

# **EXHIBIT A**

**MARK-UP COPY**

**ARKANSAS POLLUTION CONTROL  
AND ECOLOGY COMMISSION**

**REGULATION No. 23**

**HAZARDOUS WASTE  
MANAGEMENT**



**MARK-UP DRAFT**  
(MARK-UP OF REVISED SECTIONS ONLY)

**Submitted to  
the Pollution Control and Ecology Commission  
in May 2015**

## INTRODUCTION

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### **Specific State Requirements for the Hazardous Waste Management Program:**

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#### ***2. Identification and Listing of Hazardous Waste:***

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#### ***3. Standards for Generators:***

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- Regulation No. 23 §§ 262.13(d) and 262.24~~24~~26(e) require that generators give their wastes only to permitted transporters, because Arkansas requires that transporters be permitted. This is a broader in scope provision.

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- Regulation No. 23 § 262.24~~24~~26 contains additional requirements for generators not found in the Federal program including:

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## **Chapter 2 REGULATIONS PROMULATED UNDER THE ARKANSAS HAZARDOUS WASTE MANAGEMENT ACT FOR ADMINISTRATION OF THE STATE RCRA PROGRAM**

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

\*\*\*\*\*

#### ***Title 40 Code of Federal Regulations:***

\*\*\*\*\*

(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 December 31, ~~2011~~ 2014.

\*\*\*\*\*

### **Section 6. FEES AND COSTS.**

#### **Permit Fees**

\*\*\*\*\*

(e) Permit modification applications, other than Class 1 modifications as defined at § 270.42, must be accompanied by a money order or cashier's check payable to the Department. If payment is not received with the permit modification application, the Department will send an invoice for payment due within 5 business days. Payment of invoices may be made through ADEQ's online payment system ([www.adeq.state.ar.us/fiscal](http://www.adeq.state.ar.us/fiscal)). The fee shall be 50% of the base permit application fee as set forth in subsection (a). If additional waste management activities are applied for or operating capacities increased, an additional waste management fee shall be calculated from subsection (b) and added to the modification fee total.

\*\*\*\*\*

#### **Monitoring/Inspection Fees**

(n) All treatment, storage, and disposal facilities (TSDF) shall be charged an annual monitoring/inspection fee as set forth below:

- (1) Commercial treatment, storage or disposal facilities - \$2,250.
- (2) Noncommercial treatment or disposal facilities - \$1,500.
- (3) Noncommercial storage facilities - \$1,125.

Each TSDF shall submit a money order or cashier's check payable to the Department by January 1 of each calendar year, ~~beginning January 1, 1990, and annually thereafter.~~

(o) ~~[Reserved] All generators of 250,000 pounds or more of hazardous waste per year shall be charged an annual monitoring/inspection fee of \$1000. Each generator shall submit a money order or cashier's check payable to the Department by January 1 of each calendar year beginning January 1, 1990, and annually thereafter.~~

(p) All large quantity generators of 26,401 to 249,999 pounds of hazardous waste per year shall be charged an annual monitoring/inspection fee of \$500. Each generator shall submit a money order or cashier's check payable to the Department by January 1 of each calendar year, ~~beginning January 1, 1990, and annually thereafter.~~

(q) All small quantity generators ~~(persons generating 220 pounds to 2200 pounds per month of hazardous waste)~~ shall be charged an annual monitoring/inspection fee of \$150. Each small quantity generator shall submit a money order or cashier's check payable to the Department by January 1 of each calendar year, ~~beginning January 1, 1990, and annually thereafter.~~

(r) All transporter transfer facilities shall be charged an annual monitoring/inspection fee of \$50. Each transfer facility shall submit a money order or cashier's check payable to the Department by January 1 of each calendar year, ~~beginning January 1, 1995, and annually thereafter.~~

(s) The fees associated with subsections (o), (p), (q) and (r) shall be in addition to any fees specified elsewhere in this section. Monitoring and inspection fees are billed by the Department according to the ~~reported waste generation or activity in the last annual report cycle (e.g., fees for 1992 would be based upon 1991 waste generation or activity, or the most current report on file at the time invoices are prepared), or latest Notification of Regulated Waste Activity on file at the Department.~~

\*\*\*\*\*

## **Section 260. HAZARDOUS WASTE MANAGEMENT SYSTEM-GENERAL.**

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### **§ 260.10 Definitions.**

\*\*\*\*\*

**“Carbon dioxide stream”** means carbon dioxide that has been captured from an emission source (e.g., power plant), plus incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.

\*\*\*\*\*

“CRT exporter” means any person in the United States who initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for such export.

\*\*\*\*\*

“Electronic manifest (or e-manifest)” means the electronic format of the hazardous waste manifest that is obtained from EPA’s national e-Manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22 (Manifest) and 8700-22A (Continuation Sheet).

“Electronic manifest system (or e-manifest system)” means EPA’s national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

\*\*\*\*\*

“Manifest” means: the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), or the electronic manifest, originated and signed by the generator or offeror in accordance with the instructions in the appendix to Section 262 and the applicable requirements of Sections 262 through 265 of this Regulation.

\*\*\*\*\*

“No free liquids” as used in Regulation 23 § 262.4(a)(26) and 40 CFR 261.4(b)(18), means that solvent-contaminated wipes may not contain free liquids as determined by Method 9095B (Paint Filter Liquids Test), included in “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods” (EPA Publication SW-846), which is incorporated by reference, and that there is no free liquid in the container holding the wipes. No free liquids may also be determined using another standard or test method as defined by an authorized state.

\*\*\*\*\*

~~“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.~~

\*\*\*\*\*

**“Solvent-contaminated wipe”** means a wipe that, after use or after cleaning up a spill either (1) contains one or more of the F001 through F005 solvents listed in Regulation 23 § 261.31 or the corresponding P- or U- listed solvents found in Regulation 23 § 261.33; (2) exhibits a hazardous characteristic found in Regulation 23 § 261 subsection C when that characteristic results from a solvent listed in Regulation 23 § 261; and/or (3) exhibits only the hazardous waste characteristic of ignitability found in Regulation 23 § 261.21 due to the presence of one or more solvents that are not listed in Regulation 23 § 261. Solvent contaminated wipes that contain listed hazardous waste other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions at Regulation 23 § 261.4(a)(26) and 261.4(b)(18).

\*\*\*\*\*

**“User of the electronic manifest system”** means a hazardous waste generator, a hazardous waste transporter, an owner or operator of a hazardous waste treatment, storage, recycling, or disposal facility, or any other person that: (1) Is required to use a manifest to comply with: (i) Any federal or state requirement to track the shipment, transportation, and receipt of hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal; or (ii) Any federal or state requirement to track the shipment, transportation, and receipt of rejected wastes or regulated container residues that are shipped from a designated facility to an alternative facility, or returned to the generator; and (2) Elects to use the system to obtain, complete and transmit an electronic manifest format supplied by the EPA electronic manifest system, or (3) Elects to use the paper manifest form and submits to the system for data processing purposes a paper copy of the manifest (or data from such a paper copy), in accordance with § 264.71(a)(2)(v) or § 265.71(a)(2)(v) of this chapter. These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.

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**“Wipe”** means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

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## **Section 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE**

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### **Subsection E — Exclusions/Exemptions**

**§ 261.38 Comparable/Syngas Fuel Exclusion.** [Reserved]

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## Subsection A-General

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### § 261.3 Definition of Hazardous Waste

(a)(2)(iv)(A) One or more of the following 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 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

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### § 261.4 Exclusions.

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~~-(a)(16) Comparable fuels or comparable syngas fuels (i.e., comparable/syngas fuels) that meet the requirements of §261.38 of this regulation.~~ [Reserved]

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**§ 261.4 (a)(23-25) [Reserved]**

(a)(26) “Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that

- (i) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled “Excluded Solvent-Contaminated Wipes.” The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
- (ii) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;
- (iii) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids as defined in § 260.10;
- (iv) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in Regulation 23 §§ 260 through 273;
- (v) Generators must maintain at their site the following documentation:
  - (A) Name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
  - (B) Documentation that the 180-day accumulation time limit in Regulation 23 § 261.4(a)(26)(ii) is being met;
  - (C) Description of the process the generator is using to ensure the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning;

- (vi) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under §§ 301 and 402 or section 307 of the Clean Water Act.”

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**§ 261.4 (b)(16-17) [Reserved]**

(b)(18) “Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous waste from the point of generation provided that

- (i) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled “Excluded Solvent-Contaminated Wipes.” The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, or when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
- (ii) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;
- (iii) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids as defined in § 260.10;
- (iv) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in Regulation 23 §§ 260 through 273;
- (v) Generators must maintain at their site the following documentation:
  - (A) Name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;
  - (B) Documentation that the 180 day accumulation time limit in Regulation 23 § 261.4(b)(18)(ii) is being met;

(C) Description of the process the generator is using to ensure solvent-contaminated wipes contain no free liquids at the point of being transported for disposal;

(vi) The solvent-contaminated wipes are sent for disposal:

(A) To a municipal solid waste landfill regulated under Regulation 22.701, or to a hazardous waste landfill regulated under Regulation 23 §§ 264 or 265; or

(B) To a municipal waste combustor or other combustion facility regulated under § 129 of the Clean Air Act or to a hazardous waste combustor, boiler, or industrial furnace regulated under Regulation 23 §§ 264, 265, or 266 Subsection H.”

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(e)(3)(i) In response to requests for authorization to ship, store and conduct ~~treatability~~ treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), size of the unit undergoing testing (particularly in relation to scale-up considerations), the time/quantity of material required to reach steady state operating conditions, or test design considerations such as mass balance calculations.

\*\*\*\*\*

(h) Carbon Dioxide Stream Injected for Geologic Sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI Underground Injection Control wells, including the requirements in 40 CFR Parts 144 and 146 of the Underground Injection Control Program of the Safe Drinking Water Act, are not a hazardous waste, provided the following conditions are met:

(1) Transportation of the carbon dioxide stream must be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws (49 U.S.C. § 60101 et seq.) and regulations (49 C.F.R. Parts 190-199) of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 U.S.C. § 60105, as applicable.

(2) Injection of the carbon dioxide stream must be in compliance with the applicable requirements for Class VI Underground Injection Control wells, including the applicable requirements in 40 CFR Parts 144 and 146;

(3) No hazardous wastes shall be mixed with, or otherwise co-injected with, the carbon dioxide stream; and

(4)(i) Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under paragraph (h) of this section, must have an authorized representative (as defined in 40 CFR 260.10) sign a certification statement worded as follows:

I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 40 C.F.R. § 261.4(h) has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream in compliance with (or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream in compliance with) Department of Transportation requirements, including the pipeline safety laws (49 U.S.C. § 60101 et seq.) and regulations (49 C.F.R. Parts 190-199) of the U.S. Department of Transportation, and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 U.S.C. § 60105, as applicable, for injection into a well subject to the requirements for the Class VI Underground Injection Control Program of the Safe Drinking Water Act.

(ii) Any Class VI Underground Injection Control well owner or operator, who claims that a carbon dioxide stream is excluded under paragraph (h) of this section, must have an authorized representative (as defined in 40 CFR 260.10) sign a certification statement worded as follows:

I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 40 C.F.R. § 261.4(h) has not been mixed with, or otherwise co-injected with, hazardous waste at the Underground Injection Control (UIC) Class VI permitted facility, and that injection of the carbon dioxide stream is in compliance with the applicable requirements for UIC Class VI wells, including the applicable requirements in 40 CFR Parts 144 and 146.

(iii) The signed certification statement must be kept on-site for no less than three years, and must be made available within 72 hours of a written request from the Director (if located in an authorized state), or their designee. The signed certification statement must be renewed every year that the exclusion is claimed, by having an authorized representative (as defined in 40 CFR 260.10) annually prepare and sign a new copy of the certification statement within one year of the date of the previous statement. The signed certification statement must also be readily accessible on the facility's publicly-available website (if such website exists) as a public notification with the title of "Carbon Dioxide Stream Certification" at the time the exclusion is claimed.

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## Subsection C-Characteristics of Hazardous Waste

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### § 261.21 Characteristic of ignitability.

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(a)(3)(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 degrees F or, regardless of the pressure at 70 degrees F, having an absolute pressure exceeding 104 p.s.i. at 130 degrees F; or any liquid flammable material having a vapor pressure exceeding 40 p.s.i. absolute at 100 degrees F as determined by ASTM Test D-323.~~ 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°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.

(a)(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).~~ An oxidizer is a substance that yields oxygen readily to stimulate the combustion of organic matter.

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(a)(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:~~

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## Subsection D-Lists of Hazardous Wastes

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

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Hazardous waste No.	Chemical Abstracts No	Substance
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P194 .....	23135-22-0	Ethanimidthioic <u>Ethanimidothioic</u> acid, 2-
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(dimethylamino)-N-  
[[[(methylamino)  
carbonyl]oxy]-2-oxo-, methylester

\*\*\*\*\*

Hazardous waste No.	Chemical Abstracts No	Substance
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U216	7791-12-0	<del>Thallium chloride Tlel</del> <u>Thallium chloride TLCL</u>
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## Subsection E — Exclusions/Exemptions

### § 261.38 ~~Exclusions of Comparable Fuel and Syngas Fuel.~~ [Reserved]

~~(a) Specifications for excluded fuels. Wastes that meet the specifications for comparable fuel or syngas fuel under paragraphs (a)(1) or (a)(2) of this section, respectively, and the other requirements of this section, are not solid wastes.~~

~~(1) Comparable fuel specifications.—~~

~~(i) Physical specifications.—~~

~~(A) Heating value. The heating value must exceed 5,000 Btu/lbs. (11,500 J/g).~~

~~(B) Viscosity. The viscosity must not exceed: 50 cS, as fired.~~

~~(ii) Constituent specifications. For compounds listed in Table 1 to this section, the specification levels and, where non detect is the specification, minimum required detection limits are: (see Table 1 of this section).~~

~~(2) Synthesis gas fuel specifications. — Synthesis gas fuel (i.e., syngas fuel) that is generated from hazardous waste must:~~

~~(i) Have a minimum Btu value of 100 Btu/Scf;~~

~~(ii) Contain less than 1 ppmv of total halogen;~~

~~(iii) Contain less than 300 ppmv of total nitrogen other than diatomic nitrogen (N<sub>2</sub>);~~

~~(iv) Contain less than 200 ppmv of hydrogen sulfide; and~~

~~(v) Contain less than 1 ppmv of each hazardous constituent in the target list of appendix VIII constituents of this section.~~

~~(3) Blending to meet the specifications:~~

~~(i) Hazardous waste shall not be blended to meet the comparable fuel specification under paragraph (a)(1) of this section, except as provided by paragraph (a)(3)(ii) of this section: (ii) Blending to meet the viscosity specification. A hazardous waste blended to meet the viscosity specification for comparable fuel shall:~~

~~(A) As generated and prior to any blending, manipulation, or processing, meet the constituent and heating value specifications of paragraphs (a)(1)(i)(A) and (a)(1)(ii) of this section;~~

~~(B) Be blended at a facility that is subject to the applicable requirements of Sections 264, 265, or 267 or § 262.34 of this regulation; and~~

~~(C) Not violate the dilution prohibition of paragraph (a)(6) of this section.~~

~~(4) Treatment to meet the comparable fuel specifications.~~

~~(i) A hazardous waste may be treated to meet the specifications for comparable fuel set forth in paragraph (a)(1) of this section provided the treatment:~~

~~(A) Destroys or removes the constituents listed in the specification or raises the heating value by removing or destroying hazardous constituents or materials;~~

~~(B) Is performed at a facility that is subject to the applicable requirements of Sections 264, 265, or 267, or § 262.34 of this regulation; and~~

~~(C) Does not violate the dilution prohibition of paragraph (a)(6) of this section.~~

~~(ii) Residuals resulting from the treatment of a hazardous waste listed in Subsection D of this section to generate a comparable fuel remain a hazardous waste.~~

~~(5) Generation of a syngas fuel.~~

~~(i) A syngas fuel can be generated from the processing of hazardous wastes to meet the exclusion specifications of paragraph (a)(2) of this section provided the processing:~~

~~(A) Destroys or removes the constituents listed in the specification or raises the heating value by removing or destroying constituents or materials;~~

~~(B) Is performed at a facility that is subject to the applicable requirements of Sections 264, 265, or 267, or § 262.34 of this regulation or is an exempt recycling unit pursuant to § 261.6(c); and~~

~~(C) Does not violate the dilution prohibition of paragraph (a)(6) of this section.~~

~~(ii) Residuals resulting from the treatment of a hazardous waste listed in Subsection D of this Section to generate a syngas fuel remain a hazardous waste.~~

~~(6) Dilution prohibition. No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a hazardous waste to meet the specifications of paragraphs (a)(1)(i)(A) or (a)(1)(ii) of this section for comparable fuel, or paragraph (a)(2) of this section for syngas.~~

~~(b) Implementation.~~

~~(1) General.~~

~~(i) Wastes that meet the specifications provided by paragraph (a) of this section for comparable fuel or syngas fuel are excluded from the definition of~~



~~solid waste provided that the conditions under this section are met. For purposes of this section, such materials are called excluded fuel; the person claiming and qualifying for the exclusion is called the excluded fuel generator and the person burning~~

Table 1 to § 261.38 – Detection and Detection Limit Values for Comparable Fuel Specification					
Chemical Name	CAS Number	Composite Value (mg/kg)	Heating Value (BTU/lb)	Concentration Limit (mg/kg at 10,000 Btu/lb)	Minimum Required Detection Limit (mg/kg)
Total Nitrogen as N	NA	9000	18400	4900	—
Total Halogen as Cl	NA	1000	18400	540	—
Total Organic Halogens as Cl	NA	—	—	{ <sup>a</sup> }	—
Polychlorinated biphenyl, total [Aroclors, total]	1338-36-3	ND	—	ND	1.4
Cyanide, total	57-12-5	ND	—	ND	1
Metals					
Antimony, total	7440-36-0	ND	—	12	—
Arsenic, total	7440-38-2	ND	—	0.23	—
Barium, total	7440-39-3	ND	—	23	—
Beryllium, total	7440-41-7	ND	—	1.2	—
Cadmium, total	7440-43-9	ND	—	1.2	—
Chromium, total	7440-47-3	ND	—	2.3	—
Cobalt	7440-48-4	ND	—	4.6	—
Lead, total	7439-92-1	57	18100	31	—
Manganese	7439-96-5	ND	—	1.2	—
Mercury, total	7439-97-6	ND	—	0.25	—
Nickel, total	7440-02-0	106	18400	58	—
Selenium, total	7782-49-2	ND	—	0.23	—
Silver, total	7440-22-4	ND	—	2.3	—
Thallium, total	7440-28-0	ND	—	23	—
Hydrocarbons					
Benzo(a)anthracene	56-55-3	ND	—	2400	—
Benzene	71-43-2	8000	19600	4100	—
Benzo(b)fluoranthene	205-99-2	ND	—	2400	—
Benzo(k)fluoranthene	207-08-9	ND	—	2400	—
Benzo(a)pyrene	50-32-8	ND	—	2400	—
Chrysene	218-01-9	ND	—	2400	—
Dibenzo(a,h)anthracene	52-70-3	ND	—	2400	—
7,12-Dimethylbenz(a)anthracene	57-97-6	ND	—	2400	—
Fluoranthene	206-44-0	ND	—	2400	—
Indeno(1,2,3-cd)pyrene	193-39-5	ND	—	3400	—
3-Methylcholanthrene	56-49-5	ND	—	2400	—
Napthalene	91-20-3	6200	19400	3200	—
Toluene	108-88-3	69000	19400	36000	—
Oxygenates					
Acetophenone	98-86-1	ND	—	2400	—
Acrolein	107-02-8	ND	—	39	—
Allyl alcohol	107-18-6	ND	—	30	—
Bis(2-ethylhexyl)phthalate [Di-2-ethylhexyl phthalate]	117-81-7	ND	—	2400	—
Butyl benzyl phthalate	85-68-7	ND	—	2400	—
o-Cresol (2-methyl phenol)	95-48-7	ND	—	2400	—
m-Cresol (3-methyl phenol)	108-39-4	ND	—	2400	—
p-Cresol (4-methyl phenol)	106-44-5	ND	—	2400	—
Di-n-butyl phthalate	84-74-2	ND	—	2400	—
Diethyl phthalate	84-66-2	ND	—	2400	—
2,4-Dimethylphenol	105-67-9	ND	—	2400	—
Dimethyl phthalate	117-8-0	ND	—	2400	—
Endothall	145-73-3	ND	—	100	—
Ethyl methacrylate	97-63-2	ND	—	39	—

2-Ethoxyethanol (Ethylene glycol monoethyl ether)	110-80-5	ND	--	100	--
Isobutyl alcohol	78-83-1	ND	--	39	--
Isosafrole	120-58-1	ND	--	2400	--
Methyl ethyl ketone (2-butanone)	78-93-3	ND	--	39	--
Methyl methacrylate	80-62-6	ND	--	39	--
1,4-Napthoquinone	13-15-4	ND	--	2400	--
Phenol	108-95-2	ND	--	2400	--
Propargyl alcohol (2-propyn-1-ol)	107-19-7	ND	--	30	--
Safrole	94-59-7	ND	--	2400	--
Sulfonated Organics					
Carbon disulfide	75-15-0	--	--	ND	39
Disulfoton	298-04-4	--	--	ND	2400
Ethyl methanesulfonate	62-50-0	--	--	ND	2400
Methyl methanesulfonate	66-27-3	--	--	ND	2400
Phorate	298-02-2	--	--	ND	2400
1,3-Propane sulfone	1120-71-4	--	--	ND	100
Tetraethyldithiopyrophosphate (Sulfotep)	3689-24-5	--	--	ND	2400
Thiophenol (benzenethiol)	108-98-5	--	--	ND	30
O,O,O-Triethyl-phosphorothioate	126-68-1	--	--	ND	2400
Nitrogenated Organics					
Acetonitrile (Methyl cyanide)	75-05-8	ND	--	ND	30
2-Acetylaminofluorene [2-AAF]	53-96-3	ND	--	ND	2400
Acrylonitrile	107-13-1	ND	--	ND	39
4-Aminobiphenyl	92-67-1	ND	--	ND	2400
4-Aminopyridine	504-24-5	ND	--	ND	100
Aniline	62-53-3	ND	--	ND	2400
Benzidine	92-67-5	ND	--	ND	2400
Dibenz(a,j)acridine	224-42-0	ND	--	ND	2400
O,O-Diethyl-O-pyrazinyl phosphorothiate (Thionazin)	297-97-2	ND	--	ND	2400
Dimethoate	60-51-5	ND	--	ND	2400
p-(Dimethylamino) azobenzene [4-dimethylaminoazobenzene]	60-11-7	ND	--	ND	2400
3,3'-Dimethylbenzidine	119-93-7	ND	--	ND	2400
$\alpha,\alpha$ -Dimethylphenethylamine	122-09-8	ND	--	ND	2400
3,3'-Dimethoxybenzidine	119-93-8	ND	--	ND	100
1,3-Dinitrobenzene [m-dinitrobenzene]	99-65-0	ND	--	ND	2400
4,6-Dinitro-o-cresol	534-52-1	ND	--	ND	2400
2,4-Dinitrophenol	51-28-5	ND	--	ND	2400
2,4-Dinitrotoluene	121-14-2	ND	--	ND	2400
2,6-Dinitrotoluene	605-20-2	ND	--	ND	2400
Dinoseb (2-sec-butyl-4,6-dinitrophenol)	88-85-7	ND	--	ND	2400
Diphenylamine	122-39-4	ND	--	ND	2400
Ethyl carbamate (Urethane)	51-79-6	ND	--	ND	100
Ethylenethiourea (2-imidazolidinethione)	96-45-7	ND	--	ND	110
Famphur	52-85-7	ND	--	ND	2400
Methacrylonitrile	126-98-7	ND	--	ND	39
Methapyrilene	91-80-5	ND	--	ND	2400
Methomyl	16752-77-5	ND	--	ND	57
2-Methylactonitrile (acetone cyanohydrin)	75-86-5	ND	--	ND	100
Methyl parathion	298-00-0	ND	--	ND	2400

MNNG (N-methyl-N-nitroso-N'-nitroguanidine)	70-25-7	ND	--	ND	110
1-Naphthylamine ( $\alpha$ -naphthylamine)	134-32-7	ND	--	ND	2400
2-Naphthylamine ( $\beta$ -naphthylamine)	91-59-8	ND	--	ND	2400
Nicotine	54-11-5	ND	--	ND	100
4-Nitroaniline (p-nitroaniline)	100-01-6	ND	--	ND	2400
Nitrobenzene	98-96-3	ND	--	ND	2400
p-Nitrophenol	100-02-7	ND	--	ND	2400
5-Nitro-o-toluidine	99-55-8	ND	--	ND	2400
N-Nitroso-di-n-butylamine	924-16-3	ND	--	ND	2400
N-Nitrosodiethylamine	55-18-5	ND	--	ND	2400
N-Nitrosodiphenylamine (diphenylnitrosamine)	86-30-6	ND	--	ND	2400
N-Nitroso-N-methylethylamine	10595-95-6	ND	--	ND	2400
N-Nitrosomorpholine	59-89-2	ND	--	ND	2400
N-Nitrosopiperidine	100-75-4	ND	--	ND	2400
N-Nitrosopyrrolidine	930-55-2	ND	--	ND	2400
2-Nitropropane	79-46-9	ND	--	ND	2400
Parathion	56-38-2	ND	--	ND	2400
Phenacetin	62-44-2	ND	--	ND	2400
1,4-Phenylene diamine (p-phenylenediamine)	106-50-3	ND	--	ND	2400
N-Phenylthiourea	103-85-5	ND	--	ND	57
2-Picoline ( $\alpha$ -picoline)	109-06-8	ND	--	ND	2400
Propylthiouracil (6-propyl-2-thiouracil)	51-52-5	ND	--	ND	100
Pyridine	110-86-1	ND	--	ND	2400
Strychnine	57-24-9	ND	--	ND	100
Thioacetamide	62-55-5	ND	--	ND	57
Thiofanox	39196-18-4	ND	--	ND	100
Thiourea	62-56-6	ND	--	ND	57
Toluene 2,4-diamine (2,4-diaminotoluene)	95-80-7	ND	--	ND	57
Toluene 2,6-diamine (2,6-diaminotoluene)	823-40-5	ND	--	ND	57
o-Toluidine	95-53-4	ND	--	ND	2400
p-Toluidine	106-49-0	ND	--	ND	100
1,3,5-Trinitrobenzene (sym-trinitrobenzene)	99-35-4	ND	--	ND	2400
Halogenated Organics					
Allyl chloride	107-05-1	ND	--	ND	2400
Aramite	140-57-8	ND	--	ND	2400
Benzal chloride (dichloromethyl benzene)	98-57-3	ND	--	ND	2400
Benzyl chloride	100-44-77	ND	--	ND	2400
bis(2-Chloroethyl) ether dichloroethyl ether)	111-44-4	ND	--	ND	39
Bromoform (tribromomethane)	75-25-2	ND	--	ND	39
Bromomethane (methyl bromide)	74-84-9	ND	--	ND	39
4-Bromophenyl phenyl ether (p-bromodiphenyl ether)	101-55-3	ND	--	ND	2400
Carbon tetrachloride	56-23-5	ND	--	ND	2400
Chlordane	57-75-9	ND	--	ND	2400
p-Chloroaniline	106-47-8	ND	--	ND	39
Chlorobenzene	108-90-7	ND	--	ND	39

Chlorobenzilate	510-15-6	ND	--	ND	39
p-Chloro-m-cresol	59-50-7	ND	--	ND	30
2-Chloroethyl vinyl ether	110-75-8	ND	--	ND	1.4
Chloroform	67-66-3	ND	--	ND	1.4
Chloromethane (methyl chloride)	74-87-3	ND	--	ND	1.4
2-Chloronaphthalene ( $\beta$ -chloronaphthalene)	91-58-7	ND	--	ND	1.4
2-Chlorophenol (o-chlorophenol)	95-57-8	ND	--	ND	1.4
Chloroprene (2-chloro-1,3-butadiene)	1126-99-8	ND	--	ND	30
2,4-D (2,4-dichlorophenoxyacetic acid)	94-75-7	ND	--	ND	39
Diallate	2303-16-4	ND	--	ND	100
1,2-Dibromo-3-chloropropane	96-12-8	ND	--	ND	1.4
1,2-Dichlorobenzene (o-dichlorobenzene)	95-50-1	ND	--	ND	2.8
1,3-Dichlorobenzene (m-dichlorobenzene)	541-73-1	ND	--	ND	2400
1,4-Dichlorobenzene (p-dichlorobenzene)	106-47-7	ND	--	ND	2400
3,3'-Dichlorobenzidine	91-94-1	ND	--	ND	2400
Dichlorodifluoromethane (CFC 12)	75-71-8	ND	--	ND	2400
1,2-Dichloroethane (ethylene dichloride)	107-06-2	ND	--	ND	59000
1,1-Dichloroethylene (vinylidene chloride)	75-35-4	ND	--	ND	2400
Dichloromethoxy ethane (bis(2-chloroethoxy) methane)	111-91-1	ND	--	ND	2400
2,4-Dichlorophenol	120-83-2	ND	--	ND	4700
2,6-Dichlorophenol	87-65-0	ND	--	ND	1.4
1,2-Dichloropropane (propylene dichloride)	78-87-5	ND	--	ND	39
cis-1,3-Dichloropropylene	10061-01-5	ND	--	ND	100
trans-1,3-Dichloropropylene	10061-02-6	ND	--	ND	39
1,3-Dichloro-2-propanol	96-23-1	ND	--	ND	2400
Endosulfan I	959-98-8	ND	--	ND	39
Endosulfan II	33213-65-9	ND	--	ND	2400
Endrin	72-20-8	ND	--	ND	2400
Endrin-aldehyde	7421-93-4	ND	--	ND	2400
Endrin-ketone	53494-70-5	ND	--	ND	30
Epichlorohydrin (1-chloro-2,3-epoxy propane)	106-89-8	ND	--	ND	30
Ethylidene dichloride (1,1-dichloroethane)	75-34-3	ND	--	ND	2400
2-Fluoroacetamide	640-19-7	ND	--	ND	39
Heptachlor	76-44-8	ND	--	ND	39
Heptachlor-epoxide	1024-57-3	ND	--	ND	2400
Hexachlorobenzene	118-74-1	ND	--	ND	2400
Hexachloro-1,3-butadiene (hexachlorobutadiene)	87-88-3	ND	--	ND	39
Hexachlorocyclopentadiene	77-47-4	ND	--	ND	39
Hexachloroethane	67-72-1	ND	--	ND	39
Hexachlorophene	70-30-4	ND	--	ND	39
Hexachloropropene (hexachloropropylene)	1888-71-7	ND	--	ND	2400
Isodrin	465-73-6	ND	--	ND	2400

Kepone (chlordecone)	143-50-0	ND	--	ND	39
Lindane (γ-BHC; γ-hexachlorocyclohexane)	58-89-9	ND	--	ND	39
Methylene chloride (dichloromethane)	75-09-2	ND	--	ND	--
4,4'-Methylen-bis-(2-chloroaniline)	101-14-4	ND	--	ND	--
Methyl iodide (iodomethane)	74-88-4	ND	--	ND	--
Pentachlorobenzene	608-93-5	ND	--	ND	--
Pentachloroethane	76-01-7	ND	--	ND	--
Pentachloronitrobenzene (PCNB, Quintobezene, Quintozene)	82-68-8	ND	--	ND	--
Pentachlorophenol	87-88-5	ND	--	ND	--
Pronamide	23950-58-5	ND	--	ND	--
Silvex (2,4,5-Trichlorophenoxypropionic acid)	93-72-1	ND	--	ND	--
2,3,7,8-Tetrachlorodibenzo-p-dioxin (2,3,7,8 TCDD)	1746-01-6	ND	--	ND	--
1,2,4,5-Tetrachlorobenzene	95-94-3	ND	--	ND	--
1,1,2,2-Tetrachloroethane	79-35-4	ND	--	ND	--
Tetrachloroethylene (perchloroethylene)	127-18-4	ND	--	ND	--
2,3,4,6-Tetrachlorophenol	58-90-2	ND	--	ND	--
1,2,4-Trichlorobenzene	120-82-1	ND	--	ND	--
1,1,1-Trichloroethane (methyl chloroform)	71-55-6	ND	--	ND	--
1,1,2-Trichloroethane (vinyl trichloride)	79-00-5	ND	--	ND	--
Trichloroethylene	79-01-6	ND	--	ND	--
Trichlorofluoromethane (trichloromonofluoromethane)	75-69-4	ND	--	ND	--
2,4,5-Trichlorophenol	95-95-4	ND	--	ND	--
2,4,6-Trichlorophenol	88-06-2	ND	--	ND	--
1,2,3-Trichloropropane	98-18-4	ND	--	ND	--
Vinyl chloride	75-01-4	ND	--	ND	--
Notes: --NA-- Not Applicable --ND-- Non-detect --(a)-- 25 or individual halogenated organics listed below					

~~the excluded fuel is called the excluded fuel burner.~~

~~(ii) The person who generates the excluded fuel must claim the exclusion by complying with the conditions of this section and keeping records necessary to document compliance with those conditions.~~

~~(2) Notices.~~

~~(i) Notices to State RCRA and CAA Directors in authorized States or regional RCRA and CAA Directors in unauthorized States.~~

~~(A) The generator must submit a one-time notice, except as provided by paragraph (b)(2)(i)(C) of this section, to the Regional or State RCRA and CAA Directors, in whose jurisdiction the exclusion is being claimed and where the excluded fuel will be burned, certifying compliance with the conditions of the exclusion and providing the following documentation:~~

~~(1) The name, address, and EPA ID number of the person/facility claiming the exclusion;~~

~~(2) The applicable EPA Hazardous Waste Code(s) that would otherwise apply to the excluded fuel;~~

~~(3) The name and address of the units meeting the requirements of paragraphs (b)(3) and (c) of this section, that will burn the excluded fuel;~~

~~(4) An estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed, except as provided by paragraph (b)(2)(i)(C) of this section; and~~

~~(5) The following statement, which shall be 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 and APC&EC Regulation No. 23 have been met for all comparable fuels identified in this notification. Copies of the records and information required at 40 CFR 261.38(b)(8) are available at the 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.~~

~~(B) If there is a substantive change in the information provided in the notice required under this paragraph, the generator must submit a revised notification.~~

~~(C) Excluded fuel generators must include an estimate of the average and maximum monthly and annual quantity of material for which an exclusion would be claimed only in notices submitted after December 19, 2008 for newly excluded fuel or for revised notices as required by paragraph (b)(2)(i)(B) of this section.~~

~~(ii) Public notice. Prior to burning an excluded fuel, the burner must publish in a major newspaper of general circulation local to the site where the fuel will be burned, a notice entitled "Notification of Burning a Fuel Excluded Under the Resource Conservation and Recovery Act" and containing the following information:~~

~~(A) Name, address, and EPA ID number of the generating facility(ies);~~

~~(B) Name and address of the burner and identification of the unit(s) that will burn the excluded fuel;~~

~~(C) A brief, general description of the manufacturing, treatment, or other process generating the excluded fuel;~~

~~(D) An estimate of the average and maximum monthly and annual quantity of the excluded fuel to be burned; and~~

~~(E) Name and mailing address of the Regional or State Directors to whom the generator submitted a claim for the exclusion.~~

~~(3) Burning. The exclusion applies only if the fuel is burned in the following units that also shall be subject to Federal/State/local air emission requirements, including all applicable requirements implementing section 112 of the federal Clean Air Act:~~

~~(i) Industrial furnaces as defined in § 260.10 of this regulation;~~

~~(ii) Boilers, as defined in § 260.10 of this regulation, that are further defined as follows:~~

~~(A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or~~

~~(B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale;~~

~~(iii) Hazardous waste incinerators subject to regulation under Subsection O of Sections 264 or 265 of this regulation and applicable CAA MACT standards.~~

~~(iv) Gas turbines used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale.~~

~~(4) Fuel analysis plan for generators. The generator of an excluded fuel shall develop and follow a written fuel analysis plan which describes the procedures for sampling and analysis of the material to be excluded. The plan shall be followed and retained at the site of the generator claiming the exclusion.~~

~~(i) At a minimum, the plan must specify:~~

~~(A) The parameters for which each excluded fuel will be analyzed and the rationale for the selection of those parameters;~~

~~(B) The test methods which will be used to test for these parameters;~~

~~(C) The sampling method which will be used to obtain a representative sample of the excluded fuel to be analyzed;~~

~~(D) The frequency with which the initial analysis of the excluded fuel will be reviewed or repeated to ensure that the analysis is accurate and up to date; and~~

~~(E) If process knowledge is used in the determination, any information prepared by the generator in making such determination.~~

~~(ii) For each analysis, the generator shall document the following:~~

~~(A) The dates and times that samples were obtained, and the dates the samples were analyzed;~~

~~(B) The names and qualifications of the person(s) who obtained the samples;~~

~~(C) A description of the temporal and spatial locations of the samples;~~

~~(D) The name and address of the laboratory facility at which analyses of the samples were performed;~~

~~(E) A description of the analytical methods used, including any clean up and sample preparation methods;~~

~~(F) All quantitation limits achieved and all other quality control results for the analysis (including method blanks, duplicate analyses, matrix spikes, etc.), laboratory quality assurance data, and the description of any deviations from analytical methods written in the plan or from any other activity written in the plan which occurred;~~

~~(G) All laboratory results demonstrating whether the exclusion specifications have been met; and~~



~~(H) All laboratory documentation that support the analytical results, unless a contract between the claimant and the laboratory provides for the documentation to be maintained by the laboratory for the period specified in paragraph (b)(9) of this section and also provides for the availability of the documentation to the claimant upon request.~~

~~(iii) Syngas fuel generators shall submit for approval, prior to performing sampling, analysis, or any management of an excluded syngas fuel, a fuel analysis plan containing the elements of paragraph (b)(4)(i) of this section to the appropriate regulatory authority. The approval of fuel analysis plans must be stated in writing and received by the facility prior to sampling and analysis to demonstrate the exclusion of a syngas. The approval of the fuel analysis plan may contain such provisions and conditions as the regulatory authority deems appropriate.~~

~~(5) Excluded fuel sampling and analysis:~~

~~(i) General. For wastes for which an exclusion is claimed under the specifications provided by paragraphs (a)(1) or (a)(2) of this section, the generator of the waste must test for all the constituents in appendix VIII to this section, except those that the generator determines, based on testing or knowledge, should not be present in the fuel. The generator is required to document the basis of each determination that a constituent with an applicable specification should not be present. The generator may not determine that any of the following categories of constituents with a specification in Table 1 to this section should not be present:~~

~~(A) A constituent that triggered the toxicity characteristic for the constituents that were the basis for listing the hazardous secondary material as a hazardous waste, or constituents for which there is a treatment standard for the waste code in § 268.40 of this regulation;~~

~~(B) A constituent detected in previous analysis of the waste;~~

~~(C) Constituents introduced into the process that generates the waste; or~~

~~(D) Constituents that are byproducts or side reactions to the process that generates the waste.~~

~~Note to paragraph (b)(5): Any claim under this section must be valid and accurate for all hazardous constituents; a determination not to test for a hazardous constituent will not shield a generator from liability should that constituent later be found in the excluded fuel above the exclusion specifications.~~

~~(ii) Use of process knowledge. For each waste for which the comparable fuel or syngas exclusion is claimed where the generator of the excluded fuel is not the original generator of the hazardous waste, the generator of the excluded fuel may not use process knowledge pursuant to paragraph (b)(5)(i) of this section and must test to determine that all of the constituent specifications of paragraphs (a)(1) and (a)(2) of this section, as applicable, have been met.~~

~~(iii) The excluded fuel generator may use any reliable analytical method to demonstrate that no constituent of concern is present at concentrations above the specification levels. It is the responsibility of the generator to ensure that the sampling and analysis are unbiased, precise, and representative of the excluded fuel. For the fuel to be eligible for exclusion, a generator must demonstrate that:~~

~~(A) The 95% upper confidence limit of the mean concentration for each constituent of concern is not above the specification level; and~~

~~(B) The analyses could have detected the presence of the constituent at or below the specification level.~~

~~(iv) Nothing in this paragraph preempts, overrides or otherwise negates the provision in § 262.11 of this regulation, which requires any person who generates a solid waste to determine if that waste is a hazardous waste.~~

~~(v) In an enforcement action, the burden of proof to establish conformance with the exclusion specification shall be on the generator claiming the exclusion.~~

~~(vi) The generator must conduct sampling and analysis in accordance with the fuel analysis plan developed under paragraph (b)(4) of this section.~~

~~(vii) Viscosity condition for comparable fuel.~~

~~(A) Excluded comparable fuel that has not been blended to meet the kinematic viscosity specification shall be analyzed as generated.~~

~~(B) If hazardous waste is blended to meet the kinematic viscosity specification for comparable fuel, the generator shall:~~

~~(1) Analyze the hazardous waste as generated to ensure that it meets the constituent and heating value specifications of paragraph (a)(1) of this section; and~~

~~(2) After blending, analyze the fuel again to ensure that the blended fuel meets all comparable fuel specifications.~~

~~(viii) Excluded fuel must be re-tested, at a minimum, annually and must be retested after a process change that could change its chemical or physical properties in a manner that may affect conformance with the specifications.~~

~~(6) (Reserved)~~

~~(7) Speculative accumulation. Excluded fuel must not be accumulated speculatively, as defined in § 261.1(c)(8).~~

~~(8) Operating record. The generator must maintain an operating record on site containing the following information:~~

~~(i) All information required to be submitted to the implementing authority as part of the notification of the claim:~~

~~(A) The owner/operator name, address, and EPA ID number of the person claiming the exclusion;~~

~~(B) For each excluded fuel, the EPA Hazardous Waste Codes that would be applicable if the material were discarded; and~~

~~(C) The certification signed by the person claiming the exclusion or his authorized representative.~~

~~—(ii) A brief description of the process that generated the excluded fuel. If the comparable fuel generator is not the generator of the original hazardous waste, provide a brief description of the process that generated the hazardous waste;~~

~~—(iii) The monthly and annual quantities of each fuel claimed to be excluded;~~

~~—(iv) Documentation for any claim that a constituent is not present in the excluded fuel as required under paragraph (b)(5)(i) of this section;~~

~~(v) The results of all analyses and all detection limits achieved as required under paragraph (b)(4) of this section;~~

~~—(vi) If the comparable fuel was generated through treatment or blending, documentation of compliance with the applicable provisions of paragraphs (a)(3) and (a)(4) of this section;~~

~~—(vii) If the excluded fuel is to be shipped off site, a certification from the burner as required under paragraph (b)(10) of this section;~~

~~—(viii) The fuel analysis plan and documentation of all sampling and analysis results as required by paragraph (b)(4) of this section; and~~

~~—(ix) If the generator ships excluded fuel off site for burning, the generator must retain for each shipment the following information on-site:~~

~~(A) The name and address of the facility receiving the excluded fuel for burning;~~

~~(B) The quantity of excluded fuel shipped and delivered;~~

~~(C) The date of shipment or delivery;~~

~~(D) A cross reference to the record of excluded fuel analysis or other information used to make the determination that the excluded fuel meets the specifications as required under paragraph (b)(4) of this section; and~~

~~(E) A one time certification by the burner as required under paragraph (b)(10) of this section.~~

~~(9) Records retention. Records must be maintained for a period of three (3) years.~~

~~(10) Burner certification to the generator. Prior to submitting a notification to the State and Regional Directors, a generator of excluded fuel who intends to ship the excluded fuel off site for burning must obtain a one time written, signed statement from the burner:~~

~~(i) Certifying that the excluded fuel will only be burned in an industrial furnace, industrial boiler, utility boiler, or hazardous waste incinerator, as required under paragraph (b)(3) of this section;~~

~~(ii) Identifying the name and address of the facility that will burn the excluded fuel; and~~

~~(iii) Certifying that the State in which the burner is located is authorized to exclude wastes as excluded fuel under the provisions of this section.~~

~~(11) Ineligible waste codes. Wastes that are listed as hazardous waste because of the presence of dioxins or furans, as set out in Appendix VII of this Section, are not eligible for these exclusions, and any fuel produced from or otherwise containing these wastes remains a hazardous waste subject to the full RCRA hazardous waste management requirements.~~

~~(12) Regulatory status of boiler residues. Burning excluded fuel that was otherwise a hazardous waste listed under §§ 261.31 through 261.33 does not subject boiler residues, including bottom ash and emission control residues, to regulation as derived from hazardous wastes.~~

~~(13) Residues in containers and tank systems upon cessation of operations.~~

~~(i) Liquid and accumulated solid residues that remain in a container or tank system for more than 90 days after the container or tank system ceases to be operated for storage or transport of excluded fuel product are subject to~~

~~regulation under Sections 262 through 265, 267, 268, and 270 of this regulation.~~

~~(ii) Liquid and accumulated solid residues that are removed from a container or tank system after the container or tank system ceases to be operated for storage or transport of excluded fuel product are solid wastes subject to regulation as hazardous waste if the waste exhibits a characteristic of hazardous waste under §§ 261.21 through 261.24 or if the fuel were otherwise a hazardous waste listed under §§ 261.31 through 261.33 when the exclusion was claimed.~~

~~(iii) Liquid and accumulated solid residues that are removed from a container or tank system and which do not meet the specifications for exclusion under paragraphs (a)(1) or (a)(2) of this section are solid wastes subject to regulation as hazardous waste if:~~

~~(A) The waste exhibits a characteristic of hazardous waste under §§ 261.21 through 261.24; or~~

~~(B) The fuel were otherwise a hazardous waste listed under §§ 261.31 through 261.33. The hazardous waste code for the listed waste applies to these liquid and accumulated solid residues.~~

~~(14) Waiver of RCRA Closure Requirements. Interim status and permitted storage and combustion units, and generator storage units exempt from the permit requirements under § 262.34 of this regulation, are not subject to the closure requirements of Sections 264, 265, and 267 provided that the storage and combustion unit has been used to manage only hazardous waste that is subsequently excluded under the conditions of this section, and that afterward will be used only to manage fuel excluded under this section.~~

~~(15) Spills and leaks.~~

~~(i) Excluded fuel that is spilled or leaked and that therefore no longer meets the conditions of the exclusion is discarded and must be managed as a hazardous waste if it exhibits a characteristic of hazardous waste under §§ 261.21 through 261.24 or if the fuel were otherwise a hazardous waste listed in §§ 261.31 through 261.33.~~

~~(ii) For excluded fuel that would have otherwise been a hazardous waste listed in §§ 261.31 through 261.33 and which is spilled or leaked, the hazardous waste code for the listed waste applies to the spilled or leaked material.~~

~~(16) Nothing in this section preempts, overrides, or otherwise negates the provisions in CERCLA Section 103, which establish reporting obligations for releases of hazardous substances, or the Department of Transportation requirements for hazardous materials in 49 CFR parts 171 through 180.~~

~~(c) Failure to comply with the conditions of the exclusion. An excluded fuel loses its exclusion if any person managing the fuel fails to comply with the conditions of the exclusion under this section, and the material must be managed as hazardous waste from the point of generation. In such situations, EPA or an authorized State agency may take enforcement action under RCRA section 3008(a).~~

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

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(a)(5)(i)(F) The name and address of the recycler ~~and any alternate recycler~~ or recyclers and the estimated quantity of used CRTs to be sent to each facility, as well as the names of any alternate recyclers.

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(a)(5)(x) CRT exporters must file with EPA no later than March 1 of each year, an annual report summarizing the quantities (in kilograms), frequency of shipment, and ultimate destination(s) (i.e., the facility or facilities where the recycling occurs) of all used CRTs exported during the previous calendar year. Such reports must also include the following:

(A) The name, EPA ID number (if applicable), and mailing and site address of the exporter;

(B) The calendar year covered by the report;

(C) A certification signed by the CRT exporter that states: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(a)(5)(xi) Annual reports must be submitted to the office specified in paragraph (a)(5)(ii) of this section. Exporters must keep copies of each annual report for a period of at least three years from the due date of the report.

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**§ 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 EPA 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.~~ CRT exporters who export used, intact CRTs for reuse must send a notification to EPA. This notification may cover export activities extending over a twelve (12) month or lesser period.

(1) The notification must be in writing, signed by the exporter, and include the following information:

(i) Name, mailing address, telephone number, and EPA ID number (if applicable) of the exporter of the used, intact CRTs;

(ii) The estimated frequency or rate at which the used, intact CRTs are to be exported for reuse and the period of time over which they are to be exported;

(iii) The estimated total quantity of used, intact CRTs specified in kilograms;

(iv) All points of entry to and departure from each transit country through which the used, intact CRTs will pass, a description of the approximate length of time the used, intact CRTs will remain in such country, and the nature of their handling while there;

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

(vi) The name and address of the ultimate destination facility or facilities where the used, intact CRTs will be reused, refurbished, distributed, or sold for reuse and the estimated quantity of used, intact CRTs to be sent to each facility, as well as the name of any alternate destination facility or facilities;

(vii) A description of the manner in which the used, intact CRTs will be reused (including reuse after refurbishment) in the foreign country that will be receiving the used, intact CRTs; and

(viii) A certification signed by the CRT exporter that states: "I certify under penalty of law that the CRTs described in this notice are intact and fully functioning or capable of being functional after refurbishment and that the used CRTs will be reused or refurbished and reused. I certify under penalty of law that I have personally examined and am familiar with the information submitted in this 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 there are significant penalties for submitting false information, including the possibility of fine and imprisonment."

(2) 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, William Jefferson Clinton Building, Room 6144, 1200 Pennsylvania Ave. N.W., Washington, DC 20004. In both cases, the following shall be prominently displayed on the front of the envelope: "Attention: Notification of Intent to Export CRTs."

~~(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.~~ CRT exporters of used, intact CRTs sent for reuse must keep copies of normal business records, such as contracts, demonstrating that each shipment of exported used, intact CRTs will be reused. This documentation must be retained for a period of at least three years from the date the CRTs were exported. If the documents are written in a language other than English, CRT exporters of used, intact CRTs sent for reuse must provide both the original, non-English version of the normal business records as well as a third-party translation of the normal business records into English within 30 days upon request by EPA.

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## **Section 262**

### **STANDARDS APPLICABLE TO**

### **GENERATORS OF HAZARDOUS WASTE**

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#### **Subsection A -- General**

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

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*(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 EPA Form 8700-12 (AR-11-91R) (i.e., AR-09-99R) 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 (*i.e.*, AR-09-99R) to the Department notifying that they generate TC toxic wastes in addition to other hazardous wastes previously reported.

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## **Subsection B-The Manifest**

### **§ 262.20 General Requirements.**

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(a)(3) Electronic Manifest. In lieu of using the manifest form specified in paragraph (a)(1) of this section, a person required to prepare a manifest under paragraph (a)(1) of this section may prepare and use an electronic manifest, provided that the person:

(i) Complies with the requirements in § 262.24 of this part for use of electronic manifests, and

(ii) Complies with the requirements of 40 CFR § 3.10 for the reporting of electronic documents to EPA.

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### **§ 262.24 Use of the Electronic Manifest.**

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(a) Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with § 262.20(a)(3), and used in accordance with this section in lieu of EPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.

(1) Any requirement in these regulations to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 40 CFR § 262.25(a).

(2) Any requirement in these regulations to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an electronic manifest is transmitted to the other person by submission to the system.

(3) Any requirement in these regulations for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed electronic manifest in the generator's account on the national e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector.



- (4) No generator may be held liable for the inability to produce an electronic manifest for inspection under this section if the generator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the generator bears no responsibility.
- (b) A generator may participate in the electronic manifest system either by accessing the electronic manifest system from its own electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for off-site transportation.
- (c) Restriction on use of electronic manifests. A generator may prepare an electronic manifest for the tracking of hazardous waste shipments involving any RCRA hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the electronic manifest system.
- (d) Requirement for one printed copy. To the extent the Hazardous Materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR § 177.817, a generator originating an electronic manifest must also provide the initial transporter with one printed copy of the electronic manifest.
- (e) Special procedures when electronic manifest is unavailable. If a generator has prepared an electronic manifest for a hazardous waste shipment, but the electronic manifest system becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, then the generator must obtain and complete a paper manifest and if necessary, a continuation sheet (EPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions in the appendix to this part, and use these paper forms from this point forward in accordance with the requirements of Regulation 23 § 262.23.
- (f) Special procedures for electronic signature methods undergoing tests. If a generator has prepared an electronic manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the generator shall also sign with an ink signature the generator/offeree certification on the printed copy of the manifest provided under paragraph (d) of this section.
- (g) Imposition of user fee. A generator who is a user of the electronic manifest may be assessed a user fee by EPA for the origination of each electronic manifest. EPA shall maintain and update from time-to-time the current schedule of

electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to this part.

#### **§ 262.25 Electronic Manifest Signatures.**

Electronic signature methods for the e-Manifest system shall:

(a) Be a legally valid and enforceable signature under applicable EPA and other Federal requirements pertaining to electronic signatures; and

(b) Be a method that is designed and implemented in a manner that EPA considers to be as cost-effective and practical as possible for the users of the manifest.

#### **§ 262.24~~26~~ Additional Requirements for Generators of Hazardous Wastes in Arkansas (including Wastes from Generators of over 100 kgs per month)**

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#### **Subsection C -- Pre Transport Requirements**

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#### **§ 262.32 Marking**

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Generator's Name and Address \_\_\_\_\_.  
Generator's EPA Identification Number \_\_\_\_\_.  
Manifest Tracking Number \_\_\_\_\_.”

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#### **§ 262.34 Accumulation time.**

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~~(j) A member of the Performance Track Program who generates 1000 kg or greater of hazardous waste per month or one kilogram or more of acute hazardous waste) may accumulate hazardous waste on-site without a permit or interim status for an extended period of time, provided that:~~

~~(1) The generator accumulates the hazardous waste for no more than 180 days, or for no more than 270 days if the generator must transport the waste (or offer the waste for transport) more than 200 miles from the generating facility; and~~

~~(2) The generator first notifies the Regional Administrator and the ADEQ Director in writing of its intent to begin accumulation of hazardous waste for~~

~~extended time periods under the provisions of this section. Such advance notice must include:~~

~~(i) Name and EPA ID number of the facility, and specification of when the facility will begin accumulation of hazardous wastes for extended periods of time in accordance with this section; and~~

~~(ii) A description of the types of hazardous wastes that will be accumulated for extended periods of time, and the units that will be used for such extended accumulation; and~~

~~(iii) A Statement that the facility has made all changes to its operations procedures, including emergency preparedness procedures, and equipment, including equipment needed for emergency preparedness, that will be necessary to accommodate extended time periods for accumulating hazardous wastes; and~~

~~(iv) If the generator intends to accumulate hazardous wastes on site for up to 270 days, a certification that a facility that is permitted (or operating under interim status) under Section 270 of this Regulation to receive these wastes is not available within 200 miles of the generating facility; and~~

~~(3) The waste is managed in:~~

~~(i) Containers, in accordance with the applicable requirements of subsections I, AA, BB, and CC of Section 265 and § 264.175 of this Regulation; or~~

~~(ii) Tanks, in accordance with the applicable requirements of subsections J, AA, BB, and CC of Section 265, except for §§ 265.197(e) and 265.200 of this Regulation; or~~

~~(iii) Drip pads, in accordance with subsection W of Section 265 of this Regulation; or~~

~~(iv) Containment buildings, in accordance with subsection DD of Section 265 of this Regulation; and~~

~~(4) The quantity of hazardous waste that is accumulated for extended time periods at the facility does not exceed 30,000 kg; and~~

~~(5) The generator maintains the following records at the facility for each unit used for extended accumulation times:~~

~~(i) A written description of procedures to ensure that each waste volume remains in the unit for no more than 180 days (or 270 days, as applicable), a description of the waste generation and management practices at the facility showing that they are consistent with the extended accumulation time limit, and documentation that the procedures are complied with; or~~

~~(ii) Documentation that the unit is emptied at least once every 180 days (or 270 days, if applicable); and~~

~~(6) Each container or tank that is used for extended accumulation time periods is labeled or marked clearly with the words "Hazardous Waste," and for each container the date upon which each period of accumulation begins is clearly marked and visible for inspection; and~~

~~(7) The generator complies with the requirements for owners and operators in subsections C and D in Section 265, with § 265.16, and with § 268.7(a)(5) of this Regulation. In addition, such a generator is exempt from all the requirements in~~

~~subsections G and H of Section 265 of this Regulation, except for §§ 265.111 and 265.114; and~~

~~(8) The generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants released to the environment prior to its recycling, treatment, or disposal; and~~

~~(9) The generator includes the following with its Performance Track Annual Performance Report, which must be submitted to the Regional Administrator and the Director of the authorized State:~~

~~(i) Information on the total quantity of each hazardous waste generated at the facility that has been managed in the previous year according to extended accumulation time periods; and~~

~~(ii) Information for the previous year on the number of off-site shipments of hazardous wastes generated at the facility, the types and locations of destination facilities, how the wastes were managed at the destination facilities (e.g., recycling, treatment, storage, or disposal), and what changes in on-site or off-site waste management practices have occurred as a result of extended accumulation times or other pollution prevention provisions of this section; and~~

~~(iii) Information for the previous year on any hazardous waste spills or accidents occurring at extended accumulation units at the facility, or during off-site transport of accumulated wastes; and~~

~~(iv) If the generator intends to accumulate hazardous wastes on-site for up to 270 days, a certification that a facility that is permitted (or operating under interim status) under Section 270 of this Regulation to receive these wastes is not available within 200 miles of the generating facility; and~~

~~(k) If hazardous wastes must remain on-site at a Performance Track member facility for longer than 180 days (or 270 days, if applicable) due to unforeseen, temporary, and uncontrollable circumstances, an extension to the extended accumulation time period of up to 30 days may be granted at the discretion of the Director on a case-by-case basis.~~

~~(1) If a generator who is a member of the Performance Track Program withdraws from the Performance Track Program, or if the Regional Administrator terminates a generator's membership, the generator must return to compliance with all otherwise applicable hazardous waste regulations as soon as possible, but no later than six months after the date of withdrawal or termination.~~

~~(m)~~ A generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of § 264.72 or § 265.72 of this Regulation may accumulate the returned waste on-site in accordance with paragraphs (a) and (b) or (d), (e) and (f) of this section, depending on the amount of hazardous waste on-site in that calendar month. Upon receipt of the returned shipment, the generator must:

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**§ 262.35 Handling and Disposal Requirements for Conditionally-Exempt Small Quantity Generators.**

(a) *Generators of conditionally-exempt small quantities of hazardous waste shall:*

*(1) Identify all hazardous wastes and keep records of their waste evaluations;*

*(2) Comply with the requirements of § 261.5 and the requirements of § 262.13(~~d~~) and § 263.10(~~e~~) of this regulation;*

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**Subsection D -- Recordkeeping & Reporting**

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**§ 262.41 Annual Report**

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(g) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(h) 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 years prior to 1984.

(i) A statement signed by the generator or authorized representative certifying that the report is true, accurate, and correct.

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**Subsection E-Exports of Hazardous Waste**

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**§ 262.54 Special manifest requirements.**

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

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**§ 262.84 Movement Tracking Document**

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**Appendix I to Section 262 ---Uniform Hazardous Waste Manifest and Instructions  
(EPA Forms 87---22 and 8700-22A and Their Instructions)**

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**IIIIV. INSTRUCTIONS FOR OWNERS AND OPERATORS OF TREATMENT,  
STORAGE, AND DISPOSAL FACILITIES**

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**Section 263-STANDARDS APPLICABLE TO TRANSPORTERS OF  
HAZARDOUS WASTE**

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**Subsection B-Compliance with the Manifest System & Record Keeping**

**§ 263.20 The manifest system.**

(a)(1) Manifest Requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest form (EPA Form 8700-22, and if necessary, EPA Form 8700-22A) signed in accordance with the requirement of § 262.23, or is provided with an electronic manifest that is obtained, completed, and transmitted in accordance with § 262.20(a)(3) of this regulation, and signed with a valid and enforceable electronic signature as described in § 262.25 of this regulation.

(2) Exports. In the case of exports other than those subject to Section 262, Subsection H of this Regulation, a transporter may not accept such waste from a primary exporter or other person if he knows the shipment does not conform to the EPA Acknowledgment of Consent; and unless, in addition to a manifest signed by the generator ~~as provided in~~ accordance with this section, the transporter shall also be provided with an EPA Acknowledgment of Consent which, except for shipments by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)). For exports of hazardous waste subject to the requirements ~~Subpart~~ Subsection H of 40 CFR Part Regulation No. 23 Section 262, a transporter may not accept hazardous waste without a tracking document that includes all information required by ~~40 CFR~~ Regulation No. 23 Section 262.84.

(3) Compliance Date for Form Revisions. The revised Manifest form and procedures in 40 CFR ~~and Sections §§ 260.10, 261.7, 263.20, and 263.21 of this regulation, shall not apply until~~ had an effective date of September 5, 2006. The Manifest form and procedures in 40 CFR §§ 260.10, 261.7, 263.20, and 263.21,

contained in the 40 CFR, parts 260 to 265, edition revised as of July 1, 2004, ~~shall~~ be were applicable until September 5, 2006.

(4) Use of electronic manifest legal equivalence to paper forms for participating transporters. Electronic manifests that are obtained, completed, and transmitted in accordance with § 262.20(a)(3) of part 262, and used in accordance with this section in lieu of EPA Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.

(i) Any requirement in these regulations to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 40 CFR Part 262.25(a).

(ii) Any requirement in these regulations to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person by submission to the system.

(iii) Any requirement in these regulations for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that to the extent that the Hazardous Materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR § 177.817, a hazardous waste transporter must carry one printed copy of the electronic manifest on the transport vehicle.

(iv) Any requirement in these regulations for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an electronic manifest in the transporter's account on the e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector.

(v) No transporter may be held liable for the inability to produce an electronic manifest for inspection under this section if that transporter can demonstrate that the inability to produce the electronic manifest is exclusively due to a technical difficulty with the EPA system for which the transporter bears no responsibility.

(5) A transporter may participate in the electronic manifest system either by accessing the electronic manifest system from the transporter's own electronic equipment, or by accessing the electronic manifest system from the equipment

provided by a participating generator, by another transporter, or by a designated facility.

(6) Special procedures when electronic manifest is not available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the electronic manifest system should become unavailable for any reason, then:

(i) The transporter in possession of the hazardous waste when the electronic manifest becomes unavailable shall reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to paragraph (a)(4)(iii)(A) of this section, or obtain and complete another paper manifest for this purpose. The transporter shall reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste.

(ii) On each printed copy, the transporter shall include a notation in the Special Handling and Additional Description space (Item 14) that the paper manifest is a replacement manifest for a manifest originated in the electronic manifest system, shall include (if not pre-printed on the replacement manifest) the manifest tracking number of the electronic manifest that is replaced by the paper manifest, and shall also include a brief explanation why the electronic manifest was not available for completing the tracking of the shipment electronically.

(iii) A transporter signing a replacement manifest to acknowledge receipt of the hazardous waste must ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy.

(iv) From the point at which the electronic manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies shall be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.

(7) Special procedures for electronic signature methods undergoing tests. If a transporter using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter shall sign the electronic manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with paragraph (a)(4)(iii)(A) of this section. This printed copy bearing the generator's and transporter's ink signatures shall also be presented by



the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner/operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy shall be delivered to the designated facility with the waste materials.

(8) Imposition of user fee for electronic manifest use. A transporter who is a user of the electronic manifest may be assessed a user fee by EPA for the origination or processing of each electronic manifest. EPA shall maintain and update from time-to-time the current schedule of electronic manifest user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to Part 262 of this regulation.

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#### **§ 263.25 Electronic Manifest Signatures.**

(a) Electronic manifest signatures shall meet the criteria described in 40 CFR § 262.25(a).

(b) [Reserved]

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

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#### **Subsection B-General Facility Standards**

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#### **§ 264.15 General Inspection requirements.**

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(b)(4) The frequency of inspection may vary for the items on the schedule. However, it 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 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.

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**§ 264.16 Personnel training.**

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(a)(4) For facility employees receiving emergency response training pursuant to OSHA regulations facility not required to provide separate emergency response training.

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**Subsection D-Contingency Plan and Emergency Procedures**

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**§ 264.52 Content of contingency plan.**

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(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 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 recommends 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.

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**§ 264.56 Emergency procedures.**

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~~(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) 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:

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**Subsection E-Manifest System, Recordkeeping, & Reporting**

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**§ 264.71 Use of manifest system.**

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(a)(2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or his agent must:

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(a)(2)(iv) Within 30 days of delivery, send a copy of the manifest to the generator; and

(v) Within 30 days of delivery, send the top copy (Page 1) of the Manifest to the e-Manifest system for purposes of data entry and processing. In lieu of mailing this paper copy to EPA, the owner or operator may transmit to the EPA system an image file of Page 1 of the manifest, or both a data string file and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to EPA under this paragraph must be submitted in data file and image file formats that are acceptable to EPA and that are supported by EPA's electronic reporting requirements and by the electronic manifest system; and

(vi) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

\*\*\*\*\*

(g) Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with § 262.20(a)(3), and used in accordance with this section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

(1) Any requirement in these regulations for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 40 C.F.R. § 262.25(a).

(2) Any requirement in these regulations to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person.

(3) Any requirement in these regulations for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment.

(4) Any requirement in these regulations for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's electronic manifest copies in its account on the e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector.

(5) No owner or operator may be held liable for the inability to produce an electronic manifest for inspection under this section if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the owner or operator bears no responsibility.

(h) An owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner's or operator's electronic equipment, or by accessing the electronic manifest system from portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility.

(i) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:

(1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest.

(2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest.

(3) Within 30 days of delivery of the waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the electronic manifest system, and

(4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years from the date of delivery.

(j) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator shall retain this original copy among its records for at least 3 years from the date of delivery of the waste.

(k) Imposition of user fee for electronic manifest use. An owner or operator who is a user of the electronic manifest format may be assessed a user fee by EPA for the origination or processing of each electronic manifest. An owner or operator may also be

assessed a user fee by EPA for the collection and processing of paper manifest copies that owners or operators must submit to the electronic manifest system operator under § 264.71(a)(2)(v) of this section. EPA shall maintain and update from time-to-time the current schedule of electronic manifest system user fees, which shall be determined based on current and projected system costs and level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to Part 262 of this regulation.

(1) Electronic Manifest Signatures shall meet the criteria described in 40 CFR § 262.25(a).

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### **§ 264.73 Operating record.**

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(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 as follows:

(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~~ that shows 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;

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(6) Monitoring, testing or analytical data, and corrective action where required by Subsection F of this Section and Sections 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. This information must be maintained in the operating record for three years, except for records and results pertaining to groundwater monitoring and cleanup which must be maintained in the operating record until closure of the facility.

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(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.

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(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 of this Regulation; This information must be maintained in the operating record until closure of the facility.

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### **§ 264.75 Annual Report.**

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~~(a) The EPA identification number, name and address of the facility;~~  
~~(b) The calendar year covered by the report;~~  
~~(c) For offsite facilities, the EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year;~~  
~~(d) For imported shipments, the report must give each year. The Annual Report must be submitted on forms or in an electronic format furnished or approved by the Department and in accordance with the annual instruction booklet provided by the Department. The report must cover facility activities during the previous calendar year and must include, at a minimum, the following information:~~

\*\*\*\*\*

(g) The most recent closure cost estimate under § 264.142, and, for disposal facilities, the most recent post-closure cost estimate under § 264.144; and

(h) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts under-taken during the year to reduce the volume and toxicity of waste generated.

(i) For generators who treat, store, or dispose of hazardous waste on-site, 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.

~~(g)~~ (j) A certification **signed** by the owner or operator of the facility or his authorized representative that the report is true, accurate, and correct.

*(~~h~~k) The owner or operator of a land disposal facility must, in addition to the requirements above, submit monitoring data under § 265.94(a)(2) (ii) and (iii), and (b)(2), in accordance with the requirements set forth in the facility's permit.*

*(~~l~~) Commercial hazardous waste management facilities shall submit their Annual Report in an electronic format as prescribed in the annual reporting instructions, or as otherwise coordinated with the Department.*

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## **Subsection F-Releases from Solid Waste Management Units**

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### **§ 264.98 Detection monitoring program**

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(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~~ this Section 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 part 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 ~~found pursuant to~~ in paragraph (g)(2) of this section, the hazardous constituents found during this initial Appendix IX analysis will form the basis for compliance monitoring.

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### **§ 264.99 Compliance monitoring program.**

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(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 determine whether additional hazardous constituents from Appendix IX are present in the uppermost aquifer; consult with the Director to determine enhanced sampling event; report concentration of additional constituents within seven days and add them to the monitoring list.

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#### **§ 264.100 Corrective action program.**

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(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.

\*\*\*\*\*

#### **Subsection G-Closure and Post-Closure**

\*\*\*\*\*

#### **§ 264.113 Closure; time allowed for closure.**

\*\*\*\*\*

(e)(5) During the period of corrective action, the owner or operator shall provide ~~semi-~~annual reports to the Director ~~that describe~~ 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.



\*\*\*\*\*

## **Subsection H – Financial Requirements**

\*\*\*\*\*

### **§ 264.151 Wording of the instruments.**

\*\*\*\*\*

(d)

\*\*\*\*\*

#### ***Irrevocable Standby Letter of Credit***

Director  
Arkansas Department of Environmental Quality  
~~8001 National Drive~~ 5301 Northshore Drive  
North Little Rock, AR 72219-8913 72118

\*\*\*\*\*

(f)

\*\*\*\*\*

#### ***Letter from Chief Financial Officer***

Director  
Arkansas Department of Environmental Quality  
~~8001 National Drive, P.O. Box 8913~~ 5301 Northshore Drive  
North Little Rock, AR 72219-8913 72118

\*\*\*\*\*

(g)

\*\*\*\*\*

#### ***Letter from Chief Financial Officer***

Director  
Arkansas Department of Environmental Quality  
~~8001 National Drive, P.O. Box 8913~~ 5301 Northshore Drive  
North Little Rock, AR 72219-8913 72118

\*\*\*\*\*

(k)

\*\*\*\*\*

*Irrevocable Standby Letter of Credit*

Name and Address of Issuing Institution  
Director  
Arkansas Department of Environmental Quality  
~~8001 National Drive, P.O. Box 8913~~ 5301 Northshore Drive  
North Little Rock, AR 72219-8913 72118

\*\*\*\*\*

**Subsection J-Tank Systems**

\*\*\*\*\*

**§ 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) 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. 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.~~

\*\*\*\*\*

## §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).~~

\*\*\*\*\*

(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) 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.

~~(e)~~ (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:

~~(d)~~ (g) 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.

\*\*\*\*\*

## **Subsection K-Surface Impoundments**

\*\*\*\*\*

### **§ 264.221 Design and operating requirements.**

\*\*\*\*\*

(c)(2)(ii) Constructed of granular drainage materials with a hydraulic conductivity of  $1 \times 10^{-1}$  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  $3 \times 10^{-4}$  m<sup>2</sup>/sec ~~m<sup>2</sup>/sec~~ m<sup>2</sup>/sec or more;

\*\*\*\*\*

(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~~ toxicity characteristic in § 261.24 of this regulation; and

\*\*\*\*\*

(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 APC&EC Regulation 23 § 270.240 ~~CFR 144.3~~); and

\*\*\*\*\*

### **§ 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**

\*\*\*\*\*

### **§ 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”.~~

\*\*\*\*\*

#### **§ 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 leakage 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.).

\*\*\*\*\*

#### **Subsection M-Land Treatment**

\*\*\*\*\*

#### **§ 264.280 Closure and post-closure care.**

\*\*\*\*\*

(c)(7) Continue unsaturated zone monitoring in compliance with § 264.278, ~~except~~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~~ or post-closure care periods. For the purposes of this paragraph:

\*\*\*\*\*

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

(a) Hazardous Wastes F020, F021, 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 part. The factors to be considered are:

\*\*\*\*\*

#### **Subsection N-Landfills**

\*\*\*\*\*

#### **§ 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~~ APC&EC Reg. 23 § 270.2); and

#### **§ 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 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.).

(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).

\*\*\*\*\*

#### **§ 264.304 Response actions.**

\*\*\*\*\*

(b) If the flow rate into the leak detection system exceeds the action leakage rate for any sump, the owner or operator must:

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

\*\*\*\*\*

**§ 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 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 part. The factors to be considered are:

\*\*\*\*\*

**Subsection O-Incinerators**

\*\*\*\*\*

**§ 264.343 Performance standards.**

\*\*\*\*\*

(a)(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 F020, F021, F022, F023, F026, or F027.~~

\*\*\*\*\*

**Subsection S-Special Provisions for Cleanup**

\*\*\*\*\*

**§ 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: ~~;~~

\*\*\*\*\*

(e)(4)(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, § 260.11 ~~(a)(14)~~ (c)(3)(v) of this regulation) 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.

\*\*\*\*\*

(e)(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

\*\*\*\*\*

#### **§ 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 accordance to the requirements in this section.

\*\*\*\*\*

#### **Subsection W-Drip Pads**

\*\*\*\*\*

#### **§ 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 that 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~~ 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 of the standards of § 264.573 ~~of this Subsection~~ are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of § 264.573 ~~of this Subsection~~, except the standards for liners and leak detection systems, specified in § 264.573(b) ~~of this Subsection~~.

(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 no later than September 30, 1995.* In addition, the owner or operator must develop



a written plan for the eventual upgrading, repairing, and modifying of the drip pad to meet the requirements of § 264.573(b) ~~of this Subsection~~, 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 ~~of this Subsection~~. 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).*

\*\*\*\*\*

#### **§ 264.573 Design and operating requirements.**

(a)(5) Be of sufficient structural strength and thickness to prevent failure due to physical contact, climatic conditions, the stress of daily 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 ~~cleanup-cleanup~~ are complete and notify the owner or operator of the determination and the underlying rationale in writing.

(3) Upon completing all repairs and ~~cleanup-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 ~~cleanup-cleanup~~ have been completed according to the written plan submitted in accordance with paragraph (m)(1)(iv) of this section.

\*\*\*\*\*

#### **§ 264.601 Environmental performance standards.**

\*\*\*\*\*

(a) Prevention of any releases that may have adverse effects on human ~~health~~ health or the environment due to migration of waste constituents in the ground water or subsurface environment, considering:

\*\*\*\*\*

## **Subsection AA-Air Emission Standards for Process Vents**

### **§ 264.1030 Applicability.**

\*\*\*\*\*

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

\*\*\*\*\*

### **§ 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.

\*\*\*\*\*

### **§ 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 Emissions Standards for Equipment Leaks**

### **§ 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) of this subsection.

\*\*\*\*\*

**§ 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 is it detected~~;~~, except as provided in § 264.1059.

\*\*\*\*\*

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

\*\*\*\*\*

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

(b)(~~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.

(b)(~~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.~~

\*\*\*\*\*

**§ 264.1064 Recordkeeping requirements.**

\*\*\*\*\*

(c)(3) The identification on a valve may be removed after it has been monitored for 2 successive months as specified in §§ 264.1057(c) and no leak has been detected during those 2 months.

\*\*\*\*\*

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

**§ 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~~ impoundments, or containers subject to either subsections 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 are subject to the requirements of Section 265, subsection CC.

\*\*\*\*\*

#### **§264.1090 Reporting requirements.**

\*\*\*\*\*

(c)

\*\*\*\*\*

~~—The report shall describe each occurrence during the previous 6-month period when a control device is operated continuously for 24 hours or more in noncompliance with the applicable operating values defined in § 264.1035(c)(4) or when a flare is operated with visible emissions as defined in § 264.1033(d). The written report shall include the EPA identification number, facility name and address, and an explanation why the control device could not be returned to compliance within 24 hours, and actions taken to correct the noncompliance. The report shall be signed and dated by an authorized representative of the owner or operator.~~

\*\*\*\*\*

#### **Subsection DD—Containment Buildings**

##### **§ 264.1100 Applicability.**

The requirements of this subsection apply to owners or operators who store or treat hazardous waste in units designed and operated under § 264.1101 of this subpart. ~~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 subpart 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:

\*\*\*\*\*

#### **§ 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). 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 certification by *an independent qualified Arkansas-registered professional engineer* that the containment building design meets the requirements of paragraphs (a) through (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, 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:

\*\*\*\*\*

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

\*\*\*\*\*

## § 264.1102 Closure and post-closure care.

(a) At closure of a containment building, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liner, etc.,) contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless § 261.2(d) of this regulation 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.

\*\*\*\*\*

## Appendices to Section 264

### Appendix I -- Recordkeeping Instructions

\*\*\*\*\*

**Table 1**

Unit of measure	Code <sup>1</sup>
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
<u>Pounds</u>	<u>P</u>
<u>Short Tons</u>	<u>T</u>
<u>Kilograms</u>	<u>K</u>
<u>Tons</u>	<u>M</u>

\*\*\*\*\*

**Table 2**  
**Handling Codes for Treatment, Storage and Disposal Methods**

\*\*\*\*\*

(d) Biological Treatment

\*\*\*\*\*

T75    ~~Tricking~~ Trickling filter

\*\*\*\*\*

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

\*\*\*\*\*

**Subsection A-General**

**§ 265.1 Purpose, scope, and applicability.**

\*\*\*\*\*

(c)(4) [Reserved] ~~A person who treats, stores, or disposes of hazardous waste in a State with a RCRA hazardous waste program authorized under subpart A or B of 40 CFR part 271, except that the requirements of this section will continue to apply:~~

~~(i) If the authorized State RCRA program does not cover disposal of hazardous waste by means of underground injection; or~~

~~(ii) To a person who treats, stores, or disposes of hazardous waste in a State authorized under subpart A or B of 40 CFR part 271 if the State has not been authorized to carry out the requirements and prohibitions applicable to the treatment, storage, or disposal of hazardous waste at his facility which are imposed pursuant to the Hazardous and Solid Waste Act Amendments of 1984. The requirements and prohibitions that are applicable until a State receives authorization to carry them out include all Federal program requirements identified in 40 CFR 271.1(j);~~

\*\*\*\*\*

**§ 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 any 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 Sections 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 of this section, 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 notification and revert back to the non-Performance Track inspection frequencies within seven calendar days.~~

\*\*\*\*\*

## **Subsection E-Manifest System, Recordkeeping, and Reporting**

\*\*\*\*\*

### **§ 265.71 Use of manifest system.**

\*\*\*\*\*

(a)(2)(iv) Within 30 days of delivery, send a copy (Page 3) of the manifest to the generator;

(v) Within 30 days of delivery, send the top copy (Page 1) of the Manifest to the electronic manifest system for purposes of data entry and processing. In lieu of mailing this paper copy to the electronic manifest system operator, the owner or operator may transmit to the system operator an image file of Page 1 of the manifest, or both a data string file



and the image file corresponding to Page 1 of the manifest. Any data or image files transmitted to EPA under this paragraph must be submitted in data file and image file formats that are acceptable to EPA and that are supported by EPA's electronic reporting requirements and by the electronic manifest system.

(vi) Retain at the facility a copy of each manifest for at least three years from the date of delivery.

\*\*\*\*\*

(g) Legal equivalence to paper manifests. Electronic manifests that are obtained, completed, and transmitted in accordance with § 262.20(a)(3), and used in accordance with this section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, provide, use, or retain a manifest.

(1) Any requirement in these regulations for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 40 CFR 262.25(a).

(2) Any requirement in these regulations to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an electronic manifest is transmitted to the other person.

(3) Any requirement in these regulations for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an electronic manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment.

(4) Any requirement in these regulations for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's electronic manifest copies in its account on the e-Manifest system, provided that such copies are readily available for viewing and production if requested by any EPA or authorized state inspector.

(5) No owner or operator may be held liable for the inability to produce an electronic manifest for inspection under this section if the owner or operator can demonstrate that the inability to produce the electronic manifest is due exclusively to a technical difficulty with the electronic manifest system for which the owner or operator bears no responsibility.

(h) An owner or operator may participate in the electronic manifest system either by accessing the electronic manifest system from the owner's or operator's electronic equipment, or by accessing the electronic manifest system from

portable equipment brought to the owner's or operator's site by the transporter who delivers the waste shipment to the facility.

(i) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:

(1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest,

(2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest,

(3) Within 30 days of delivery of the waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator, and send an additional signed and dated copy of the paper replacement manifest to the electronic manifest system, and

(4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years from the date of delivery.

(j) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an electronic manifest signs this manifest electronically using an electronic signature method which is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the owner or operator shall also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator shall retain this original copy among its records for at least 3 years from the date of delivery of the waste.

(k) Imposition of user fee for electronic manifest use. An owner or operator who is a user of the electronic manifest format may be assessed a user fee by EPA for the origination or processing of each electronic manifest. An owner or operator may also be assessed a user fee by EPA for the collection and processing of paper manifest copies that owners or operators must submit to the electronic manifest system operator under § 265.71(a)(2)(v) of this section. EPA shall maintain and update from time-to-time the current schedule of electronic manifest system user fees, which shall be determined based on current and projected system costs and

level of use of the electronic manifest system. The current schedule of electronic manifest user fees shall be published as an appendix to Part 262 of 40 CFR.

(l) Electronic Manifest Signatures.

(1) Electronic manifest signatures shall meet the criteria described in 40 CFR § 262.25(a).

\*\*\*\*\*

**§ 265.73 Operating record.**

\*\*\*\*\*

(b)(6) Monitoring, testing, or analytical data, and corrective action where required by Subsection F and §§ 265.19, ~~265.90~~, 265.94, 265.191, 265.193, 265.195, ~~265.222~~, ~~265.223~~, 265.224, 265.226, 265.255, ~~265.259~~, 265.260, 265.276, 265.278, 265.280(d)(1), 265.302, -265.304, 265.347, 265.377, 265.1034(c)-265.1034(f), 265.1035, 265.1063(d)-265.1063(i), 265.1064, and 265.1083 through 265.1090 ~~of this regulation~~. Maintain in the operating record for three (3) years, except for records and results pertaining to groundwater 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.

\*\*\*\*\*

**§ 265.75 Annual Report.**

\*\*\*\*\*

(g) The most recent closure cost estimate under § 265.142, and, for disposal facilities, the most recent post-closure cost estimate under § 265.144; and

(h) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.

(i) For generators who treat, store, or dispose of hazardous waste on-site, 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.

(~~g~~j) A signed certification by the owner or operator of the facility or his authorized representative that the report is true, accurate, and correct.

(~~h~~k) The owner or operator of a land disposal facility must, in addition to the requirements above, submit monitoring data under § 265.94(a)(2) (ii) and (iii), and (b) (2).

(~~h~~) Commercial hazardous waste management facilities shall submit their Annual Report in an electronic format as prescribed in the annual reporting instructions, or as otherwise coordinated with the Department.

\*\*\*\*\*

## **Subsection F-Groundwater Monitoring**

\*\*\*\*\*

### **§ 265.90 Applicability.**

\*\*\*\*\*

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

\*\*\*\*\*

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

\*\*\*\*\*

### **§265.93 Preparation, evaluation, and response.**

\*\*\*\*\*

(d)(2) Within 15 days after the notification under paragraph (d)(1) of this section, the owner or operator must develop ~~and submit to the Director~~ 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 ~~program~~ at the facility. This plan must be placed in the facility's operating record and be maintained until closure of the facility.

\*\*\*\*\*

(d)(5) The owner or operator must make his first determination under paragraph (d)(4) of this section as soon as technically feasible, and, ~~within 15 days after that determination, submit to the Director a written~~ prepare a report containing an assessment of the groundwater quality. This report must be placed in the facility operating record and be maintained until closure of the facility.

\*\*\*\*\*

## Subsection H—Financial Requirements

### § 265.140 Applicability.

\*\*\*\*\*

(b) The requirements of §§ 265.144 and 265.146~~5~~ apply only to owners and operators of

\*\*\*\*\*

### § 265.147 Liability requirements.

\*\*\*\*\*

(a)(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. If requested by the Director, 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.

\*\*\*\*\*

## Subsection I—Use and Management of Containers

\*\*\*\*\*

### § 265.174 Inspections.

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

\*\*\*\*\*

## **§ 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;

\*\*\*\*\*

(e)(2)(v)(B) Meets the definition of reactive waste under § 261.24~~3~~ of this regulation and may form an ignitable or explosive vapor; and

\*\*\*\*\*

## **§ 265.195 Inspections.**

\*\*\*\*\*

~~-(d)-[Reserved] 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).~~

\*\*\*\*\*

## **§ 265.201 Special requirements for Generators of between 100 and 1000kg/mo who accumulate hazardous waste in tanks.**

\*\*\*\*\*

~~(e) [Reserved] 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).~~

\*\*\*\*\*

## **Subsection K—Surface Impoundments**

\*\*\*\*\*

## **§ 265.221 Design and operating requirements.**

(a) The owner or operator of each new surface impoundment unit, each lateral expansion of a surface impoundment unit, and each replacement of an existing surface impoundment unit must install two or more liners and a leachate collection and removal system ~~above and~~ between 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.

\*\*\*\*\*

(d)(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 § 270.2 of this regulation); and

\*\*\*\*\*

#### **§ 265.228 Closure and post-closure care.**

\*\*\*\*\*

(b)(2) Maintain and monitor the leak detection system in accordance with §§ 265.221(e)(2)(iv) 264.221(c)(2)(iv) and

\*\*\*\*\*

#### **Subsection M—Land Treatment**

\*\*\*\*\*

#### **§ 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 § 2651.21 or § 261.23 of this regulation; and

\*\*\*\*\*

#### **Subsection N—Landfills**

\*\*\*\*\*

#### **§ 265.301**

\*\*\*\*\*

(d)(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 § 270.2 of this regulation); and

\*\*\*\*\*

#### **Subsection W—Drip Pads**

\*\*\*\*\*

#### **§ 265.441 Assessment of existing drip pad integrity**

(a) For each existing drip pad as defined in § 265.440 ~~of this Subsection~~, 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 of the standards of § 265.443 ~~of this Subsection~~ are complete. The evaluation must document the extent to which the drip pad meets each of the design and operating standards of § 265.443 ~~of this Subsection~~, except the standards for liners and leak detection systems, specified in § 265.443(b) ~~of this Subsection~~.

(b) *For immediate protection of the environment, all existing drip pads must have an impermeable (as specified at § 265.443(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 of the drip pad to meet the requirements of § 265.443(b) ~~of this Subsection~~, 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 § 265.443 ~~of this Subsection~~. The plan must be reviewed and certified by an *independent qualified Arkansas-registered professional engineer*.

\*\*\*\*\*

#### **§ 265.443 Design and operating requirements.**

\*\*\*\*\*

(a)(4)(ii) The owner or operator must obtain and keep on file at the facility a written assessment (§ 265.443) of the drip pad, reviewed and certified by an independent, qualified, Arkansas-registered professional engineer that attests to the results of the evaluation. This assessment must be renewed, updated, and recertified annually. The evaluation must document the extent to which the drip pad meets the design and operating standards of this Subsection, except for ~~subsection~~ paragraph (b) of this section.

\*\*\*\*\*

(b) If an owner/operator elects to comply with 265.443~~2~~(a) instead of 265.442(b), the drip pad must have:

\*\*\*\*\*

#### **§ 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 of this subpart by an *independent qualified, Arkansas-registered professional engineer*. The 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 CC-Air Emission Standards for Tanks, Suface Impoundments, and Containers**

\*\*\*\*\*

### **§ 265.1082 Schedule for implementation of air emission standards.**

(a) Owners or operators of facilities existing on December 6, 1996, and subject to Subsections I, J, and K of this Section shall meet the following requirements:

~~(a) Owners or operators of facilities existing on December 6, 1996, and subject to Subsections I, J, and K of this Section shall meet the following requirements:~~

\*\*\*\*\*

## **Subsection DD-Containment Building**

\*\*\*\*\*

### **§ 265.1101 Design and operating standards.**

\*\*\*\*\*

(c)(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).~~

\*\*\*\*\*

## **Appendices to Section 265**

### **Appendix 1-Recordkeeping Instructions**

\*\*\*\*\*

**Table 2.**  
**Handling Codes for Treatment, Storage and Disposal Methods**

\*\*\*\*\*

**(2) Removal of Specific Components**

\*\*\*\*\*

**d) Biological Treatment**

T67	Activated sludge
T68	Aerobic lagoon
T69	Aerobic tank
T70	Anaerobic tank
T71	Composting
T72	Septic tank
T73	Spray irrigation
T74	Thickening filter
T75	<del>Trickling</del> <u>Trickling</u> filter
T76	Waste stabilization pond
T77	Other (specify)
T78	[Reserved]
T79	[Reserved]

\*\*\*\*\*

**4. Miscellaneous**

X01	Open Burning/Open Detonation
X02	Mechanical Processing
X03	Thermal Unit
X04	Geologic Repository
X99	Other <del>Subpart X</del> (specify)

\*\*\*\*\*

**Appendix VI to Section 265 — Compounds With Henry's Law Constant Less Than 0.1 Y/X**

\*\*\*\*\*

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**

\*\*\*\*\*

## SUBSECTION C—RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL

### § 266.20 Applicability.

\*\*\*\*\*

- (b) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if such products meet the applicable treatment standards in subsection D of Section 268 (or applicable prohibition levels in § 268.32 or RCRA section 3004(d), where no treatment standards have been established for each recyclable material (i.e., hazardous waste) that they contain, and the recycler complies with § 268.7(b)(6) of this regulation. ~~Commercial fertilizers that are produced for the general public's use that contain recyclable materials also are not presently subject to regulation provided they meet these same treatment standards or prohibition levels for each recyclable material that they contain.~~

\*\*\*\*\*

## SUBSECTION H-HAZARDOUS WASTE BURNED IN BOILERS AND INDUSTRIAL FURNACES

\*\*\*\*\*

### § 266.109 Low risk waste exemption.

\*\*\*\*\*

- (b) Waiver of ~~particular~~ particulate matter standard. The particulate matter standard of § 266.105 does not apply if:

\*\*\*\*\*

## Appendices

\*\*\*\*\*

### Appendix V-Risk Specific Doses ( $10^{-5}$ )

Constituent	CAS No.	Unit risk ( $m^3/ug$ <u><math>m^3/ug</math></u> )	RsD ( $ug/m^3$ <u><math>ug/m^3</math></u> )
-------------	---------	--	--

\*\*\*\*\*

### Appendix VI-Stack Plume Rise

[Estimated Plume Rise (in Meters) Based on Stack Exit Flow Rate and Gas Temperature]

Exhaust Temperature (K°)

Flow rate (m <sup>3</sup> /s)	<325	325-349	350-399	400-449	500-599	600-699	700-799	800-999	1000-1499	>1499
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\*\*\*\*\*

## SECTION 268 -- LAND DISPOSAL RESTRICTIONS

\*\*\*\*\*

### Subsection A-General

\*\*\*\*\*

#### § 268.7 Testing, tracking, and recordkeeping requirements for generators, treaters, and disposal facilities.

\*\*\*\*\*

(a)(2) If the waste or contaminated soil does not meet the treatment standards s 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 § 268.7(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 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).

\*\*\*\*\*

(b)(4)(ii) Debris excluded from the definition of hazardous waste under § 261.3(e) 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 § 268.20(b) of this regulation regarding treatment standards and prohibition levels, the owner or operator of a treatment facility (i.e., the recycler) 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. 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 must also keep records of the name and location of each entity receiving the hazardous waste-derived product.

\*\*\*\*\*

#### **§ 268.9 Special rules regarding wastes that exhibit a characteristic.**

\*\*\*\*\*

(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 generator's or treater's files~~ must be updated if the process or operation generating the waste changes and/or if the subtitle D facility receiving the waste changes.

\*\*\*\*\*

#### **Subsection B—Schedule for Land Disposal Prohibition and Establishment of Treatments Standards**

\*\*\*\*\*

#### **§ 268.14 Surface impoundment exemptions.**

\*\*\*\*\*

(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, 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.

\*\*\*\*\*

## Subsection D – Treatment Standards

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### § 268.40 Table TTS

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§268.40 TABLE TTS – TREATMENT STANDARDS FOR HAZARDOUS WASTES <i>NOTE: NA means not applicable</i>					
Waste Code	Waste Description & Treatment/Regulatory Subcategory <sup>1</sup>	Regulated Hazardous Constituent		Wastewaters	Non-Wastewaters
		Common Name	CAS <sup>2</sup> Number	Concentration <sup>3</sup> in mg/L; or Technology Code <sup>4</sup>	Concentration <sup>5</sup> in mg/kg unless noted as "mg/L TCLP"; or Technology Code <sup>4</sup>
K088	Spent potliners from primary aluminum reduction.	Acenaphthene	83-32-9	0.059	3.4
		Anthracene	120-12-7	0.059	3.4
		Benz(a)anthracene	56-55-3	0.059	3.4
		Benzo(a)pyrene	50-32-8	0.061	3.4
		Benzo(b)fluoranthene	205-99-2	0.11	6.8
		Benzo(k)fluoranthene	207-08-9	0.11	6.8
		Benzo(g,h,i)perylene	191-24-2	0.0055	1.8
		Chrysene	218-01-9	0.059	3.4
		Dibenz(a,h)anthracene	53-70-3	0.055	8.2
		Fluoranthene	206-44-0	0.068	3.4
		Indeno(1,2,3,-cd)pyrene	193-39-5	0.0055	3.4
		Phenanthrene	85-01-8	0.059	5.6
		Pyrene	129-00-0	0.067	8.2
		Antimony	7440-36-0	1.9	1.15 mg/L TCLP
		Arsenic	7440-38-2	1.4	26.1 mg/kg
		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
		Lead	7439-92-1	0.69	<del>0.11</del> 0.75 mg/L TCLP

\*\*\*\*\*

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

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### **Subsection A -- General Information**

\*\*\*\*\*

#### **§ 270.7 Arkansas's General Requirements for Permit Applications.**

\*\*\*\*\*

(j) Upon receipt of federal Hazardous and Solid Waste Act ("HSWA") authorization for the Arkansas Department of ~~Pollution Control and Ecology's~~ Environmental Quality's Hazardous Waste Management Program, the Department shall be authorized to and shall enforce the HSWA provisions imposed by the Environmental Protection Agency in hazardous waste permits that were issued before the HSWA authorization was granted. ADEQ, jointly with EPA, will notify permitted facilities in writing of the specific provisions which will become the state agency's responsibility as a result of the additional authorization and of the effective date of the changeover. This notification will serve as an addendum to the permit. Permits pending at the time of authorization will be modified to properly identify specific provisions for which the Department has primary responsibility.

\*\*\*\*\*

### **Subsection B – Permit Applications.**

#### **§ 270.11 Signatories to permit applications and reports**

\*\*\*\*\*

(d)(2)

\*\*\*\*\*

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.

\*\*\*\*\*

## Subsection D-Changes to Permits

\*\*\*\*\*

### § 270.42 Permit modification at the request of the Permittee.

\*\*\*\*\*

~~(1) 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. [Reserved]~~

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◆ **Page 270-47 Header:** ~~268.42~~ 270.42.

\*\*\*\*\*

### *Appendix I to § 270.42-----Classification of Permit Modifications.*

#### Modifications

\*\*\*\*\*

#### **O. Burden Reduction**

~~1. Approval of reduced inspection frequency for Performance Track member facilities for: [Reserved]~~

<del>_____ a. Tanks systems pursuant to § 264.195.</del>	<del>_____ <sup>+</sup> 1</del>
<del>_____ b. Containers pursuant to § 264.174.</del>	<del>_____ <sup>+</sup> 1</del>
<del>_____ c. Containment buildings pursuant to § 264.1101(c)(4).</del>	<del>_____ <sup>+</sup> 1</del>
<del>_____ d. Areas subject to spills pursuant to § 264.15(b)(4).</del>	<del>_____ <sup>+</sup> 1</del>

\*\*\*\*\*



## Section 273- STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

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### Subsection A-General

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#### § 273.5 Applicability- Lamps

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*(b)(3) Broken lamps and the debris resulting from broken lamps are considered to be a hazardous waste and ~~These wastes are subject to a waste determination pursuant to § 262.11, and if determined to be a hazardous waste,~~ are subject to the requirements of Sections 260-266, and 268 of this regulation.*

\*\*\*\*\*

## Section 279. STANDARDS FOR THE MANAGEMENT OF USED OIL

\*\*\*\*\*

### Subsection B-Applicability

\*\*\*\*\*

#### § 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~~ exceed any ~~specification~~ allowable level ~~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.