requirements of this subsection by use of both the State's assurance and additional financial mechanisms as specified in this subsection. The amount of funds available through the State and Federal mechanisms must at least equal the amount required by this subsection.

§ 267.151 Wording of the instruments.

(a) The chief financial officer of an owner or operator of a facility with a standardized permit who uses a financial test to demonstrate financial assurance for that

facility must complete a letter as specified in § 267.143(f) of this Regulation. The letter must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance for closure costs, as specified in [insert "subsection H of Regulation No. 23 § 267" or the citation to the corresponding state regulation]. This firm qualifies for the financial test on the basis of having [insert "a current rating for its senior unsecured debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's" or "a ratio of less than 1.50 comparing total liabilities to net worth" or "a ratio of greater than 0.10 comparing the sum of net income plus depreciation, depletion and amortization, minus $10 million, to total liabilities."]

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

[If this firm qualifies on the basis of its bond rating fill in the requested information: "This firm has a rating of its senior unsecured debt of'"[insert the bond rating] "from" [insert "Standard and Poor's" or "Moody's"].

Complete Line 1. Total Liabilities below and then skip the remaining questions in the next section and resume completing the form at the section entitled Obligations Covered by a Financial Test or Corporate Guarantee.]

[If this firm qualifies for the financial test on the basis of its ratio of liabilities to net worth, or sum of income, depreciation, depletion, and amortization to net worth, please complete the following section.]

*1. Total Liabilities ..... $_____
*2. Net Worth ..... $_____
*3. Net Income ..... $_____
*4. Depreciation ..... $_____
*5. Depletion (if applicable) ..... $_____
*6. Amortization ..... $_____
*7. Sum of Lines 3., 4., 5. & 6 ..... $_____

[If the above figures are taken directly from the most recent audited financial statements for this firm insert "The above figures are taken directly from the most recent audited financial statements for this firm." If they are not, insert "The following items are not taken directly from the firms most recent audited financial statements" [insert the numbers of the items and attach an explanation of how they were derived.]

[Complete the following calculations]
8. Line 1. ??Line 2. = ...
9. Line 7. ??Line 1. = ...
Is Line 8. less than 1.5? ___Yes ____No
Is Line 9 greater than 0.10? ..... ___Yes ___No

[If you did not answer Yes to either of these two questions, you cannot use the financial test and need not complete this letter. Instead, you must notify the permitting authority for the facility that you intend to establish alternate financial assurance as specified in 40 CFR 267.143. The owner or operator must send this notice by certified mail within 90 days following the close of the owner or operator's fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements of this section. The owner or operator must also provide alternative financial assurance within 120 days after the end of such fiscal year.]

Obligations Covered by a Financial Test or Corporate Guarantee
[On the following lines list all obligations that are covered by a financial test or a corporate guarantee extended by your firm. You may add additional lines and leave blank entries that do not apply to your situation.]

Hazardous Waste Facility Name and ID State Closure Post-Closure Corrective Action
_____

Hazardous Waste Third Party Liability $
Municipal Waste Facilities State Closure Post-Closure Corrective Action

Underground Injection Control State Plugging Action

Petroleum Underground Storage Tanks

PCB Storage Facility Name and ID State Closure

Any financial assurance required under, or as part of an action undertaken under, the Comprehensive Environmental Response, Compensation, and Liability Act.
Site name State Amount
_____ ____ $_____

Any other environmental obligations that are assured through a financial test.

Name Amount
_____ $_____l
*10. Total of all amounts $_____
*11. Line 10 + $10,000,000 = $_____
*12. Total Assets $_____
*13. Intangible Assets $_____
*14. Tangible Assets (Line 12.¥Line 13) $_____
*15. Tangible Net Worth (Line 14.¥Line 1.) $_____
*16. Assets in the United States $_____
Is Line 15 greater than Line 11? ___Yes ___No
Is Line 16 no less than Line 10? ___Yes ___No

[You must be able to answer Yes to both these questions to use the financial test for this facility.]

I hereby certify that the wording of this letter is identical to the wording specified in 40 CFR 267.151 as such regulations were constituted on the date shown immediately below.
[Signature]_____
[Name]_____
[Title]_____
[Date]_____
[After completion, a signed copy of the form must be sent to the permitting authority of the state or territory where the facility is located. In addition, a signed copy must be sent to every authority who (1) requires a demonstration through a financial test for each of the other obligations in the letter that are assured through a financial test, or (2) accepts a guarantee for an obligation listed in this letter.]

(b)The chief financial officer of an owner or operator of a facility with a standardized permit who use a financial test to demonstrate financial assurance only for third party liability for that (or other standardized permit) facility(ies) must complete a letter as specified in Section 267.147(f) of this Regulation. The letter must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate

financial assurance for third party liability, as specified in [insert "subsection H of 40 CFR section 267" or the citation to the corresponding state regulation]. This firm qualifies for the financial test on the basis of having tangible net worth of at least $10 million more than the amount of liability coverage and assets in the United States of at least the amount of liability coverage.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year-end financial statements for the latest completed fiscal year, ended [date].

[Please complete the following section.]

*1. Total Assets ..... $_____
*2. Intangible Assets ..... $_____
*3. Tangible Assets (Line 1¥Line 2) ..... $_____
*4. Total Liabilities ..... $_____
5. Tangible Net Worth (Line 3¥Line 4) ..... $_____
*6. Assets in the United States ..... $_____
7. Amount of liability coverage ..... $_____
Is Line 5 At least $10 million greater than Line 7? ..... Yes No
Is Line 6 at least equal to Line 7? ..... Yes No

[You must be able to answer Yes to both these questions to use the financial test for this facility.]

I hereby certify that the wording of this letter is identical to the wording specified in 40 CFR 267.151 as such regulations were constituted on the date shown immediately below.

[Signature]_____
[Name]_____
[Title]_____
[Date]_____

[After completion, a signed copy of the form must be sent to the permitting authority of the state or territory where the facility(ies) is(are) located.]

Subsection I—Use and Management of Containers

§ 267.170 Does this subsection apply to me?

This subsection applies to you if you own or operate a facility that treats or stores hazardous waste in containers under a 40 CFR section 270 subsection J standardized permit, except as providedin § 267.1(b).

§ 267.171 What standards apply to the containers?

Standards apply to the condition of the containers, to the compatibility of waste with the containers, and to the management of the containers.

(a) Condition of containers. If a container holding hazardous waste is not in good condition (for example, it exhibits severe rusting or apparent structural defects) or if it begins to leak, you must either:

(1) Transfer the hazardous waste from this container to a container that is in good condition; or

(2) Manage the waste in some other way that complies with the requirements of this section.

(b) Compatibility of waste with containers. To ensure that the ability of the container to contain the waste is not impaired, you must use a container made of or lined with materials that are compatible and will not react with the hazardous waste to be stored.

(c) Management of containers. (1) You must always keep a container holding hazardous waste closed during storage, except when you add or remove waste.

(2) You must never open, handle, or store a container holding hazardous waste in a manner that may rupture the container or cause it to leak.

§ 267.172 What are the inspection requirements?

At least weekly, you must inspect areas where you store containers, looking for leaking containers and for deterioration of containers and the containment system caused by corrosion or other factors.

§ 267.173 What standards apply to the container storage areas?

(a) You must design and operate a containment system for your container storage areas according to the requirements in paragraph (b) of this section, except as otherwise provided by paragraph (c) of this section.

(b) The design and operating requirements for a containment system are:

(1) A base must underlie the containers that is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed.

(2) The base must be sloped or the containment system, must be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids.

(3) The containment system must have sufficient capacity to contain 10% of the volume of containers, or the volume of the largest container, whichever is greater. This requirement does not apply to containers that do not contain free liquids.

(4) You must prevent run-on into the containment system unless the collection system has sufficient excess capacity, in addition to that required in paragraph (b)(3) of this section, to contain the liquid.

(5) You must remove any spilled or leaked

waste and accumulated precipitation from the sump or collection area as promptly as is necessary to prevent overflow of the collection system.

(c) Except as provided in paragraph (d) of this section, you do not need a containment system as defined in paragraph (b) of this section for storage areas that store containers holding only wastes with no free liquids, if:

(1) The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

(2) The containers are elevated or are otherwise protected from contact with accumulated liquid.

(d) You must have a containment system defined by paragraph (b) of this section for storage areas that store containers holding FO20, FO21, FO22, FO23, FO26, and FO27 wastes, even if the wastes do not contain free liquids.

§ 267.174 What special requirements must I meet for ignitable or reactive waste?

You must locate containers holding ignitable or reactive waste at least 15 meters (50 feet) from your facility property line. You must also follow the general requirements for ignitable or reactive wastes that are specified in § 267.17(a).

§ 267.175 What special requirements must I meet for incompatible wastes?

(a) You must not place incompatible wastes, or incompatible wastes and materials (see appendix V to Section 264 for examples), in the same container, unless you comply with § 267.17(b).

(b) You must not place hazardous waste in an unwashed container that previously held an incompatible waste or material.

(c) You must separate a storage container holding a hazardous waste that is incompatible with any waste or with other materials stored nearby in other containers, piles, open tanks, or surface impoundments from the other materials, or protect the containers by means of a dike, berm, wall, or other device.

§ 267.176 What must I do when I want to stop using the containers?

You must remove all hazardous waste and hazardous waste residues from the containment system. You must decontaminate or remove remaining containers, liners, bases, and soil containing, or contaminated with, hazardous waste or hazardous waste residues.

§ 267.177 What air emission standards apply?

You must manage all hazardous waste placed in a container according to the requirements of subsections AA, BB, and CC of 40 CFR section 264. Under a standardized permit, the following control devices are permissible: Thermal vapor incinerator, catalytic vapor incinerator, flame, boiler, process heater, condenser, and carbon absorption unit.

Subsection J—Tank Systems

§ 267.190 Does this subsection apply to me?

This subsection applies to you if you own or operate a facility that treats or stores hazardous waste in aboveground or on-ground tanks under a 40 CFR section 270 subsection J standardized permit, except as provided in § 267.1(b).

(a) You do not have to meet the secondary containment requirements in § 267.195 if your tank systems do not contain free liquids and are situated inside a building with an impermeable floor. You must demonstrate the absence or presence of free liquids in the stored/treated waste, using Method 9095B (Paint Filter Liquids Test) as described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW–846, as incorporated by reference in 40 CFR 260.11.

(b) You do not have to meet the secondary containment requirements of § 267.195(a) if your tank system, including sumps, as defined in 40 CFR 260.10, is part of a secondary containment system to collect or contain releases of hazardous wastes.

§ 267.191 What are the required design and construction standards for new tank systems or components?

You must ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. You must obtain a written assessment, reviewed and certified by an independent, qualified Arkansas-registered professional engineer, following 40 CFR 270.11(d), attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. This assessment must include, at a minimum, the following information:

(a) Design standard(s) for the construction of tank(s) and/or the ancillary equipment.

(b) Hazardous characteristics of the waste(s) to be handled.

(c) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system will be in contact with the soil or with water, a determination by a corrosion expert of:

(1) Factors affecting the potential for corrosion, such as:

(i) Soil moisture content.

(ii) Soil pH.

(iii) Soil sulfides level.

(iv) Soil resistivity.

(v) Structure to soil potential.

(vi) Existence of stray electric current.

(vii) Existing corrosion-protection measures (for example, coating, cathodic protection).

(2) The type and degree of external corrosion protection needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one or more of the following:

(i) Corrosion-resistant materials of construction such as special alloys, fiberglass reinforced plastic, etc.

(ii) Corrosion-resistant coating (such as epoxy, fiberglass, etc.) with cathodic protection (for example, impressed current or sacrificial anodes) and

(iii) Electrical isolation devices such as insulating joints, flanges, etc.

(d) Design considerations to ensure that:

(1) Tank foundations will maintain the load of a full tank.

(2) Tank systems will be anchored to prevent flotation or dislodgment where the tank system is placed in a saturated zone, or is located within a seismic fault zone subject to the standards of § 267.18(a).

(3) Tank systems will withstand the effects of frost heave.

§ 267.192 What handling and inspection procedures must I follow during installation of new tank systems?

(a) You must ensure that you follow proper handling procedures to prevent damage to a new tank system during installation. Before placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified, Arkansas-registered professional engineer, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

(1) Weld breaks.

(2) Punctures.

(3) Scrapes of protective coatings.

(4) Cracks.

(5) Corrosion.

(6) Other structural damage or inadequate construction/installation.

(b) You must remedy all discrepancies before the tank system is placed in use.

§ 267.193 What testing must I do?

You must test all new tanks and ancillary equipment for tightness before you place them in use. If you find a tank system that is not tight, you must perform all repairs necessary to remedy the leak(s) in the system before you cover, enclose, or place the tank system into use.

§ 267.194 What installation requirements must I follow?

(a) You must support and protect ancillary equipment against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

(b) You must provide the type and degree of corrosion protection recommended by an independent corrosion expert, based on the information provided under § 267.191(c), to ensure the integrity of the tank system during use of the tank system. An independent corrosion expert must supervise the installation of a corrosion protection system that is field fabricated to ensure proper installation.

(c) You must obtain, and keep at the facility, written statements by those persons required to certify the design of the tank system and to supervise the installation of the tank system as required in §§ 267.192, 267.193, and paragraphs (a) and (b) of this section. The written statement must attest that the tank system was properly designed and installed and that you made repairs under §§ 267.192 and 267.193. These written statements must also include the certification statement as required in 40 CFR 270.11(d).

§ 267.195 What are the secondary containment requirements?

To prevent the release of hazardous waste or hazardous constituents to the environment, you must provide secondary containment that meets the requirements of this section for all new and existing tank systems.

(a) Secondary containment systems must be:

(1) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system; and

(2) Capable of detecting and collecting re-

leases and accumulated liquids until the collected material is removed.

(b) To meet the requirements of paragraph (a) of this section, secondary containment systems must be, at a minimum:

(1) Constructed of or lined with materials that are compatible with the wastes(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, and the stress of daily operation (including stresses from nearby vehicular traffic).

(2) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift.

(3) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment system within 24 hours.

(4) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. You must remove spilled or leaked waste and accumulated precipitation from the secondary containment system within 24 hours, or as promptly as possible, to prevent harm to human health and the environment.

§ 267.196 What are the required devices for secondary containment and what are their design, operating and installation requirements?

(a) Secondary containment for tanks must include one or more of the following:

(1) A liner (external to the tank).

(2) A double-walled tank.

(3) An equivalent device; you must maintain documentation of equivalency at the facility.

(b) External liner systems must be:

(1) Designed or operated to contain 100 percent of the capacity of the largest tank within its boundary.

(2) Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. The additional capacity must be sufficient to contain precipitation from a 25-year, 24-hour rainfall event.

(3) Free of cracks or gaps.

(4) Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s) (that is, capable of preventing lateral as well as vertical migration of the waste).

(c) Double-walled tanks must be:

(1) Designed as an integral structure (that is, an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell.

(2) Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell.

(3) Provided with a built-in continuous leak detection system capable of detecting a release within 24 hours.

§ 267.197 What are the requirements for ancillary equipment?

You must provide ancillary equipment with secondary containment (for example, trench, jacketing, doublewalled piping) that meets the requirements of § 267.195 (a) and (b), except for:

(a) Above ground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

(b) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;

(c) Sealless or magnetic coupling pumps and sealless valves, that are visually inspected for leaks on a daily basis; and

(d) Pressurized above ground piping systems with automatic shut-off devices (for example, excess flow check valves, flow metering shutdown devices, loss of pressure actuated shut-off devices) that are visually inspected for leaks on a daily basis.

§ 267.198 What are the general operating requirements for my tank systems?

(a) You must not place hazardous wastes or treatment reagents in a tank system if they could cause the tank, its ancillary equipment, or the containment system to rupture, leak, corrode, or otherwise fail.

(b) You must use appropriate controls and practices to prevent spills and overflows from tank or containment systems. These include, at a minimum:

(1) Spill prevention controls (for example, check valves, dry disconnect couplings).

(2) Overfill prevention controls (for example, level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank).

(3) Sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(c) You must comply with the requirements of § 267.200 if a leak or spill occurs in the tank system.

§ 267.199 What inspection requirements must I meet?

You must comply with the following requirements for scheduling, conducting, and documenting inspections.

(a) Develop and follow a schedule and procedure for inspecting overfill controls.

(b) Inspect at least once each operating day:

(1) Aboveground portions of the tank system to detect corrosion or releases of waste.

(2) Data gathered from monitoring and leak detection equipment (for example, pressure or temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design.

(3) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (for example, dikes) to detect erosion or signs of releases of hazardous waste (for example, wet spots, dead vegetation).

(c) Inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(1) Confirm that the cathodic protection system is operating properly within six months after initial installation and annually thereafter.

(2) Inspect and/or test all sources of impressed current, as appropriate, at least every other month.

(d) Document, in the operating record of the facility, an inspection of those items in paragraphs (a) through (c) of this section.

§ 267.200 What must I do in case of a leak or a spill?

If there has been a leak or a spill from a tank system or secondary containment system, or if either system is unfit for use, you must remove the system from service immediately, and you must satisfy the following requirements:

(a) Immediately stop the flow of hazardous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

(b) Remove the waste from the tank system or secondary containment system.

(1) If the release was from the tank system, you must, within 24 hours after detecting the leak, remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed.

(2) If the material released was to a secondary containment system, you must remove all released materials within 24 hours or as quickly as possible to prevent harm to human health and the environment.

(c) Immediately conduct a visual inspection of the release and, based upon that inspection:

(1) Prevent further migration of the leak or spill to soils or surface water.

(2) Remove, and properly dispose of, any visible contamination of the soil or surface water.

(d) Report any release to the environment, except as provided in paragraph (d)(1) of this section, to the Director within 24 hours of its detection. If you have reported the release pursuant to 40 CFR part 302, that report will satisfy this requirement.

(1) You need not report on a leak or spill of hazardous waste if it is:

(i) Less than or equal to a quantity of one (1) pound; and

(ii) Immediately contained and cleaned up.

(2) Within 30 days of detection of a release to the environment, you must submit a report to the Director containing the following information:

(i) The likely route of migration of the release.

(ii) The characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate).

(iii) The results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within 30 days, you must submit these data to the Director as soon as they become available.

(iv) The proximity to downgradient drinking water, surface water, and populated areas.

(v) A description of response actions taken or planned.

(e) Either close the system or make necessary repairs.

(1) Unless you satisfy the requirements of paragraphs (e)(2) and (3) of this section, you must close the tank system according to § 267.201.

(2) If the cause of the release was a spill that has not damaged the integrity of the system, you may return the system to service as soon as you

remove the released waste and make any necessary repairs.

(3) If the cause of the release was a leak from the primary tank system into the secondary containment system, you must repair the system before returning the tank system to service.

(f) If you have made extensive repairs to a tank system in accordance with paragraph (e) of this section (for example, installation of an internal liner; repair of a ruptured primary containment or secondary containment vessel), you may not return the tank system to service unless the repair is certified by an independent, qualified, Arkansas-registered, professional engineer in accordance with § 270.11(d).

(1) The engineer must certify that the repaired system is capable of handling hazardous wastes without release for the intended life of the system.

(2) You must submit this certification to the Director within seven days after returning the tank system to use.

§ 267.201 What must I do when I stop operating the tank system?

When you close a tank system, you must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as hazardous waste, unless 40 CFR 261.3(d) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements specified in subsections G and H of this section.

§ 267.202 What special requirements must I meet for ignitable or reactive wastes?

(a) You may not place ignitable or reactive waste in tank systems, unless:

(1) You treat, render, or mix the waste before or immediately after placement in the tank system so that:

(i) You comply with § 267.17(b); and (ii) The resulting waste, mixture, or dissolved material no longer meets the definition of ignitable or reactive waste under § 261.21 or § 261.23 of this Regulation; or

(2) You store or treat the waste in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

(3) You use the tank system solely for emergencies.

(b) If you store or treat ignitable or reactive waste in a tank, you must comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required in Tables 2–1 through 2–6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981), (incorporated by reference, see § 260.11).

§ 267.203 What special requirements must I meet for incompatible wastes?

(a) You may not place incompatible wastes, or incompatible wastes and materials, in the same tank system, unless you comply with § 267.17(b).

(b) You may not place hazardous waste in a tank system that has not been decontaminated and that previously held an incompatible waste or material, unless you comply with § 267.17(b).

§ 267.204 What air emission standards apply?

You must manage all hazardous waste placed in a tank following the requirements of subsections AA, BB, and CC of Section 264 of this Regulation. Under a standardized permit, the following control devices are permissible: Thermal vapor incinerator, catalytic vapor incinerator, flame, boiler, process heater, condenser, and carbon absorption unit.

Subsections K through CC [Reserved]

Subsection DD—Containment buildings

§ 267.1100 Does this subsection apply to me?

This subsection applies to you if you own or operate a facility that treats or stores hazardous waste in containment buildings under a 40 CFR section 270 subsection J standardized permit, except as provided in § 267.1(b). Storage and/or treatment in your containment building is not land disposal as defined in 40 CFR 268.2 if your unit meets the requirements of §§ 267.1101, 267.1102, and 267.1103.

§ 267.1101 What design and operating standards must my containment building meet?

Your containment building must comply with the design and operating standards in this section. EPA will consider standards established by professional organizations generally recognized by the industry such as the American Concrete Institute (ACI) and the American Society

of Testing Materials (ASTM) in judging the structural integrity requirements of this section.

(a) The containment building must be completely enclosed with a floor, walls, and a roof to prevent exposure to the elements, (e.g., precipitation, wind, run-on), and to assure containment of managed wastes.

(b) The floor and containment walls of the unit, including the secondary containment system, if required under § 267.1103, must be designed and sufficient strength and thickness to:

(1) Support themselves, the waste contents, and any personnel and heavy equipment that operates within the unit.

(2) Prevent failure due to:

(i) Pressure gradients, settlement, compression, or uplift.

(ii) Physical contact with the hazardous wastes to which they are exposed.

(iii) Climatic conditions.

(iv) Stresses of daily operation, including the movement of heavy equipment within the unit and contact of such equipment with containment walls.

(v) Collapse or other failure.

(c) All surfaces to be in contact with hazardous wastes must be chemically compatible with those wastes.

(d) You must not place incompatible hazardous wastes or treatment reagents in the unit or its secondary containment system if they could cause the unit or secondary containment system to leak, corrode, or otherwise fail.

(e) A containment building must have a primary barrier designed to withstand the movement of personnel, waste, and handling equipment in the unit during the operating life of the unit and appropriate for the physical and chemical characteristics of the waste to be managed.

(f) If appropriate to the nature of the waste management operation to take place in the unit, an exception to the structural strength requirement may be made for light-weight doors and windows that meet these criteria:

(1) They provide an effective barrier against fugitive dust emissions under § 267.1102(d).

(2) The unit is designed and operated in a fashion that assures that wastes will not actually come in contact with these openings.

(g) You must inspect and record in the facility's operating record, at least once every seven days, data gathered from monitoring equipment and leak detection equipment, as well as the containment building and the area immediately surrounding the containment building to detect signs of releases of hazardous waste.

(h) You must obtain certification by a qualified registered professional engineer that the containment building design meets the requirements of §§ 267.1102, 267.1103, and paragraphs (a) through (f) of this section.

§ 267.1102 What other requirements must I meet to prevent releases?

You must use controls and practices to ensure containment of the hazardous waste within the unit, and must, at a minimum:

(a) Maintain the primary barrier to be free of significant cracks, gaps, corrosion, or other deterioration that could cause hazardous waste to be released from the primary barrier. (b) Maintain the level of the stored/treated hazardous waste within the containment walls of the unit so that the height of any containment wall is not exceeded.

(c) Take measures to prevent personnel or by equipment used in handling the waste from tracking hazardous waste out of the unit. You must designate an area to decontaminate equipment, and you must collect and properly manage any rinsate.

(d) Take measures to control fugitive dust emissions such that any openings (doors, windows, vents, cracks, etc.) exhibit no visible emissions (see 40 CFR part 60, appendix A, Method 22—Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares). In addition, you must operate and maintain all associated particulate collection devices (for example, fabric filter, electrostatic precipitator) with sound air pollution control practices. You must effectively maintain this state of no visible emissions at all times during routine operating and maintenance conditions, including when vehicles and personnel are entering and exiting the unit.

§ 267.1103 What additional design and operating standards apply if liquids will be in my containment building?

If your containment building will be used to manage hazardous wastes containing free liquids or treated with free liquids, as determined by the paint filter test, by a visual examination, or by other appropriate means, you must include:

(a) A primary barrier designed and constructed of materials to prevent the migration of hazardous constituents into the barrier (for example, a geomembrane covered by a concrete wear surface).

(b) A liquid collection and removal system to minimize the accumulation of liquid on the primary barrier of the containment building.

(1) The primary barrier must be sloped to drain liquids to the associated collection system; and

(2) You must collect and remove liquids and waste to minimize hydraulic head on the containment system at the earliest practicable time.

(c) A secondary containment system, including a secondary barrier designed and constructed to prevent mi-

gration of hazardous constituents into the barrier, and a leak detection system capable of detecting failure of the primary barrier and collecting accumulated hazardous wastes and liquids at the earliest practical time.

(1) You may meet the requirements of the leak detection component of the secondary containment system by installing a system that is, at a minimum:

(i) Constructed with a bottom slope of 1 percent or more; and

(ii) Constructed of a granular drainage material with a hydraulic conductivity of 1 ??10¥2 cm/sec or more and a thickness of 12 inches (30.5 cm) or more, or constructed of synthetic or geonet drainage materials with a transmissivity of 3 ??10–5 m2sec or more.

(2) If you will be conducting treatment in the building, you must design the area in which the treatment will be conducted to prevent the release of liquids, wet materials, or liquid aerosols to other portions of the building.

(3) You must construct the secondary containment system using materials that are chemically resistant to the waste and liquids managed in the containment building and of sufficient strength and thickness to prevent collapse under the pressure exerted by overlaying materials and by any equipment used in the containment building.

§ 267.1104 How may I obtain a waiver from secondary containment requirements?

Notwithstanding any other provision of this subsection, the Director may waive requirements for secondary containment for a permitted containment building where:

(a) You demonstrate that the only free liquids in the unit are limited amounts of dust suppression liquids required to meet occupational health and safety requirements, and

(b) Containment of managed wastes and dust suppression liquids can be assured without a secondary containment system.

§ 267.1105 What do I do if my containment building contains areas both with and without secondary containment?

For these containment buildings, you must:

(a) Design and operate each area in accordance with the requirements enumerated in §§ 267.1101 through 267.1103.

(b) Take measures to prevent the release of liquids or wet materials into areas without secondary containment. (c) Maintain in the facility's operating log a written description of the operating procedures used to maintain the integrity of areas without secondary containment.

§ 267.1106 What do I do if I detect a release?

Throughout the active life of the containment building, if you detect a condition that could lead to or has caused a release of hazardous waste, you must repair the condition promptly, in accordance with the following procedures.

(a) Upon detection of a condition that has lead to a release of hazardous waste (for example, upon detection of leakage from the primary barrier), you must:

(1) Enter a record of the discovery in the facility operating record;

(2) Immediately remove the portion of the containment building affected by the condition from service;

(3) Determine what steps you must take to repair the containment building, to remove any leakage from the secondary collection system, and to establish a schedule for accomplishing the cleanup and repairs; and

(4) Within 7 days after the discovery of the condition, notify the Director of the condition, and within 14 working days, provide a written notice to the Director with a description of the steps taken to repair the containment building, and the schedule for accomplishing the work.

(b) The Director will review the information submitted, make a determination regarding whether the containment building must be removed from service completely or partially until repairs and cleanup are complete, and notify you of the determination and the underlying rationale in writing.

(c) Upon completing all repairs and cleanup, you must notify the Director in writing and provide a verification, signed by a qualified, registered professional engineer, that the repairs and cleanup have been completed according to the written plan submitted in accordance with paragraph (a)(4) of this section.

§ 267.1107 Can a containment building itself be considered secondary containment?

Containment buildings can serve as secondary containment systems for tanks placed within the building under certain conditions.

(a) A containment building can serve as an external liner system for a tank, provided it meets the requirements of § 267.196(a).

(b) The containment building must also meet the requirements of § 267.195(a), (b)(1) and (2) to be considered an acceptable secondary containment system for a tank.

§ 267.1108 What must I do when I stop operating the containment building?

When you close a containment building, you must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate and manage them as hazardous waste unless 40 CFR 261.3(d) applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for containment buildings must meet all of the requirements specified in subsections G and H of this section.

Section 268—LAND DISPOSAL RESTRICTIONS

Subsection A—General

171. In **Section 268.2**, amend paragraph (g) by revising ''A manufactured'' to read ''a manufactured''; ''Any material'' to read ''any material''; ''Process residuals'' to read ''process residuals''; and ''and Intact'' to read ''and intact''.

§ 268.2 Definitions applicable in this section.

* * * * *

(g) "Debris" means solid material exceeding a 60 mm particle size that is intended for disposal and that is: ~~A manufactured~~ **a manufactured** object; or plant or animal matter; or natural geologic material. However, the following materials are not debris: ~~Any material~~ **any material** for which a specific treatment standard is provided in Subsection D, section 268, namely lead acid batteries, cadmium batteries, and radioactive lead solids; ~~Process residuals~~ **process residuals** such as smelter slag and residues from the treatment of waste, wastewater, sludges, or air emission residues; ~~and Intact~~ **and intact** containers of hazardous waste that are not ruptured and that retain at least 75% of their original volume. A mixture of debris that has not been treated to the standards provided by § 268.45 and other material is subject to regulation as debris if the mixture is comprised primarily of debris, by volume, based on visual inspection.

* * * * *

172. In **Section 268.4**, amend paragraph (a)(3) introductory text by revising the citation ''of section 264 or section 264'' to read ''of section 264 or section 265''.

§ 268.4 Treatment surface impoundment exemption.

(a) * * *

(3) The impoundment meets the design requirements of § 264.221(c) or § 265.221(a) of this regulation, regardless that the unit may not be new, expanded, or a replacement, and be in compliance with applicable ground water monitoring requirements of Subsection F ~~of section 264 or section 264~~ **of Section 264 or Section 265** of this regulation unless:

* * * * *

173. In **Section 268.6**, amend paragraph (c)(5) introductory text by revising ''section meet'' to read ''section meets''.

§ 268.6 Petitions to allow land disposal of a waste prohibited under Subsection C of Section 268.

* * * * *

(c) * * *

(5) The monitoring program specified under paragraph (c)(1) of this ~~section meet~~ **section meets** the following criteria:

* * * * *

174. Amend **Section 268.7** as follows:

a. Amend by revising paragraphs (a)(1) and (a)(2), and (b)(6) to read as follows:

b. In paragraph (a)(3)(ii), second sentence, insert the word ''column'' after the phrase ''information in'', and insert a closing quotation mark after the citation ''268.7(a)(3)'';

c. In paragraph (b)(4)(ii), revise the citation ''§ 261.3(e)'' to read ''§ 261.3(f)'';

d. Amend by revising paragraph (b)(6) to read as follows:

e. In paragraph (c)(2), remove the closing parenthesis from ''Leaching Procedure)'';

f. In paragraph (d) introductory text, revise the citation ''§ 261.3(e)'' to read ''§ 261.3(f)'';

g. Revise paragraph (d)(1) to read as set forth below;

h. In paragraph (d)(2), revise the citation ''§ 261.2(e)(1)'' to read ''§ 261.3(f)(1)'';

i. In paragraph (d)(3), revise the citation ''§ 261.3(e)(1)'' to read ''§ 261.3(f)(1)''.

§ 268.7 Testing, tracking and recordkeeping requirements for generators, treaters, and disposal facilities.

(a) *Requirements for generators:*

(1) A generator of hazardous waste must determine if the waste has to be treated before it can be land disposed. This is done by determining if the hazardous waste meets the treatment standards in § 268.40, 268.45, or § 268.49. This determination can be made **concurrently with the hazardous waste determination required in § 262.11 of this Regulation,** in either of two ways: testing the waste or using knowledge of the waste. If the generator tests

the waste, testing would normally determine the total concentration of hazardous constituents, or the concentration of hazardous constituents in an extract of the waste obtained using test method 1311 in ''Test Methods of Evaluating Solid Waste, Physical/Chemical Methods,'' EPA Publication SW–846, ~~as referenced in §260.11 of this regulation~~ **(incorporated by reference, see § 260.11 of this Regulation),** depending on whether the treatment standard for the waste is expressed as a total concentration or concentration of hazardous constituent in the waste's extract. **(Alternatively, the generator must send the waste to a RCRA-permitted hazardous waste treatment facility, where the waste treatment facility must comply with the requirements of § 264.13 of this Regulation and paragraph (b) of this section.)** In addition, some hazardous wastes must be treated by particular treatment methods before they can be land disposed and some soils are contaminated by such hazardous wastes. These treatment standards are also found in § 268.40, and are described in detail in § 268.42, Table 1. These wastes, and solids contaminated with such wastes, do not need to be tested (however, if they are in a waste mixture, other wastes with concentration level treatment standards would have to be tested). If a generator determines they are managing a waste or soil contaminated with a waste, that displays a hazardous characteristic of ignitability, corrosivity, reactivity, or toxicity, they must comply with the special requirements of § 268.9 of this section in addition to any applicable requirements in this section.

(2) ~~If the waste or contaminated soil does not meet the treatment standards, or if the generator chooses not to make the determination of whether his waste must be treated, with the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file. The notice must include the information in column "268.7(a)(2)" of the Generator Paperwork Requirements Table in paragraph (a)(4) of this section. (Alternatively, if the generator chooses not to make the determination of whether the waste must be treated, the notification must include the EPA Hazardous Waste Numbers and Manifest Number of the first shipment and must state "This hazardous waste may or may not be subject to the LDR treatment standards. The treatment facility must make the determination.") No further notification is necessary until such time that the waste or facility change, in which case a new notification must be sent and a copy placed in the generator's file.~~ **If the waste or contaminated soil does not meet the treatment standard: With the initial shipment of waste to each treatment or storage facility, the generator must send a one-time written notice to each treatment or storage facility receiving the waste, and place a copy in the file. The notice must include the information in column "268.7(a)(2)" of the Generator Paperwork Requirements Table in § 268.7(a)(4). No further notification is necessary until such time that the waste or facility changes, in which case a new notification must be sent and a copy placed in the generator's file.**

* * * * *

(3) * * *

(ii) For contaminated soil, with the initial shipment of wastes to each treatment, storage, or disposal facility, the generator must send a one-time written notice to each facility receiving the waste and place a copy in the file. The notice must include the information in **column** "268.7(a)(3)**"** of the Generator Paperwork Requirements Table in § 268.7(a)(4).

* * * * *

(4) * * *

(ii) Debris excluded from the definition of hazardous waste ~~under § 261.3(e)~~ **§ 261.3(f)** of this regulation (i.e., debris treated by an extraction or destruction technology provided by Table 1, § 268.45, and debris that the Director has determined does not contain hazardous waste), however, is subject to the notification and certification requirements of paragraph (d) of this section rather than the certification requirements of this paragraph.

* * * * *

(b) * * *

(6) Where the wastes are recyclable materials used in a manner constituting disposal subject to the provisions of § 266.20(b) of this Regulation regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) ~~is not required to notify the receiving facility, pursuant to paragraph (b)(3) of this section.~~ **must, for the initial shipment of waste, prepare a one-time certification described in paragraph (b)(4) of this section, and a one-time notice which includes the information in paragraph (b)(3) of this section (except the manifest number). The certification and notification must be placed in the facility's on-site files.** ~~With each shipment of such wastes the owner or operator of the recycling facility must submit a certification described in paragraph (b)(4) of this section, and a notice which includes the information listed in paragraph (b)(3) of this section (except the manifest number) to the Director, or his delegated representative.~~ **If the waste or the receiving facility changes, a new certification and notification must be prepared**

and placed in the on site files. In addition, the recycling facility ~~also must~~ **must also** keep records of the name and location of each entity receiving the hazardous waste-derived product.

* * * * *

(c) * * *

(2) Test the waste, or an extract of the waste or treatment residue developed using test method 1311 (the Toxicity Characteristic Leaching Procedure~~)~~, described in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,'' EPA Publication SW-846 as incorporated by reference in § 260.11 of this chapter), to assure that the wastes or treatment residues are in compliance with the applicable treatment standards set forth in subsection D of this Section. Such testing must be performed according to the frequency specified in the facility's waste analysis plan as required by § 264.13 or § 265.13 of this regulation.

* * * * *

(d) Generators or treaters who first claim that hazardous debris is excluded from the definition of hazardous waste under ~~§ 261.3(e)~~ **§ 261.3(f)** of this regulation (i.e., debris treated by an extraction or destruction technology provided by Table 1, § 268.45, and debris that the EPA Regional Administrator (or his designated representative) or State authorized to implement 40 CFR Part 268 requirements has determined does not contain hazardous waste) are subject to the following notification and certification requirements:

* * * * *

(d) * * *

(1) A one-time notification, including the following information, must be submitted to the ADEQ.

(i) The name and address of the Subsection D facility receiving the treated debris;

(ii) A description of the hazardous debris as initially generated, including the applicable EPA Hazardous Waste Number(s); and

(iii) For debris excluded under § 261.3(f)(1) of this regulation, the technology from Table 1, § 268.45, used to treat the debris.

(2) The notification must be updated if the debris is shipped to a different facility, and, for debris excluded under ~~§ 261.2(e)(1)~~ **§ 261.3(f)(1)** of this chapter, if a different type of debris is treated or if a different technology is used to treat the debris.

(3) For debris excluded under ~~§ 261.2(e)(1)~~ **§ 261.3(f)(1)** of this chapter, the owner or operator of the treatment facility must document and certify compliance with the treatment standards of Table 1, § 268.45, as follows:

* * * * *

175. **Section 268.9** is amended by revising paragraphs (a) and (d) introductory text to read as follows:

§ 268.9 Special rules regarding wastes that exhibit a characteristic.

(a) The initial generator of a solid waste must determine each EPA Hazardous Waste Number (waste code) applicable to the waste in order to determine the applicable treatment standards under Subsection D of this section. **This determination may be made concurrently with the hazardous waste determination required in § 262.11 of this Regulation.** For purposes of section 268, the waste will carry the waste code for any applicable listed waste (Section 261, subsection D of this Regulation). In addition, where the waste exhibits a characteristic, the waste will carry one or more of the characteristic waste codes (Section 261, Subsection C of this Regulation), except when the treatment standard for the listed waste operates in lieu of the treatment standard for the characteristic waste, as specified in paragraph (b) of this section. If the generator determines that their waste displays a hazardous characteristic (and is not D001 nonwastewaters treated by CMBST, RORGS, OR POLYM of § 268.42, Table 1), the generator must determine the underlying hazardous constituents (as defined at § 268.2(i)) in the characteristic waste.

* * * * *

(d) Wastes that exhibit a characteristic are also subject to § 268.7 requirements, except that once the waste is no longer hazardous, a one-time notification and certification must be placed in the generator's or treater's on-site files. The notification and certification **that is placed in the generators or treaters files** must be updated if the process or operation generating the waste changes and/or if the subtitle D facility receiving the waste changes. and/or if the subtitle D facility receiving the waste changes. ~~However, the generator or treater need only notify the EPA region or an authorized state on an annual basis if such changes occur. Such notification and certification should be sent to the EPA region or authorized state by the end of the calendar year, but no later than December 31.~~

* * * * *

176. In **§ 268.14**, amend paragraphs (b) and (c) by revising ''not withstanding'' to read ''notwithstanding'' in both instances.

§ 268.14 Surface impoundment exemptions.

* * * * *

(b) Wastes which are newly identified or listed under section 3001 after November 8, 1984, and stored in a surface impoundment that is newly subject to subtitle C of RCRA as a result of the additional identification or listing, may continue to be stored in the surface impoundment for 48 months after the promulgation of the additional listing or characteristic, ~~not withstanding~~ **notwithstanding** that the

waste is otherwise prohibited from land disposal, provided that the surface impoundment is in compliance with the requirements of Subsection F of section 265 of this regulation within 12 months after promulgation of the new listing or characteristic.

(c) Wastes which are newly identified or listed under section 3001 after November 8, 1984, and treated in a surface impoundment that is newly subject to subtitle C of RCRA as a result of the additional identification or listing, may continue to be treated in that surface impoundment, ~~not withstanding~~ **notwithstanding** that the waste is otherwise prohibited from land disposal, provided that surface impoundment is in compliance with the requirements of Subsection F of section 265 of this regulation within 12 months after the promulgation of the new listing or characteristic. In addition, if the surface impoundment continues to treat hazardous waste after 48 months from promulgation of the additional listing or characteristic, it must then be in compliance with § 268.4.

* * * * *

177. Amend **Section 268.40** as follows:

a. In paragraph (g), revise ''as definded'' to read ''as defined''.

b. Amend the table TREATMENT STANDARDS FOR HAZARDOUS WASTES as follows:

1. At the column heading ''Wastewaters'', revise ''Concentration in mg/L3'' to read ''Concentration 3 in mg/L'';

2. At the column heading ''Nonwastewaters'', revise ''Concentration in mg/kg5'' to read ''Concentration5 in mg/kg'';

3. At the entry ''K047'', in the waste description column, revise ''water form TNT'' to read ''water from TNT'';

4. At the entries ''K049'' and ''K051'', revise the CAS number for ''Chrysene'' from ''2218–01–9'' to read ''218–01–9'';

5. At the entry ''K088'', revise the common name ''Bemz(a)anthracene'' to read ''Benz(a)anthracene''; and revise the common name ''Indeno(1,2,3,-c,d)pyrene'' to read ''Indeno(1,2,3-cd)pyrene'';

6. At the entry ''K111'', revise the CAS number for ''2,4-Dinitrotoluene'' from ''121–1–2'' to read ''121–14–2'';

7. At the entry ''K114'', in the waste description column, revise the common name ''dinitrotolune'' to read ''dinitrotoluene'';

8. At the entry ''K156'', revise the CAS number for ''Acetophenone'' from ''96–86–2'' to read ''98–86–2'';

9. At the entry ''U202'' ''Acetone'' following ''U001'', revise ''U202'' to read ''U002'';

10. At the entry ''U134'', revise the CAS number ''16984–48–8'' to read ''7664–39–3'';

11. At the entry ''U137'', revise in the waste description and in the common name columns ''Indeno(1,2,3-c,d)pyrene'' to read ''Indeno(1,2,3-cd)pyrene'' in both instances.

§ 268.40 Applicability of Treatment Standards.

* * * * *

(g) Between August 26, 1996 and March 4, 1999 the treatment standards for the wastes specified in § 261.32 as EPA Hazardous Waste numbers K156-K161; and in § 261.33 as EPA Hazardous Waste numbers P127, P128, P185, P188-P192, P194, P196-P199, P201-P205, U271, U277-U280, U364-U367, U372, U373, U375-U379, U381-U387, U389-U396, U400-U404, U407, and U409-U411; and soil contaminated with these wastes; may be satisfied by either meeting the constituent concentrations presented in the table "Treatment Standards for Hazardous Wastes" in this section, or by treating the waste by the following technologies: combustion, as defined by the technolgy code CMBST at §268.42 Table 1, for nonwaste-waters; and, biodegradation ~~as definded~~ **as defined** by the technology code BIODG, carbon adsorption as defined by the technology code CARBN, chemical oxidation as defined by the technology code CHOXD, or combustion as defined as technology code CMBST at §268.42 Table 1, for wastewaters.

* * * * *

§268.40 TREATMENT STANDARDS FOR HAZARDOUS WASTES NOTE: NA means not applicable * * *

Wastewaters * * *
~~Concentration in mg/l3;~~ **Concentration 3 in mg/L**
* * * * *
Nonwastewaters * * *
~~Concentration in mg/kg5~~ **Concentration5 in mg/kg**
* * * * *
K047
Pink/red water ~~form~~ **from** TNT operations
* * * * *
K049 Chrysene ~~2218-01-9~~ **218–01–9**
* * * * *
K051 Chrysene ~~2218-01-9~~ **218–01–9**
* * * * *
K088
~~Indeno(1,2,3,-c,d)pyrene~~ **Indeno(1,2,3-cd)pyrene**
* * * * *
K111
~~121-1-2~~**121–14–2**
* * * * *
K114
Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of ~~dinitrotolune~~ **dinitrotoluene**.
* * * * *
K156
Acetophenone 96-86-2 **98–86–2**
* * * * *
~~U202~~**U002**
* * * * *
"U134
~~16964-48-8~~**7664–39–3**
* * * * *
U137
~~Indeno(1,2,3-c,d)pyrene~~ **Indeno(1,2,3-cd)pyrene**
* * * * *

~~Indeno(1,2,3-c,d)pyrene~~ **Indeno(1,2,3-cd)pyrene**
* * * * *

178. In **Section 268.42, Table 1**, amend the entry for Technology code ''SSTRP'' in the second column as follows:

a. In the first sentence, revise ''as well as, temperature and pressure ranges have'' to read ''as well as temperature and pressure ranges, have'';

b. In the second sentence, insert a comma after the phrase ''parameters of the unit''; remove the comma in the phrase ''such as, the number''; and replace the period at the end of ''the internal column design.'' with a comma;

c. In the third sentence, revise ''Thus, resulting'' to read ''thus resulting''.

§ 268.42 Treatment standards expressed as specified technologies

* * * * *

Table 1

* * * * *

SSTRP: Steam stripping of organics from liquid wastes utilizing direct application of steam to the wastes operated such that liquid and vapor flow rates, ~~as well as, temperature and pressure ranges have~~ ***as well as temperature and pressure ranges, have*** been optimized, monitored, and maintained These operating parameters are dependent upon the design parameters of the unit, such as, the number of separation stages and the internal column design. ~~Thus, resulting~~ ***thus resulting*** in a condensed extract high in organics that must undergo either incineration, reuse as a fuel, or other recovery/reuse and an extracted wastewater that must undergo further treatment as specified in the standard

* * * * *

179. In **Section 268.44**, amend paragraph (c), last sentence of the certification statement, by revising ''I am aware that these are'' to read ''I am aware that there are''.

§ 268.44 Variance from a treatment standard

* * * * *

(c) Each petition must include the following statement signed by the petitioner or an authorized representative: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete ~~I am aware that these are~~ **I am aware that there are** significant penalties for submitting false information, including the possibility of fine and imprisonment"

* * * * *

180. Amend **Section 268.45, Table 1**, as follows:

a. At item B.1., first column, revise ''biodegration'' to read ''biodegradation'';

b. At item B.2.a., first column, revise ''electolytic'' to read ''electrolytic''; and under number (8), revise ''permanganates'' to read ''permanganates''.

§ 268.45 Treatment standards for hazardous debris

* * * * *

Table 1.-Alternative Treatment Standards For Hazardous Debris[1]

* * * * *

B. Destruction Technologies: * * *
1. Biological Destruction (Biodegradation):
and ~~biodegration~~ **biodegradation** of organic or nonmetallic inorganic
* * * * *
2. * * *
a. Chemical Oxidation: Chemical or ~~electolytic~~ **electrolytic**
* * * * *

181. Amend **Section 268.48 Table**, UNIVERSAL TREATMENT STANDARDS, as follows:

a. In Table UTS, amend by adding in alphabetical sequence the following entries under organic constituents:

b. Amend the Footnote by changing "thisSection" to read "this Section:

§ 268.48 Table UTS – Universal Treatment Standards

(a) * * *

Universal Treatment Standards Table

TABLE UTS - UNIVERSAL TREATMENT STANDARDS

NOTE: NA means not applicable

Chemical Name	CAS No1	Waste	Nonwaste
		waters2	waters3
Organic Constituents			
Acenaphthylene	208-96-8	0.059	3.4
Acenaphthene	83-32-9	0.059	3.4
Acetone	67-64-1	0.28	160
Acetonitrile	75-05-8	5.6	38
Acetophenone	96-86-2	0.010	9.7
2-Acetylaminofluorene	53-96-3	0.059	140
Acrolein	107-02-8	0.29	NA
Acrylamide	79-06-1	19	23
Acrylonitrile	107-13-1	0.24	84
Aldicarb sulfone	1646-88-4	0.056	0.28

\6\			
Aldrin	309-00-2	0.021	0.066
4-Aminobiphenyl	92-67-1	0.13	NA
Aniline	62-53-3	0.81	14
o-Anisidine (2-methoxyaniline)	90-04-0	0.010	0.66
Anthracene	120-12-7	0.059	3.4
Aramite	140-57-8	0.36	NA
alpha-BHC	319-84-6	0.00014	0.066
beta-BHC	319-85-7	0.00014	0.066
delta-BHC	319-86-8	0.023	0.066
gamma-BHC	58-89-9	0.0017	0.066
Barban \6\	101-27-9	0.056	1.4
Bendiocarb \6\	22781-23-3	0.056	1.4
Benomyl \6\	17804-35-2	0.056	1.4
Benzene	71-43-2	0.14	10
Benz(a)anthracene	56-55-3	0.059	3.4
Benzal chloride	98-87-3	0.055	6.0
Benzo(b)fluoranthene (difficult to distinguish from benzo(k)fluoranthene)	205-99-2	0.11	6.8
Benzo(k)fluoranthene (difficult to distinguish from benzo(b)fluoranthene)	207-08-9	0.11	6.8
Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
Benzo(a)pyrene	50-32-8	0.061	3.4
Bromodichloromethane	75-27-4	0.35	15
Bromomethane/ Methyl bromide	74-83-9	0.11	15
4-Bromophenyl phenyl ether	101-55-3	0.055	15
n-Butyl alcohol	71-36-3	5.6	2.6
Butylate \6\	2008-41-5	0.042	1.4
Butyl benzyl phthalate	85-68-7	0.017	28
2-sec-Butyl-4,6-dinitrophenol/ Dinoseb	88-85-7	0.066	2.5
Carbaryl \6\	63-25-2	0.006	0.14
Carbenzadim \6\	10605-21-7	0.056	1.4
Carbofuran \6\	1563-66-2	0.006	0.14
Carbofuran phenol \6\	1563-38-8	0.056	1.4
Carbon disulfide	75-15-0	3.8	4.8 mg/l TCLP
Carbon tetrachloride	56-23-5	0.057	6.0
Carbosulfan \6\	55285-14-8	0.028	1.4
Chlordane (alpha and gamma isomers)	57-74-9	0.0033	0.26
p-Chloroaniline	106-47-8	0.46	16
Chlorobenzene	108-90-7	0.057	6.0
Chlorobenzilate	510-15-6	0.10	NA
2-Chloro-1,3-butadiene	126-99-8	0.057	0.28
Chlorodibromomethane	124-48-1	0.057	15
Chloroethane	75-00-3	0.27	6.0
bis(2-Chloroethoxy)methane	111-91-1	0.036	7.2
bis(2-Chloroethyl)ether	111-44-4	0.033	6.0
Chloroform	67-66-3	0.046	6.0
bis(2-Chloroisopropyl) ether	39638-32-9	0.055	7.2
p-Chloro-m-cresol	59-50-7	0.018	14
2-Chloroethyl vinyl ether	110-75-8	0.062	NA
Chloromethane/ Methyl chloride	74-87-3	0.19	30
2-Chloronaphthalene	91-58-7	0.055	5.6
2-Chloropchenol	95-57-8	0.044	5.7
3-Chloropropylene	107-05-1	0.036	30
Chrysene	218-01-9	0.059	3.4
p-Cresidine	120-71-8	0.010	0.66
o-Cresol	95-48-7	0.11	5.6

m-Cresol (difficult to distinguish from p-cresol)	108-39-4	0.77	5.6
p-Cresol (difficult to distinguish from m-cresol)	106-44-5	0.77	5.6
m-Cumenyl methylcarbamate \6\	64-00-6	0.056	1.4
Cyclohexanone	108-94-1	0.36	0.75 mg/l TCLP
o,p[prime]-DDD	53-19-0	0.023	0.087
p,p[prime]-DDD	72-54-8	0.023	0.087
o,p[prime]-DDE	3424-82-6	0.031	0.087
p,p[prime]-DDE	72-55-9	0.031	0.087
o,p[prime]-DDT	789-02-6	0.0039	0.087
p,p[prime]-DDT	50-29-3	0.0039	0.087
Dibenz(a,h)anthracene	53-70-3	0.055	8.2
Dibenz(a,e)pyrene	192-65-4	0.061	NA
1,2-Dibromo-3-chloropropane	96-12-8	0.11	15
1,2-Dibromoethane/ Ethylene dibromide	106-93-4	0.028	15
Dibromomethane	74-95-3	0.11	15
m-Dichlorobenzene	541-73-1	0.036	6.0
o-Dichlorobenzene	95-50-1	0.088	6.0
p-Dichlorobenzene	106-46-7	0.090	6.0
Dichlorodifluoromethane	75-71-8	0.23	7.2
1,1-Dichloroethane	75-34-3	0.059	6.0
1,2-Dichloroethane	107-06-2	0.21	6.0
1,1-Dichloroethylene	75-35-4	0.025	6.0
trans-1,2-Dichloroethylene	156-60-5	0.054	30
2,4-Dichlorophenol	120-83-2	0.044	14
2,6-Dichlorophenol	87-65-0	0.044	14
2,4-Dichlorophenoxyacetic acid/2,4-D	94-75-7	0.72	10
1,2-Dichloropropane	78-87-5	0.85	18
cis-1,3-Dichloropropylene	10061-01-5	0.036	18
trans-1,3-Dichloropropylene	10061-02-6	0.036	18
Dieldrin	60-57-1	0.017	0.13
Diethyl phthalate	84-66-2	0.20	28
p-Dimethylaminoazobenzene	60-11-7	0.13	NA
2,4-Dimethylaniline (2,4-xylidine)	95-68-1	0.010	0.66
2,4-Dimethyl phenol	105-67-9	0.036	14
Dimethyl phthalate	131-11-3	0.047	28
Di-n-butyl phthalate	84-74-2	0.057	28
1,4-Dinitrobenzene	100-25-4	0.32	2.3
4,6-Dinitro-o-cresol	534-52-1	0.28	160
2,4-Dinitrophenol	51-28-5	0.12	160
2,4-Dinitrotoluene	121-14-2	0.32	140
2,6-Dinitrotoluene	606-20-2	0.55	28
Di-n-octyl phthalate	117-84-0	0.017	28
Di-n-propylnitrosamine	621-64-7	0.40	14
1,4-Dioxane	123-91-1	12.0	170
Diphenylamine (difficult to distinguish from diphenylnitrosamine)	122-39-4	0.92	13
Diphenylnitrosamine (difficult to distinguish from diphenylamine)	86-30-6	0.92	13
1,2-Diphenylhydrazine	122-66-7	0.087	NA

Disulfoton	298-04-4	0.017	6.2
Dithiocarbamates (total) \6\	NA	0.028	28
Endosulfan I	959-98-8	0.023	0.066
Endosulfan II	33213-65-9	0.029	0.13
Endosulfan sulfate	1031-07-8	0.029	0.13
Endrin	72-20-8	0.0028	0.13
Endrin aldehyde	7421-93-4	0.025	0.13
EPTC \6\	759-94-4	0.042	1.4
Ethyl acetate	141-78-6	0.34	33
Ethyl benzene	100-41-4	0.057	10
Ethyl cyanide/ Propanenitrile	107-12-0	0.24	360
Ethyl ether	60-29-7	0.12	160
Ethyl methacrylate	97-63-2	0.14	160
Ethylene oxide	75-21-8	0.12	NA
Famphur	52-85-7	0.017	15
Fluoranthene	206-44-0	0.068	3.4
Fluorene	86-73-7	0.059	3.4
Formetanate hydrochloride \6\	23422-53-9	0.056	1.4
Heptachlor	76-44-8	0.0012	0.066
1,2,3,4,6,7,8-Heptachlorodibenzo-p-dioxin (1,2,3,4,6,7,8-HpCDD)	35822-46-9	0.000035	.0025
1,2,3,4,6,7,8-Heptachlorodibenzofluran (1,2,3,4,6,7,8-HpCDF)	67562-39-4	0.000035	.0025
1,2,3,4,7,8,9-Heptachlorodibenzofluran (1,2,3,4,7,8,9-HpCDF)	55673-89-7	0.000035	.0025
Heptachlor epoxide	1024-57-3	0.016	0.066
Hexachlorobenzene	118-74-1	0.055	10
Hexachlorobutadiene	87-68-3	0.055	5.6
Hexachlorocyclopentadiene	77-47-4	0.057	2.4
HxCDDs (All Hexachlorodibenzo-p-dioxins)	NA	0.000063	0.001
HxCDFs (All Hexachlorodibenzofurans)	NA	0.000063	0.001
Hexachloroethane	67-72-1	0.055	30
Indeno(1,2,3-c,d) pyrene	193-39-5	0.0055	3.4
Iodomethane	74-88-4	0.19	65
Isobutyl alcohol	78-83-1	5.6	170
Isodrin	465-73-6	0.021	0.066
Isosafrole	120-58-1	0.081	2.6
Kepone	143-50-0	0.0011	0.13
Methacrylonitrile	126-98-7	0.24	84
Methanol	67-56-1	5.6	0.75 mg/l TCLP
Methapyrilene	91-80-5	0.081	1.5
Methiocarb \6\	2032-65-7	0.056	1.4
Methomyl \6\	16752-77-5	0.028	0.14
Methoxychlor	72-43-5	0.25	0.18
3-Methylcholanthrene	56-49-5	0.0055	15
4,4-Methylene bis(2-chloroaniline)	101-14-4	0.50	30
Methylene chloride	75-09-2	0.089	30
Methyl ethyl ketone	78-93-3	0.28	36
Methyl isobutyl ketone	108-10-1	0.14	33
Methyl methacrylate	80-62-6	0.14	160
Methyl methanesulfonate	66-27-3	0.018	NA
Methyl parathion	298-00-0	0.014	4.6
Metolcarb \6\	1129-41-5	0.056	1.4
Mexacarbate \6\	315-18-4	0.056	1.4
Molinate \6\	2212-67-1	0.042	1.4
Naphthalene	91-20-3	0.059	5.6

2-Naphthylamine	91-59-8	0.52	NA
o-Nitroaniline	88-74-4	0.27	14
p-Nitroaniline	100-01-6	0.028	28
Nitrobenzene	98-95-3	0.068	14
5-Nitro-o-toluidine	99-55-8	0.32	28
o-Nitrophenol	88-75-5	0.028	13
p-Nitrophenol	100-02-7	0.12	29
N-Nitrosodiethylamine	55-18-5	0.40	28
N-Nitrosodimethylamine	62-75-9	0.40	2.3
N-Nitroso-di-n-butylamine	924-16-3	0.40	17
N-Nitrosomethylethylamine	10595-95-6	0.40	2.3
N-Nitrosomorpholine	59-89-2	0.40	2.3
N-Nitrosopiperidine	100-75-4	0.013	35
N-Nitrosopyrrolidine	930-55-2	0.013	35
1,2,3,4,6,7,8,9-Octachlorodibenzo-p-dioxin (OCDD)	3268-87-9	0.000063	0.005
1,2,3,4,6,7,8,9-Octachlorodibenzofluran (OCDF)	39001-02-0	0.000063	0.005
Oxamyl \6\	23135-22-0	0.056	0.28
Parathion	56-38-2	0.014	4.6
Total PCBs (sum of all PCB isomers, or all Aroclors)\8\	1336-36-3	0.10	10
Pebulate \6\	1114-71-2	0.042	1.4
Pentachlorobenzene	608-93-5	0.055	10
PeCDDs (All Pentachlorodibenzo-p-dioxins)	NA	0.000063	0.001
PeCDFs (All Pentachlorodibenzofurans)	NA	0.000035	0.001
Pentachloroethane	76-01-7	0.055	6.0
Pentachloronitrobenzene	82-68-8	0.055	4.8
Pentachlorophenol	87-86-5	0.089	7.4
Phenacetin	62-44-2	0.081	16
Phenanthrene	85-01-8	0.059	5.6
Phenol	108-95-2	0.039	6.2
1,3-Phenylenediamine	108-45-2	0.010	0.66
Phorate	298-02-2	0.021	4.6
Phthalic acid	100-21-0	0.055	28
Phthalic anhydride	85-44-9	0.055	28
Physostigmine \6\	57-47-6	0.056	1.4
Physostigmine salicylate \6\	57-64-7	0.056	1.4
Promecarb \6\	2631-37-0	0.056	1.4
Pronamide	23950-58-5	0.093	1.5
Propham \6\	122-42-9	0.056	1.4
Propoxur \6\	114-26-1	0.056	1.4
Prosulfocarb \6\	52888-80-9	0.042	1.4
Pyrene	129-00-0	0.067	8.2
Pyridine	110-86-1	0.014	16
Safrole	94-59-7	0.081	22
Silvex/2,4,5-TP	93-72-1	0.72	7.9
1,2,4,5-Tetrachlorobenzene	95-94-3	0.055	14
TCDDs (All Tetrachlorodibenzo-p-dioxins)	NA	0.000063	0.001
TCDFs (All Tetrachlorodibenzofurans)	NA	0.000063	0.001
1,1,1,2-Tetrachloroethane	630-20-6	0.057	6.0
1,1,2,2-Tetrachloroethane	79-34-5	0.057	6.0
Tetrachloroethylene	127-18-4	0.056	6.0
2,3,4,6-Tetrachlorophenol	58-90-2	0.030	7.4
Thiodicarb \6\	59669-26-0	0.019	1.4
Thiophanate-methyl \6\	23564-05-8	0.056	1.4

Toluene	108-88-3	0.080	10
Toxaphene	8001-35-2	0.0095	2.6
Triallate \6\	2303-17-5	0.042	1.4
Tribromomethane/ Bromoform	75-25-2	0.63	15
1,2,4-Trichlorobenzene	120-82-1	0.055	19
1,1,1-Trichloroethane	71-55-6	0.054	6.0
1,1,2-Trichloroethane	79-00-5	0.054	6.0
Trichloroethylene	79-01-6	0.054	6.0
Trichlorofluoromethane	75-69-4	0.020	30
2,4,5-Trichlorophenol	95-95-4	0.18	7.4
2,4,6-Trichlorophenol	88-06-2	0.035	7.4
2,4,5-Trichlorophenoxy acetic acid/ 2,4,5-T	93-76-5	0.72	7.9
1,2,3-Trichloropropane	96-18-4	0.85	30
1,1,2-Trichloro-1,2,2- trifluoroethane	76-13-1	0.057	30
Triethylamine \6\	121-44-8	0.081	1.5
tris-(2,3-Dibromopropyl) phosphate	126-72-7	0.11	0.10
Vernolate \6\	1929-77-7	0.042	1.4
Vinyl chloride	75-01-4	0.27	6.0
Xylenes-mixed isomers (sum of o-, m-, and p- xylene concentrations)	1330-20-7	0.32	30
Inorganic Constituents			
Antimony	7440-36-0	1.9	1.15 mg/l TCLP
Arsenic	7440-38-2	1.4	5.0 mg/l TCLP
Barium	7440-39-3	1.2	21 mg/l TCLP
Beryllium	7440-41-7	0.82	1.22 mg/l TCLP
Cadmium	7440-43-9	0.69	0.11 mg/l TCLP
Chromium (Total)	7440-47-3	2.77	0.60 mg/l TCLP
Cyanides (Total) \4\	57-12-5	1.2	590
Cyanides (Amenable) \4\	57-12-5	0.86	30
Fluoride \5\	16984-48-8	35	NA
Lead	7439-92-1	0.69	0.75 mg/l TCLP
Mercury_Nonwastewater from Retort	7439-97-6	NA	0.20 mg/l TCLP
Mercury_All Others	7439-97-6	0.15	0.025 mg/l TCLP
Nickel	7440-02-0	3.98	11 mg/l TCLP
Selenium \7\	7782-49-2	0.82	5.7 mg/l TCLP
Silver	7440-22-4	0.43	0.14 mg/l TCLP
Sulfide \5\	18496-25-8	14	NA
Thallium	7440-28-0	1.4	0.20 mg/l TCLP
Vanadium \5\	7440-62-2	4.3	1.6 mg/l TCLP
Zinc \5\	7440-66-6	2.61	4.3 mg/l TCLP

* * * * *

FOOTNOTES TO TABLE UTS

1 CAS means Chemical Abstract Services When the waste code and/or regulated constituents are described as a combination of a chemical with its salts and/or esters, the CAS number is given for the parent compound only .

2 Concentration standards for wastewaters are expressed in mg/l and are based on analysis of composite samples.

3 Except for Metals (EP or TCLP) and Cyanides (Total and Amenable) the nonwastewater treatment standards expressed as a concentration were established, in part, based upon incineration in units operated in accordance with the technical requirements of Section 264, subsection O or Section 265, subsection O, or based upon combustion in fuel substitution units operating in accordance with applicable technical requirements A facility may comply with these treatment standards according to provisions in § 26840(d) All concentration standards for nonwastewaters are based on analysis of grab samples.

4 Both Cyanides (Total) and Cyanides (Amenable) for nonwastewaters are to be analyzed
using Method 9010C or 9012B, found in "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, as incorporated by reference in § 26011, with a sample size of 10 grams and a distillation time of one hour and 15 minutes.

5 These constituents are not "underlying hazardous constituents" in characteristic wastes, according to the definition at §2682(i).

6 Between August 26, 1998 and March 4, 1999, these constituents are not "underlying hazardous constituents" as defined in § 2682(i) of this section)

7 This constituent is not an underlying hazardous constituent as defined at § 2682(i) of ~~this~~Section ***this Section*** because its UTS level is greater than its TC level, thus a treated selenium waste would always be characteristically hazardous, unless it is treated to below its characteristic level 8 mg/L, TCLP

9 This srandard is temporarily deferred for soil exhibiting a hazardous characteristic due to D004-D011 only.

* * * * *

182. In **Section 268.49**, amend paragraph (d) by revising ''flouride'' to read ''fluoride''.

§ 268.49 Alternative LDR treatment standards for contaminated soil * * *

* * * * *

(d) Constituents subject to treatment. When applying

the soil treatment standards in paragraph (c) of this section, constituents subject to treatment are any constituents listed in §268.48 Table UTS-Universal Treatment Standards that are reasonably expected to be present in any given volume of contaminated soil, except ~~flouride~~ **fluoride**, selenium, sulfides, vanadium, zinc, and that are present at concentrations greater than ten times the universal treatment standard. PCBs are not a constituent subject to treatment in any given volume of soil which exhibits the toxicity characteristic solely because of the presence of metals.

* * * * *

183. Amend **Section 268.50** as follows:

a. In paragraph (c), revise ''A owner/operator'' to read ''An owner/operator'';

b. In paragraph (g), revise ''requirements in this do not'' to read ''requirements in this section do not''.

§ 268.50 Prohibitions on storage of restricted wastes

* * * * *

(c) ~~A owner/operator~~ **An owner/operator** of a treatment, storage or disposal facility may store such wastes beyond one year; however, the owner/operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

* * * * *

(g) The prohibition and ~~requirements in this do not~~ **requirements in this section do not** apply to hazardous remediation wastes stored in a staging pile approved pursuant to § 264.554 of this regulation.

* * * * *

184. Amend **Section 268, Appendix VIII**, by removing the second instances of the entries for ''K011'' ''Nonwastewater'' and for ''K011'' ''Wastewater''.

Appendix VIII to Section 268 — LDR Effective Dates of Injected Prohibited Hazardous Wastes

* * * * *

K011 Nonwastewater June 8, 1991
K011 Wastewater May 8, 1992
~~K011 Nonwastewater June 8, 1991~~
~~K011 Wastewater May 8, 1992~~

* * * * *

Section 270— ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

Subsection A—General Information

185. Amend **Section 270.1** as follows:

a. Amend by adding sentences after the second sentence of paragraph (b) introductory text, and by adding paragraphs (b)(1) and (2) to read as follows:

b. In paragraph (c)(1)(iii), revise ''it they'' to read ''if they?'';

c. In paragraph (c)(3)(i) introductory text, revise ''obtain an RCRA'' to read ''obtain a RCRA''.

§ 270.1 Purpose and scope of these regulations. *

* * * * *

(b) Overview of the HWM Permit Program. Not later than 90 days after the promulgation or revision of regulations in Section 261 of this regulation (identifying and listing hazardous wastes) generators and transporters of hazardous waste, and owners or operators of hazardous waste treatment, storage, or disposal facilities may be required to file a notification of that activity under RCRA section 3010. **Treatment, storage, and disposal facilities (TSDs) that are otherwise subject to permitting under RCRA and that meet the criteria in paragraph (b)(1), or paragraph (b)(2) of this section, may be eligible for a standardized permit under subsection J of this section.** Six months after the initial promulgation of the Section 261 regulations, treatment, storage, or disposal of hazardous waste by any person who has not applied for or received an HWM permit is prohibited. An HWM permit application consists of two parts, *Part A* (see § 270.13) and *Part B* (see § 270.14 and applicable sections in §§ 270.15 through 270.29). For "existing HWM facilities," the requirement to submit an application is satisfied by submitting only Part A of the permit application until the date the Director sets for submitting Part B of the application. (Part A consists of Forms 1 and 3 of the Consolidated Permit Application Forms.) Timely submission of both notification under section 3010 and Part A qualifies owners and operators of existing HWM facilities (who are required to have a permit) for interim status under the Arkansas Hazardous Waste Management Act (A.C.A. §§ 8-7-201 *et seq*.) Facility owners and operators with interim status are treated as having been issued a permit until EPA or a State with either interim authorization for Phase II or final authorization under 40 CFR part 271 makes a final determination on the permit application. Facility owners and operators with interim status must comply with interim status standards set forth at 40 CFR part 265 and 266 or with the analogous provisions at Sections 265 and 266 of this Regulation. Facility owners and operators with interim status are not relieved from complying with other State requirements. For existing HWM facilities, the Director shall set a date, giving at least six months notice, for submission of Part B of the application. There is no form for Part B of the application; rather, Part B must be submitted in narrative form and contain the information set forth in the applicable sections of §§

270.14 through 270.29. Owners or operators of new HWM facilities must submit parts A and B of the permit application at least 180 days before physical construction is expected to commence.

(1) The facility generates hazardous waste and then non-thermally treats or stores hazardous waste on-site in tanks, containers, or containment buildings; or

(2) The facility receives hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and then stores or non-thermally treats the hazardous waste in containers, tanks, or containment buildings.

* * * * *

(c) * * *

(1) * * *

(iii) Barges or vessels that dispose of hazardous waste by ocean disposal and onshore hazardous waste treatment or storage facilities associated with an ocean disposal operation. However, the owner and operator will be deemed to have an HWM permit for ocean disposal from the barge or vessel itself ~~it they~~ **if they** comply with the requirements of § 270.60(a) (permit-by-rule for ocean disposal barges and vessels).

* * * * *

(3) Further exclusions. (i) A person is not required to ~~obtain an HWM~~ **obtain a HWM** permit for treatment or containment activities taken during immediate response to any of the following situations:

* * * * *

186. **Section 270.2** is amended by adding definitions for ''Permit'' and ''Standardized permit'' in alphabetical order to read as follows:

§ 270.2 Definitions.

* * * * *

"Permit" means an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of this Section and 40 CFR Parts 271 and 124. Permit includes permit by rule (§ 270.60), emergency permit (§ 270.61) and standardized permit (subsection J of this section). Permit does not include RCRA interim status (subsection G of this section), or any permit which has not been the subject of final agency action, such as a draft permit or a proposed permit.

* * * * *

"Standardized permit" means a RCRA permit issued under 40 CFR Part 124, subsection G, Regulation No. 8, and Subsection J of this Section authorizing the facility owner or operator to manage hazardous waste. The standardized permit may have two parts: A uniform portion issued in all cases and a supplemental portion issued at the Director's discretion.

* * * * *

187. **Section 270.6** is revised to read as follows:

§ 270.6 References.

(a) When used in Section 270 of this Regulation, the following publications are incorporated by reference. ~~(See 40 CFR 260.11 References)"*Test Methods for Evaluating Solid Waste, Physical/Chemical Methods*", EPA Publication SW-846 [Second Edition, 1982 as amended by Update I (April, 1984), and Update II (April, 1985)]. The second edition of SW-846 and Updates I, II and III are available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, (703) 487-4600, as document no. PB 87-120-291. The cost is $48.95 for paper and $13.50 for microfiche.~~ **These incorporations by reference were approved by the Director of the Federal Register pursuant to 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register. Copies may be inspected at the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (3403T), Washington, DC 20460, libraryhq@epa.gov; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.**

(b) ~~The references listed in paragraph (a) of this section are also available for inspection at the Office of the Federal Register, 26400 L Street, NW., Washington, DC 20408. These incorporations by reference were approved by the Director of the Federal Register. These materials are incorporated as they exist on the date of approval and a notice of any change in these materials will be published in the Federal Register.~~ **The following materials are available for purchase from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (703) 605–6000 or (800) 553–6847; or for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800:**

(1) "APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA–450/2–81–005, December 1981, IBR approved for §§ 270.24 and 270.25.

(2) [Reserved].

Subsection B—Permit Application

188. Amend **Section 270.10** as follows:

a. Amend by revising paragraphs (a) and (h) and adding new paragraph (l) to read as follows:

b. Amend paragraph (j) by revising ''stores, treats, or dispose of'' to read ''stores, treats, or disposes''.

c. Amend by revising paragraph (l) to read as follows:

§ 270.10 General application requirements.

(a) ~~Permit application. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Director as described in this section and §§ 270.70 through 270.73. Persons currently authorized with interim status shall apply for permits when required by the Director. Persons covered by HWM permits by rule (§ 270.60), need not apply. Procedures for applications, issuance and administration of emergency permits are found exclusively in § 270.61. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in § 270.65.~~ ***Applying for a permit.*** **Below is information on how to obtain a permit and where to find requirements for specific permits:**

(1) If you are covered by RCRA permits by rule (§ 270.60), you need not apply.

(2) If you currently have interim status, you must apply for permits when required by the Director.

(3) If you are required to have a permit (including new applicants and permittees with expiring permits), you must complete, sign, and submit an application to the Director, as described in this section and §§ 270.70 through 270.73.

(4) If you are seeking an emergency permit, the procedures for application, issuance, and administration are found exclusively in § 270.61.

(5) If you are seeking a research, development, and demonstration permit, the procedures for application, issuance, and administration are found exclusively in § 270.65.

(6) If you are seeking a standardized permit, the procedures for application and issuance are found in 40 CFR Part 124, subsection G, Regulation No. 8, and and Subsection J of this Section.

* * * * *

(h) ~~Reapplications. Any HWM facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the Director. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)~~ **Reapplying for a permit. If you have an effective permit and you want to reapply for a new one, you have two options:**

(1) You may submit a new application at least 180 days before the expiration date of the effective permit, unless the Director allows a later date; or

(2) If you intend to be covered by a standardized permit, you may submit a Notice of Intent as described in § 270.51(e)(1) at least 180 days before the expiration date of the effective permit, unless the Director allows a later date. The Director may not allow you to submit applications or Notices of Intent later than the expiration date of the existing permit, except as allowed by § 270.51(e)(2).

* * * * *

(j) Exposure information. (1) After August 8, 1985, any Part B permit application submitted by an owner or operator of a facility that ~~stores, treats, or dispose of~~ ***stores, treats, or disposes*** hazardous waste in a surface impoundment or a landfill must be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:

* * * * *

(l) If the Director concludes, based on one or more of the factors listed in paragraph (l)(1) of this section that compliance with the standards of 40 CFR part 63, subpart EEE alone may not be protective of human health or the environment, the Director shall require the additional information or assessment(s) necessary to determine whether additional controls are necessary to ensure protection of human health and the environment. This includes information necessary to evaluate the potential risk to human health and/or the environment resulting from both direct and indirect exposure pathways. The Director may also require a permittee or applicant to provide information necessary to determine whether such an assessment(s) should be required.

(1) The Director shall base the evaluation of whether compliance with the standards of 40 CFR part 63, subpart EEE alone is protective of human health or the environment on factors relevant to the potential risk from a hazardous waste combustion unit, including, as appropriate, any of the following factors:

(i) Particular site-specific considerations such as proximity to receptors (such as schools, hospitals, nursing homes, day care centers, parks, community activity centers, or other potentially sensitive receptors), unique dispersion patterns, etc.;

(ii) Identities and quantities of emissions of persistent, bioaccumulative or toxic pollutants considering enforceable controls in place to limit those pollutants;

(iii) Identities and quantities of nondioxin products of incomplete combustion most likely to be emitted and to pose significant

risk based on known toxicities (confirmation of which should be made through emissions testing);

(iv) Identities and quantities of other off-site sources of pollutants in proximity of the facility that significantly influence interpretation of a facility-specific risk assessment;

(v) Presence of significant ecological considerations, such as the proximity of a particularly sensitive ecological area;

(vi) Volume and types of wastes, for example wastes containing highly toxic constituents;

(vii) Other on-site sources of hazardous air pollutants that significantly influence interpretation of the risk posed by the operation of the source in question;

(viii) Adequacy of any previously conducted risk assessment, given any subsequent changes in conditions likely to affect risk; and

(ix) Such other factors as may be appropriate.

(2) [Reserved]

* * * * *

189. Amend **Section 270.11** as follows:

a. In paragraph (d)(1), revise ''paragraph (a) or (b) of this must'' to read ''paragraph (a) or (b) of this section must'';

b. In paragraph (d)(2), certification statement, revise ''upon information and belief'' to read ''to the best of my knowledge and belief''.

§ 270.11 Signatories to permit applications and reports.

* * * * *

(d)(1) Any person signing a document under ~~paragraph (a) or (b) of this must~~ **paragraph (a) or (b) of this section must** make the following certification:

* * * * *

(d) * * *

(2) For remedial action plans (RAPs) under subsection H of this section, if the operator certifies according to paragraph (d)(1) of this section, then the owner may choose to make the following certification instead of the certification in paragraph (d)(1) of this section:

Based on my knowledge of the conditions of the property described in the RAP and my inquiry of the person or persons who manage the system referenced in the operator's certification, or those persons directly responsible for gathering the information, the information submitted is~~, upon information and belief~~ **to the best of my knowledge and belief**, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

* * * * *

190. Amend **Section 270.14** as follows:

a. Paragraph **(a)** is amended to read as follows:

b. In paragraph (b)(11)(ii)(B), revise ''with 200 feet'' to read ''within 200 feet'';

§ 270.14 Contents of part B: General requirements.

(a) Part B of the permit application consists of the general information requirements of this section, and the specific information requirements in §§ 270.14 through 270.29 applicable to the facility. The Part B information requirements presented in §§ 270.14 through 270.29 reflect the standards promulgated in Section 264 of this Regulation. These information requirements are necessary in order for ADEQ to determine compliance with the Section 264 standards. If owners and operators of HWM facilities can demonstrate that the information prescribed in part B can not be provided to the extent required, the Director may make allowance for submission of such information on a case-by-case basis. Information required in part B shall be submitted to the Director and signed in accordance with the requirements in § 270.11. Certain technical data, such as design drawings and specification, and engineering studies shall be certified by an independent qualified Arkansas-registered Professional Engineer. For post-closure permits, only the information specified in § 270.28 is required in part B of the permit application.

* * * * *

(b) * * *

(11) * * *

(ii) * * *

(B) If faults (to include lineations) which have had displacement in Holocene time are present within 3,000 feet of a facility, no faults pass ~~with 200 feet~~ **within 200 feet** of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within 200 feet of such portions of the facility data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than 200 feet from portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such trenching shall be performed in a direction that is

perpendicular to known faults (which have had displacement in Holocene time) passing within 3,000 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such investigation shall document with supporting maps and other analyses, the location of faults found.

* * * * *

191. **Section 270.16** is amended by revising paragraph (a) to read as follows:

§ 270.16 Specific part B information requirements for tank systems.

* * * * *

(a) A written assessment that is reviewed and certified by an independent qualified Arkansas-registered Professional Engineer as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under §§ 264.191 and 264.192 of this regulation;

* * * * *

192. In **Section 270.17**, amend paragraph (f) by revising ''detailed-plans'' to read ''detailed plans''.

§ 270.17 Specific Part B information requirements for surface impoundments. * * *

* * * * *

(f) A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under § 264.228(a)(1). For any wastes not to be removed from the unit upon closure, the owner or operator must submit ~~detailed-plans~~ **detailed plans** and an engineering report describing how § 264.228(a)(2) and (b) will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under § 270.14(b)(13);

* * * * *

193. In **Section 270.18**, amend paragraph (b) by revising the citation ''§ 264.90(2)'' to read ''§ 264.90(b)(2)''; and amend paragraph (g) by revising ''place'' to read ''placed''.

§ 270.18 Specific Part B information requirements for waste piles

* * * * *

(b) If an exemption is sought to § 264.251 and Subsection F of Section 264 as provided by § 264.250(c) or ~~§ 264.90(2)~~ **§ 264.90(b)(2)**, an explanation of how the standards of § 264.250(c) will be complied with or detailed plans and an engineering report describing how the requirements of § 264.90(b)(2) will be met.

* * * * *

(g) If incompatible wastes, or incompatible wastes and materials will be ~~place~~ **placed** in a waste pile, an explanation of how § 264.257 will be complied with;

* * * * *

194. **Section 270.19** is amended by revising paragraph (e) to reads as follows:

§ 270.19 Specific part B information requirements for incinerators.

* * * * *

(e) When an owner or operator **of a hazardous waste incineration unit becomes subject to RCRA permit requirements after October 12, 2005, or when** an owner or operator **of an existing hazardous waste incineration unit** demonstrates compliance with the air emission standards and limitations in part 63, subpart EEE, (*i.e.*, by conducting a comprehensive performance test and submitting a Notification of Compliance **under 40 CFR 63.1207(j) and 63.1210(d)** documenting compliance with all applicable requirements of part 63, subpart EEE,), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with §§ 264.345(a) and 264.345(c) of this Regulation if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k), **270.10(l),** 270.32(b)(2), **and 270.32(b)(3).**

195. In **Section 270.20**, amend paragraph (i)(2) by revising ''attentuative'' to read ''attenuative''.

§ 270.20 Specific Part B information requirements for land treatment facilities.

* * * * *

(i) * * *

(2) The ~~attentuative~~ **attenuative** properties of underlying and surrounding soils or other materials;

196. **Section 270.22** is amended by revising the introductory text to read as follows:

§ 270.22 Specific part B information requirements for boilers and industrial furnaces burning hazardous waste.

When an owner or operator of a cement **kiln,** or lightweight

aggregate kiln, **solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace** demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63**, subpart EEE, (i.e., by conducting a comprehensive performance test and submitting a Notification of Compliance** under 40 CFR Part 63.1207(j) and 63.1210~~(b)~~**(d)** documenting compliance with all applicable requirements of part 63, subpart EEE,), the requirements of this section do not apply ~~except those provisions the Director determines are necessary to ensure compliance with §§ 266.102(e)(1) and 266.102(e)(2)(iii) of this regulation if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).~~ . **The requirements of this section do apply, however, if the Director determines certain provisions are necessary to ensure compliance with §§ 266.102(e)(1) and 266.102(e)(2)(iii) of this Regulation if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; or if you are an area source and elect to comply with the §§ 266.105, 266.106, and 266.107 standards and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or the Director determines certain provisions apply, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k), 270.10(l), 270.32(b)(2), and 270.32(b)(3).**

* * * * *

197. **Section 270.24** is amended by revising paragraph (d)(3) to read as follows:

§ 270.24 Specific part B information requirements for process vents.

* * * * *

(d) * * *

(3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in ~~§ 260.11~~ **§ 270.6**) or other engineering texts acceptable to the Director that present basic control device information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in § 264.1035(b)(4)(iii).

* * * * *

198. **Section 270.25** is amended by revising paragraph (e)(3) to read as follows:

§ 270.25 Specific part B information requirements for equipment.

* * * * *

(e) * * *

(3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in ~~§ 260.11~~ **§ 270.6**) or other engineering texts acceptable to the Director that present basic control device information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in § 264.1035(b)(4)(iii).

* * * * *

199. **Section 270.26** is amended by revising paragraph (c)(15) to read as follows:

§ 270.26 Special part B information requirements for drip pads.

* * * * *

(c) ** *

(15) A certification signed by an independent qualified Arkansas-registered Professional Engineer, stating that the drip pad design meets the requirements of paragraphs (a) through(f) § 264.573 of this regulation.

* * * * *

Subsection C—PERMIT CONDITIONS

200. **Section 270.32** is amended by adding paragraph (b)(3) to read as follows:

§ 270.32 Establishing permit conditions.

* * * * *

(b) * * *

(3) If, as the result of an assessment(s) or other information, the Director determines that conditions are necessary in addition to those required under 40 CFR Part 63, subsection EEE, and Sections 264 or 266 of this Regulation to ensure protection of human health and the environment, he shall include those terms and conditions in a RCRA permit for a hazardous waste combustion unit.

* * * * *

201. In **Section 270.33**, amend paragraph (b) introductory text by revising ''An RCRA permit'' to read ''A RCRA permit''.

§ 270.33 Schedules of compliance.

* * * * *

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

* * * * *

Subsection D—Changes to Permits

202. **Section 270.40** is amended by revising the first sentence of paragraph (b) to read as follows:

§ 270.40 Transfer of permits.

* * * * *

(b) Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the Director in accordance with § 270.42 **or as a routine change with prior approval under 40 CFR 124.213**. The new owner or operator must submit a revised permit application no later than 90 days prior to the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees must also be submitted to the Director. When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of Section 264, Subsection H (Financial Requirements) until the new owner or operator has demonstrated that he or she is complying with the requirements of that Subsection. The new owner or operator must demonstrate compliance with Subsection H requirements ***not later than*** the date of the change of ownership or operational control of the facility. Upon demonstration to the Director by the new owner or operator of compliance with Subsection H, the Director shall notify the old owner or operator that he or she no longer needs to comply with Subsection H as of the date of demonstration.

203. Amend **Section 270.41** as follows:

a. Amend by revising the next to last sentence of the introductory paragraph and adding paragraph (b)(3) to read as follows:

b. Amend paragraph (c) by revising ''environmental'' to read ''environment''.

§ 270.41 Modification or revocation and reissuance of permits.

When the Director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see § 270.30), receives a request for revocation and reissuance under 40 CFR 124.5 or conducts a review of the permit file), he or she may determine whether one or more of the causes listed in paragraphs (a) and (b) of this section for modification, or revocation and reissuance or both exist. If cause exists, the Director may modify or revoke and reissue the permit accordingly, subject to the limitations of paragraph (c) of this section, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term. (See 40 CFR 124.5(c)(2).) If cause does not exist under this section, the Director shall not modify or revoke and reissue the permit, except on request of the permittee. If a permit modification is requested by the permittee, the Director shall approve or deny the request according to the procedures of Section 270.42. **If a permit modification is requested by the permittee, the Director shall approve or deny the request according to the procedures of § 270.42, or § 270.320 and 40 CFR part 124, subpart G.** Otherwise, a draft permit must be prepared and other procedures in 40 CFR 124 and APC&EC Regulation No. 8 followed.

* * * * *

(b) * * *

(3) The Director has received notification under 40 CFR Part 124.202(b) of a facility owner or operator's intent to be covered by a standardized permit.

* * * * *

(c) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the ~~environmental~~ ***environment*** exists which was unknown at the time of permit issuance.

* * * * *

204. **Section 270.42** is amended by:

a. Amend paragraph (d)(2)(i) by revising ''do no'' to read ''do not''.

a. Revising paragraph (j)(1).

b. Redesignating paragraph (j)(2) as (j)(3).

c. Adding new paragraph (j)(2).

d. Adding new paragraphs (k) and (l)

e. Adding a new entry 10 in numerical order and adding new entry O in the table under section L of Appendix I, to read as follows:

§ 270.42 Permit modification at the request of the Permittee. * * *

* * * * *

(d) * * *

(2) * * *

(i) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes ~~do no~~ ***do not*** substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the Director may require prior approval.

* * * * *

(j) Combustion facility changes to meet 40 CFR Part 63 MACT standards. The following procedures apply to hazardous waste combustion facility permit modifications requested under Appendix I of this section, section L(9).

(1) Facility owners or operators must have complied with the Notification of Intent to Comply (NIC) requirements of 40 CFR 63.1210 that were in effect prior to October 11, 2000 (See 40 CFR Part 63 **§§ 63.1200–63.1499** Revised as of July 1, 2000) in order to request a permit modification under this section **for the purpose of technology changes needed to meet the standards under 40 CFR Part 63.1203, 63.1204, and 63.1205.**

(2) ~~If the Director does not approve or deny the request within 90 days of receiving it, the request shall be deemed approved. The Director may, at his or her discretion, extend this 90 day deadline one time for up to 30 days by notifying the facility owner or operator.~~ **Facility owners or operators must comply with the Notification of Intent to Comply (NIC) requirements of 40 CFR Part 63.1210(b) and 63.1212(a) before a permit modification can be requested under this section for the purpose of technology changes needed to meet the 40 CFR Part 63.1215, 63.1216, 63.1217, 63.1218, 63.1219, 63.1220, and 63.1221 standards promulgated on October 12, 2005.**

(k) *Waiver of RCRA permit conditions in support of transition to the part 63 MACT standards.* (1) You may request to have specific RCRA operating and emissions limits waived by submitting a Class 1 permit modification request under Appendix I of this section, section L(10). You must:

(i) Identify the specific RCRA permit operating and emissions limits which you are requesting to waive;

(ii) Provide an explanation of why the changes are necessary in order to minimize or eliminate conflicts between the RCRA permit and MACT compliance; and

(iii) Discuss how the revised provisions will be sufficiently protective.

(iv) The Director shall approve or deny the request within 30 days of receipt of the request. The Director may, as his or her discretion, extend this 30 day deadline one time for up to 30 days by notifying the facility owner or operator.

(2) To request this modification in conjunction with MACT performance testing where permit limits may only be waived during actual test events and pretesting, as defined under 40 CFR Part 63.1207(h)(2)(i) and (ii), for an aggregate time not to exceed 720 hours of operation (renewable at the discretion of the Director) you must:

(i) Submit your modification request to the Director at the same time you submit your test plans to the EPA Regional Administrator; and

(ii) The Director may elect to approve or deny the request continent upon approval of the test plans.

(l) *Performance Track member facilities.* The following procedures apply to Performance Track member facilities that request a permit modification under Appendix I of this section, section O(1).

(1) Performance Track member facilities must have complied with the requirements of § 264.15(b)(5) in order to request a permit modification under this section.

(2) The Performance Track member facility should consider the application approved if the Director does not: deny the application, in writing; or notify the Performance Track member facility, in writing, of an extension to the 60-day deadline within 60 days of receiving the request. In these situations, the Performance Track member facility must adhere to the revised inspection schedule outlined in its application and maintain a copy of the application in the facility's operating record.

* * * * *

205. Amend **§ 270.42 Appendix I** as follows:

a. At item C.4, revise the modification class code (second column) ''12'' to read ''2'';

b. At item C.6, revise the citation ''264.98(j)'' to read ''264.98(h)'';

c. At item C.7.a, revise the citation ''264.98(h)(4)'' to read ''264.98(g)(4)'';

d. At item C.7.b, revise the citation ''264.99(k)'' to read ''264.99(j)'';

e. At item C.8.a, revise the citation ''264.99(i)(2)'' to read ''264.99(h)(2)'';

f. At item F.2, amend by replacing the colon after ''2'' with a period;

g. At item G.1, amend by replacing the colon after ''1''

with a period;

h. At item H.6, revise the modification class code ''*1'' to read ''11'';

i. At item J.7, revise the modification class code ''*1'' to read ''11'';

j. At item L.9, revise ''Changes Needed to meet Standards'' to read ''changes needed to meet standards''.

k. Add item L.10 to read as follows:

l. Add permit modification class O, as follows:

Appendix 1 To § 270.42—Classification of Permit Modification

Modifications Class

****

C. Ground-Water Protection

* * * * *

4. Changes in point of compliance. ~~12~~***2***

* * * * *

6. Changes to a detection monitoring program as required by ~~§ 264.98(j)~~***§ 264.98(j)***, unless otherwise specified in this appendix.

7. * * *

a. Addition of compliance monitoring program as required by ~~§§ 264.98(h)(4)~~ ***264.98(g)(4)*** and 264.99.

* * * * *

b. Changes to a compliance monitoring program as required by ~~§ 264.99(k)~~ ***264.99(j)***, unless otherwise specified in this appendix.

* * * * *

8. * * *

a. Addition of a corrective action program as required by ~~§§ 264.99(i)(2)~~ ***264.99(h)(2)*** and 264.100.

* * * * *

F. Containers

* * * * *

2~~.~~ **.**

* * * * *

G. Tanks

1~~.~~ **.**

* * * * *

H. Surface Impoundments

* * * * *

6. * * * ~~*1~~***11***

* * * * *

J. Landfills and Unenclosed Waste Piles

* * * * *

7. * * * ~~*1~~***11***

* * * * *

L. Incinerators, Boilers, and Industrial Furnaces:

* * * * *

9. Technology ~~Changes Needed to meet Standards~~ **changes needed to meet standards** under 40 CFR part 63 (Subpart EEE— National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of § 270.42(j) are followed.

* * * * *

L. * * *

---

10. Changes to RCRA permit provisions needed to support transition to 40 CFR part 63 (Subsection EEE—National Emission Standards for Hazardous Air Pollutants From Hazardous Waste Combustors), provided the procedures of § 270.42(k) are followed..... 1[1]

****

O. Burden Reduction

1. Approval of reduced inspection frequency for Performance Track member facilities for:

a. Tanks systems pursuant to § 264.195..... 1 [1]

b. Containers pursuant to § 264.174 ..... 1 [1]

c. Containment buildings pursuant to § 264.1101(c)(4) ..... 1 [1]

d. Areas subject to spills pursuant to § 264.15(b)(4) ..... 1 [1]

Development of one contingency plan based on Integrated Contingency Plan Guidance pursuant to § 264.52(b) 1

Changes to recordkeeping and reporting requirements pursuant to: §§ 264.56(i), 264.343(a)(2), 264.1061(b)(1),(d), 264.1062(a)(2), 264.196(f), 264.100(g), and 264.113(e)(5) 1

Changes to inspection frequency for tank systems pursuant to § 264.195(b) 1

Changes to detection and compliance monitoring program pursuant to §§ 264.98(d), (g)(2), and (g)(3), 264.99(f), and (g) 1

[1] Class 1 modifications requiring prior Agency approval.

Subsection E—Expiration and Continuation of Permits

206. **Section 270.51** is amended by adding paragraph (e) to read as follows:

§ 270.51 Continuation of expiring permits.

* * * * *

(e) Standardized permits.

(1) The conditions of your expired standardized permit continue until the effective date of your new permit (see 40 CFR 124.15) if all of the following are true:

(i) If EPA is the permit-issuing authority.

(ii) If you submit a timely and complete Notice of Intent under 40 CFR 124.202(b) requesting coverage under a RCRA standardized permit; and

(iii) If the Director, through no fault on your part, does not issue your permit before your previous permit expires (for example, where it is impractical to make the permit effective by that date because of time or resource constraints).

(2) In some cases, the Director may notify you that you are not eligible for a standardized permit (see 40 CFR 124.206). In those cases, the conditions of your expired permit will continue if you submit the information specified in paragraph (a)(1) of this section (that is, a complete application for a new permit) within 60 days after you receive our notification that you are not eligible for a standardized permit.

Subsection F—Special Forms of Permits

207. **Section 270.62** is amended by revising the introductory text to read as follows:

§ 270.62 Hazardous waste incinerator permits.

When an owner or operator **of a hazardous waste incineration unit becomes subject to RCRA permit requirements after October 12, 2005, or when an owner or operator of an existing hazardous waste incineration unit** demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, subpart EEE, (*i.e.*, by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR Part 63.1207(j) and 63.1210~~(b)~~**(d)** documenting compliance with all applicable requirements of 40 CFR Part 63, subpart EEE,), the requirements of this section do not apply, except those provisions the Director determines are necessary to ensure compliance with Sections 264.345(a) and 264.345(c) of this Regulation if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k), **270.10(l)**, 270.32(b)(2), **and 270.32(b)(3) of this Regulation.**
* * * * *

208. **Section 270.66** is amended by revising the introductory text to read as follows:

§ 270.66 Permits for boilers and industrial furnaces burning hazardous waste.

When an owner or operator of a cement **kiln,** ~~or~~ lightweight aggregate kiln, **solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace becomes subject to RCRA permit requirements after October 12, 2005 or when an owner or operator of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace** demonstrates compliance with the air emission standards and limitations in 40 CFR Part 63, subpart EEE, (*i.e.*, by conducting a comprehensive performance test and submitting a Notification of Compliance under 40 CFR Part 63.1207(j) and 63.1210~~(b)~~**(d)** documenting compliance with all applicable requirements of 40 CFR Part 63, subpart EEE,), the requirements of this section do not apply. ~~except those provisions the Director determines are necessary to ensure compliance with §§ 266.102(e)(1) and 266.102(e)(2)(iii) of this regulation if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events. Nevertheless, the Director may apply the provisions of this section, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k) and 270.32(b)(2).~~ **The requirements of this section do apply, however, if the Director determines certain provisions are necessary to ensure compliance with §§ 266.102(e)(1) and 266.102(e)(2)(iii) of this Regulation if you elect to comply with § 270.235(a)(1)(i) to minimize emissions of toxic compounds from startup, shutdown, and malfunction events; or if you are an area source and elect to comply with the §§ 266.105, 266.106, and 266.107 standards and associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals; or the Director determines certain provisions apply, on a case-by-case basis, for purposes of information collection in accordance with §§ 270.10(k), 270.10(l), 270.32(b)(2), and 270.32(b)(3) of this Regulation.**
* * * * *

209. **Section 270.67** is added to subsection F to read as follows:

§ 270.67 RCRA standardized permits for storage and treatment units.

RCRA standardized permits are special forms of permits for TSD owners or operators that:

(a) Generate hazardous waste and then non-thermally treat or store the hazardous waste on-site in tanks, containers, or containment buildings; or

(b) Receive hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and then store or non-thermally treat the hazardous waste in containers, tanks, or containment buildings. Standardized permit facility owners or operators are regulated under Subsection J of this Section, 40 CFR Part 124 Subsection G, Regulation No. 8, and Section 267 of this Regulation.
* * * * *

210. **Section 270.235** is amended by:

a. Revising the section heading and paragraphs (a)(1) introductory text and (a)(2) introductory text.

b. Revising paragraphs (b)(1) introductory text and (b)(2).

c. Adding new paragraph (c). The revisions read as follows:

§ 270.235 Options for incinerators, cement kilns, lightweight aggregate kilns, solid fuel boilers, liquid fuel boilers and hydrochloric acid production furnaces to minimize emissions from startup, shutdown, and malfunction events.

(a) * * *

(1) *Revisions to permit conditions after documenting compliance with MACT.* The owner or operator of a RCRA-permitted incinerator, cement kiln, lightweight aggregate kiln, s**olid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace** may request that the Director address permit conditions that minimize emissions from startup, shutdown, and malfunction events under

any of the following options when requesting removal of permit conditions that are no longer applicable according to §§ 264.340(b) and 266.100(b) of this Regulation:

* * * * *

(2) *Addressing permit condition upon permit reissuance.* The owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, **solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace** that has conducted a comprehensive performance test and submitted to the Director a Notification of Compliance documenting compliance with the standards of 40 CFR Part 63, subpart EEE, may request in the application to reissue the permit for the combustion unit that the Director control emissions from startup, under any of the following options:

* * * * *

(b) * * *

(1) *Interim status operations.* In compliance with §§ 265.340 and 266.100(b) of this Regulation, the owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, **solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace** that is operating under the interim status standards of Section 265 or 266 of this Regulation may control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options after conducting a comprehensive performance test and submitting to the Director a Notification of Compliance documenting compliance with the standards of 40 CFR Part 63, subpart EEE, .

* * * * *

(2) *Operations under a subsequent RCRA permit.* When an owner or operator of an incinerator, cement kiln, lightweight aggregate kiln, **solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace** that is operating under the interim status standards of Sections 265 or 266 of this Regulation submits a RCRA permit application, the owner or operator may request that the Director control emissions from startup, shutdown, and malfunction events under any of the options provided by paragraphs (a)(2)(i), (a)(2)(ii), or (a)(2)(iii) of this subsection.

(c) *New units.* Hazardous waste incinerator, cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace units that become subject to RCRA permit requirements after October 12, 2005 must control emissions of toxic compounds during startup, shutdown, and malfunction events under either of the following options:

(1) Comply with the requirements specified in 40 CFR Part 63.1206(c)(2) ; or

(2) Request to include in the RCRA permit, conditions that ensure emissions of toxic compounds are minimized from startup, shutdown, and malfunction events, including releases from emergency safety vents, based on review of information including the source's startup, shutdown, and malfunction plan and design. The director will specify that these permit conditions apply only when the facility is operating under its startup, shutdown, and malfunction plan.

* * * * *

211. **Subsection J** is added to **Section 270** to read as follows:

Subsection J—RCRA Standardized Permits for Storage and Treatment Units

Subsection J—RCRA Standardized Permits for Storage and Treatment Units

General Information About Standardized Permits

§ 270.250 What is a RCRA standardized permit?

A RCRA standardized permit (RCRA) is a special type of permit that authorizes you to manage hazardous waste. It is issued under 40 CFR part 124, subsection G, Regulation No. 8, and Subsection J of this Section.

§ 270.255 Who is eligible for a standardized permit?

(a) You may be eligible for a standardized permit if:

(1) You generate hazardous waste and then store or non-thermally treat the hazardous waste

on-site in containers, tanks, or containment buildings; or

(2) You receive hazardous waste generated off-site by a generator under the same ownership as the receiving facility, and then store or non-thermally treat the hazardous waste in containers, tanks, or containment buildings.

(3) We will inform you of your eligibility when we make a decision on your permit application.

(b) [Reserved]

§ 270.260 What requirements of Section 270 apply to a standardized permit?

The following subsections of this Section 270 apply to a standardized permit:

(a) Subsection A—General Information: All sections.

(b) Subsection B—Permit Application: §§ 270.10, 270.11, 270.12, 270.13 and 270.29.

(c) Subsection C—Permit Conditions: All sections.

(d) Subsection D—Changes to Permit: §§ 270.40, 270.41, and 270.43.

(e) Subsection E—Expiration and Continuation of Permits: All sections.

(f) Subsection F—Special Forms of Permits: § 270.67.

(g) Subsection G—Interim Status: All sections.

(h) Subsection H—Remedial Action Plans: Does not apply.

(i) Subsection J—Standardized Permits: All sections.

Applying for a Standardized Permit

§ 270.270 How do I apply for a standardized permit?

You apply for a standardized permit by following the procedures in 40 CFR Part 124, subsection G, Regulation No. 8, and this Subsection.

§ 270.275 What information must I submit to the permitting agency to support my standardized permit application?

The information in paragraphs (a) through (j) of this section will be the basis of your standardized permit application. You must submit it to the Director when you submit your Notice of Intent under 40 CFR 124.202(b) requesting coverage under a RCRA standardized permit:

(a) The Part A information described in § 270.13.

(b) A meeting summary and other materials required by 40 CFR 124.31.

(c) Documentation of compliance with the location standards of Section 267.18 and § 270.14(b)(11) of this Regulation.

(d) Information that allows the Director to carry out our obligations under other Federal laws required in § 270.3.

(e) Solid waste management unit information required by § 270.14(d).

(f) A certification meeting the requirements of § 270.280, and an audit of the facility's compliance status with Section 267 as required by § 270.280.

(g) A closure plan prepared in accordance with Section 267, Subsection G.

(h) The most recent closure cost estimate for your facility prepared under § 267.142 and a copy of the documentation required to demonstrate financial assurance under § 267.143. For a new facility, you may gather the required documentation 60 days before the initial receipt of hazardous wastes.

(i) If you manage wastes generated offsite, the waste analysis plan.

(j) If you manage waste generated from off-site, documentation showing that the waste generator and the off-site facility are under the same ownership.

§ 270.280 What are the certification requirements?

You must submit a signed certification based on your audit of your facility's compliance with Section 267.

(a) Your certification must read: I certify under penalty of law that:

(1) I have personally examined and am familiar with the report containing the results of an audit conducted of my facility's compliance status with APC&EC Regulation No. 23, Section 267, which supports this certification. Based on my inquiry of those individuals immediately responsible for conducting the audit and preparing the report, I believe that my (include paragraph (a)(1)(i) and (ii) this section, whichever applies):

(i) My existing facility complies with all applicable requirements of APC&EC Regulation No. 23, Section 267 and will continue to comply until the expiration of the permit; or

(ii) My facility has been designed, and will be constructed and operated to comply with all applicable requirements of Regulation No. 23, Section 267, and will continue to comply until expiration of the permit.

(2) I will make all information that I am required to maintain at my facility by §§ 270.290 through 277.315 readily available for review by the permitting agency and the public; and,

(3) I will continue to make all information required by §§ 270.290 through 277.315 available until the permit expires. I am aware that there are significant penalties for submitting false in-

formation, including the possibility of fine and imprisonment for knowing violation.

(b) You must sign this certification following the requirements of § 270.11(a)(1) through (3).

(c) This certification must be based upon an audit that you conduct of your facility's compliance status with Section 267 of this Regulation. A written audit report, signed and certified as accurate by the auditor, must be submitted to the Director with the 40 CFR 124.202(b) Notice of Intent.

Information That Must Be Kept at Your Facility

§ 270.290 What general types of information must I keep at my facility?

You must keep the following information at your facility:

(a) A general description of the facility.

(b) Chemical and physical analyses of the hazardous waste and hazardous debris handled at the facility. At a minimum, these analyses must contain all the information you must know to treat or store the wastes properly under the requirements of Section 267 of this Regulation.

(c) A copy of the waste analysis plan required by § 267.13(b).

(d) A description of the security procedures and equipment required by § 267.14.

(e) A copy of the general inspection schedule required by § 267.15(b). You must include in the inspection schedule applicable requirements of §§ 267.174, 267.193, 267.195, 264.1033, 264.1052, 264.1053, 264.1058, and 264.1088.

(f) A justification of any modification of the preparedness and prevention requirements of Section 267, Subsection C (§§ 267.30 to 267.35).

(g) A copy of the contingency plan required by Section 267, subsection D.

(h) A description of procedures, structures, or equipment used at the facility to:

(1) Prevent hazards in unloading operations (for example, use ramps, special forklifts),

(2) Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, with berms, dikes, trenches),

(3) Prevent contamination of water supplies,

(4) Mitigate effects of equipment failure and power outages,

(5) Prevent undue exposure of personnel to hazardous waste (for example, requiring protective clothing), and

(6) Prevent releases to atmosphere,

(i) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required by § 267.17.

(j) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes; describe access road surfacing and load bearing capacity; show traffic control signals).

(k) [Reserved]

(l) An outline of both the introductory and continuing training programs you will use to prepare employees to operate or maintain your facility safely as required by § 267.16. A brief description of how training will be designed to meet actual job tasks under § 267.16(a)(3) requirements.

(m) A copy of the closure plan required by § 267.112. Include, where applicable, as part of the plans, specific requirements in §§ 267.176, 267.201, and 267.1108.

(n) [Reserved]

(o) The most recent closure cost estimate for your facility prepared under § 267.142 and a copy of the documentation required to demonstrate financial assurance under § 267.143. For a new facility, you may gather the required documentation 60 days before the initial receipt of hazardous wastes.

(p) [Reserved]

(q) Where applicable, a copy of the insurance policy or other documentation that complies with the liability requirements of § 267.147. For a new facility, documentation showing the amount of insurance meeting the specification of § 267.147(a) that you plan to have in effect before initial receipt of hazardous waste for treatment or storage.

(r) Where appropriate, proof of coverage by a State financial mechanism, as required by §§ 267.149 or 267.150.

(s) A topographic map showing a distance of 1,000 feet around your facility at a scale of 2.5 centimeters (1 inch) equal to not more than 61.0 meters (200 feet). The map must show elevation contours. The contour interval must show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (5 feet), if relief is greater than 6.1 meters (20 feet), or an interval of 0.6 meters (2 feet), if relief is less than 6.1 meters (20 feet). If your facility is in a mountainous area, you should use large contour intervals to adequately show topographic profiles of facilities. The map must clearly show the following:

(1) Map scale and date.

(2) 100-year flood plain area.

(3) Surface waters including intermittent streams.

(4) Surrounding land uses (residential, commercial, agricultural, recreational).

(5) A wind rose (i.e., prevailing windspeed and direction).

(6) Orientation of the map (north arrow).

(7) Legal boundaries of your facility site.

(8) Access control (fences, gates).

(9) Injection and withdrawal wells both on-site and off-site.

(10) Buildings; treatment, storage, or disposal operations; or other structure (recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.)

(11) Barriers for drainage or flood control.

(12) Location of operational units within your facility, where hazardous waste is (or will be) treated or stored. (Include equipment cleanup areas.)

§ 270.300 What container information must I keep at my facility?

If you store or treat hazardous waste in containers, you must keep the following information at your facility:

(a) A description of the containment system to demonstrate compliance with the container storage area provisions of § 267.173. This description must show the following:

(1) Basic design parameters, dimensions, and materials of construction.

(2) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system.

(3) Capacity of the containment system relative to the number and volume of containers to be stored.

(4) Provisions for preventing or managing run-on.

(5) How accumulated liquids can be analyzed and removed to prevent overflow.

(b) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with § 267.173(c), including:

(1) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids.

(2) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids.

(c) Sketches, drawings, or data demonstrating compliance with § 267.174 (location of buffer zone (15m or 50ft) and containers holding ignitable or reactive wastes) and § 267.175(c) (location of incompatible wastes in relation to each other), where applicable.

(d) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with §§ 267.175(a) and (b), and 267.17(b) and (c).

(e) Information on air emission control equipment as required by § 270.315.

§ 270.305 What tank information must I keep at my facility?

If you use tanks to store or treat hazardous waste, you must keep the following information at your facility:

(a) A written assessment that is reviewed and certified by an independent, qualified, Arkansas-registered professional engineer on the structural integrity and suitability for handling hazardous waste of each tank system, as required under §§ 267.191 and 267.192.

(b) Dimensions and capacity of each tank.

(c) Description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents).

(d) A diagram of piping, instrumentation, and process flow for each tank system.

(e) A description of materials and equipment used to provide external corrosion protection, as required under § 267.191.

(f) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with §§ 267.192 and 267.194.

(g) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of §§ 267.195 and 267.196.

(h) [Reserved].

(i) Description of controls and practices to prevent spills and overflows, as required under § 267.198.

(j) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of §§ 267.202 and 267.203.

(k) Information on air emission control equipment as required by § 270.315.

§ 270.310 What equipment information must I keep at my facility?

If your facility has equipment to which Section 264, subsection BB of this Regulation applies, you must keep the following information at your facility:

(a) For each piece of equipment to which Section 264 subsection BB applies:

(1) Equipment identification number and hazardous waste management unit identification.

(2) Approximate locations within the facility (e.g., identify the hazardous waste management unit on a facility plot plan).

(3) Type of equipment (e.g., a pump or a pipeline valve).

(4) Percent by weight of total organics in the hazardous waste stream at the equipment.

(5) Hazardous waste state at the equipment (e.g., gas/vapor or liquid).

(6) Method of compliance with the standard (e.g., monthly leak detection and repair, or equipped with dual mechanical seals).

(b) For facilities that cannot install a closed-vent system and control device to comply with Section 264, subsection BB on the effective date that the facility becomes subject to the subsection BB provisions, an implementation schedule as specified in § 264.1033(a)(2) of this Regulation.

(c) Documentation that demonstrates compliance with the equipment standards in §§ 264.1052 and 264.1059. This documentation must contain the records required under § 264.1064.

(d) Documentation to demonstrate compliance with § 264.1060 must include the following information:

(1) A list of all information references and sources used in preparing the documentation.

(2) Records, including the dates, of each compliance test required by § 264.1033(j).

(3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in § 260.11) or other engineering texts acceptable to the Director that present basic control device design information. The design analysis must address the vent stream characteristics and control device operation parameters as specified in § 264.1035(b)(4)(iii).

(4) A statement you signed and dated certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is operating at the highest load or capacity level reasonable expected to occur.

(5) A statement you signed and dated certifying that the control device is designed to operate at an efficiency of 95 weight percent or greater.

§ 270.315 What air emissions control information must I keep at my facility?

If you have air emission control equipment subject to Section 264, subsection CC of this Regulation, you must keep the following information at your facility:

(a) Documentation for each floating roof cover installed on a tank subject to §§ 264.1084(d)(1) or (d)(2) that includes information you prepared or the cover manufacturer/vendor provided describing the cover design, and your certification that the cover meets applicable design specifications listed in §§ 264.1084(e)(1) or (f)(1).

(b) Identification of each container area subject to the requirements of Section 264, subsection CC of this Regulation, and your certification that the requirements of this subsection are met.

(c) Documentation for each enclosure used to control air pollutant emissions from tanks or containers under requirements of § 264.1084(d)(5) or 264.1086(e)(1)(ii). You must include records for the most recent set of calculations and measurements you performed to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T—Criteria for and Verification of a Permanent or Temporary Total Enclosure" under 40 CFR 52.741, appendix B.

(d) [Reserved]

(e) Documentation for each closed vent system and control device installed under requirements of § 264.1087 that includes design and performance information as specified in § 270.24 (c) and (d).

(f) An emission monitoring plan for both Method 21 in 40 CFR Part 60, appendix A and control device monitoring methods. This plan must include the following information: monitoring point(s), Monitoring methods for control devices, monitoring frequency, procedures for documenting exceedences, and procedures for mitigating noncompliances.

Modifying a Standardized Permit

§ 270.320 How do I modify my RCRA standardized permit?

You can modify your RCRA standardized permit by following the procedures found in 40 CFR 124.211 through 124.214.

Section 273—STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

212. Amend **Section 273.14**, in paragraph (a), by adding closing quotation marks after the phrase ''Universal Waste—Battery(ies),''.

§ 273.14 Labeling/marking. * * *

(a) Universal waste batteries (i.e., each battery), or a container in which the batteries are contained, must be labeled or marked clearly with any one of the following phrases~~: "Universal Waste - Battery(ies),~~ **"Universal Waste—Battery(ies),"** or "Waste Battery(ies)," or "Used Battery(ies);"

* * * * *

213. In **Section 273.34**, amend paragraph (a) by revising ''clearly with the any one'' to read ''clearly with any one''.

§ 273.34 Labeling/marking.

(a) Universal waste batteries (i.e., each battery), or a container or tank in which the batteries are contained, must be labeled or marked ~~clearly with the any one~~ **clearly with any one** of the following phrases: "Universal Waste - Battery(ies)," or "Waste Battery(ies)," or "Used Battery(ies);"

* * * * *

SECTION 279—STANDARDS FOR THE MANAGEMENT OF USED OIL

214. In **Section 279.1**, amend the definition of ''Petroleum refining facility'' by revising ''kerosine'' to read ''kerosene''.

§ 279.1 Definitions.

* * * * *

"**Petroleum refining facility**" means an establishment primarily engaged in producing gasoline, ~~kerosine~~ ***kerosene***, distillate fuel oils, residual fuel oils, and lubricants, through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking or other processes (i.e., facilities classified as SIC 2911).

* * * * *

215. In **Section 279.10**, amend paragraph (b)(2) introductory text by revising ''solely exhibits'' to read ''solely exhibit''; and by revising ''hazardous waste characteristic'' to read ''hazardous waste characteristics''.

§ 279.10 Applicability.

* * * * *

(b) * * *

* * * * *

(2) Characteristic hazardous waste. Mixtures of used oil and hazardous waste that ~~solely exhibits~~ ***solely exhibit*** one or more of the hazardous waste characteristics identified in Subsection C of Section 261 of this regulation and mixtures of used oil and hazardous waste that is listed in Subsection D of Section 261 solely because it exhibits one or more of the characteristics of hazardous waste indentified in Subsection C are subject to :

* * * * *

216. Amend **Section 279.11** as follows:

a. In the first sentence, delete ''in the specification''; and in the second sentence, revise ''not to exceed any specification'' to read ''not to exceed any allowable level'';

b. In Table 1, revise the title of the table to read ''TABLE 1—USED OIL NOT EXCEEDING ANY ALLOWABLE LEVEL SHOWN BELOW IS NOT SUBJECT TO THIS PART WHEN BURNED FOR ENERGY RECOVERY1'', and in the first footnote, revise ''The specification does not'' to read ''The allowable levels do not''.

§ 279.11 Used oil specifications.

Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment is subject to regulation under this Section unless it is shown not to exceed any of the allowable levels of the constituents and properties ~~in the specification~~ shown in Table 1. Once used oil that is to be burned for energy recovery has been shown not to exhibit any specification and the person and the person making that showing complies with §§ 279.72, 279.73, and 279.74(b), the used oil is no longer subject to this Section.

* * * * *

~~**TABLE 1.**~~

~~**Used Oil Not Exceeding Any Specification Level is Not Subject to this Section When Burned for Energy Recovery. (1)**~~

TABLE 1

USED OIL NOT EXCEEDING ANY ALLOWABLE LEVEL SHOWN BELOW IS NOT SUBJECT TO THIS PART WHEN BURNED FOR ENERGY RECOVERY[1]

(1) ~~**The specification does not**~~ **The allowable levels do not** apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (See § 279.10(b)).

* * * * *

217. Amend **Section 279.52** paragraph (b)(6)(ii), revise ''a real extent'' to read ''areal extent''; revise ''facility records of manifests'' to read ''facility records or manifests''; and revise ''analysts'' to read ''analyses'';

§ 279.52 General facility standards.

* * * * *

(b) * * *

(6) * * *

(ii) Whenever there is a release, fire, or explosion, the emergency coordinator must immediately identify the character, exact source, amount, and areal extent of any released materials. He may do this by observation or review of facility records or manifests, and, if necessary, by chemical ~~analysis~~ **analyses**.

* * * * *

218. Amend **Section 279.56** in paragraph (a)(2), by revising ‘‘processor/re-refining’’ to read ‘‘processor/re-refiner’’.

§ 279.56 Tracking.

(a) * * *

* * * * *

(2) The name and address of the generator or processor/re-refiner from whom the used oil was shipped for ~~**processing/re-refining**~~ **processor/re-refiner**;

* * * * *