Missouri Department of Natural Resources

This document is a preliminary draft of the Hazardous Waste Program's evaluation of the applicability of the HB1251 to Chapters 3, 4, 5, and 7 of Title 10 Division 25 of the Code of State regulations. It was created for the purpose of initiating stakeholder discussions regarding the status of these existing rules. Nothing in this draft should be considered a final decision. The color of the text in the document indicates whether, based on an initial review of the rule text, program staff determined that the specific rule text will be retained, rescinded, modified, or whether additional discussion is needed. The basis for retaining rule text is either because program staff determined that the state rule does not impose requirements that are stricter than federal, or because one of the statutory exclusions to the limitation on state rules being stricter than federal were determined to be applicable.

RED rule text – indicates an initial determination that the text in question will be rescinded, as it is inconsistent with the limitation on state rules being stricter than federal rules.

GREEN rule text – indicates an initial determination that the text in question will be retained, either because it does not impose requirements that are stricter than federal, or because one of the statutory exclusions apply.

BLUE rule text – indicates an initial determination that further discussion is needed before determining whether or not the language in question will be retained, rescinded, or modified.

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10 CSR 25-3.260 Definitions, Modifications to Incorporations and Confidential Business Information

PURPOSE: This rule sets forth definitions and delisting procedures. This rule incorporates the federal regulations in 40 CFR part 260 by reference. This rule also outlines a number of specific substitutions between the state and federal regulations that are necessary for incorporation by reference.

(1) The regulations set forth in 40 CFR part 260, July 1, 2010, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference, except for the changes made at 70 FR 53453, September 8, 2005, and 73 FR 64667 to 73 FR 64788, October 30, 2008, subject to the following additions, modifications, substitutions, or deletions. This rule does not incorporate any subsequent amendments or additions.

(A) Except where otherwise noted in sections (2) and (3) of this rule or elsewhere in 10 CSR 25, any federal agency, administrator, regulation, or statute that is referenced in 40 CFR parts 260–270, 273, and 279, and incorporated by reference in 10 CSR 25, shall be deleted and in its place add the comparable state department, director, rule, or statute. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

1. "Director" shall be substituted for "Administrator" or "Regional Administrator" except where those terms are defined in 40 CFR 260.10 incorporated in this rule and where otherwise indicated in 10 CSR 25. All applications, approvals, petitions, appeals, or other paperwork associated with the United States Environmental Protection Agency's "National Environmental Performance Track" shall not be submitted to the director in lieu of the administrator or regional administrator.

2. "Missouri Department of Natural Resources" shall be substituted for "EPA," "U.S. EPA," or "U.S. Environmental Protection Agency" except where those terms appear in definitions in 40 CFR 260.10 incorporated in this rule and where otherwise indicated in 10 CSR 25.

3. "Section 260.395.15, RSMo," shall be substituted for "Section 3005(e) of RCRA."

4. "Sections 260.375(9), 260.380.1(9), 260.385(7), and 260.390(7), RSMo," shall be substituted for "Section 3007 of RCRA."

5. "Sections 260.410 and 260.425, RSMo," shall be substituted for "Section 3008 of RCRA."

6. "10 CSR 25-3.260" shall be substituted for any reference to 40 CFR part 260.

7. "10 CSR 25-4.261" shall be substituted for any reference to 40 CFR part 261.

8. "10 CSR 25-5.262" shall be substituted for any reference to 40 CFR part 262.

9. "10 CSR 25-6.263" shall be substituted for any reference to 40 CFR part 263.

10. "10 CSR 25-7.264" shall be substituted for any reference to 40 CFR part 264.

11. "10 CSR 25-7.265" shall be substituted for any reference to 40 CFR part 265.

12. "10 CSR 25-7.266" shall be substituted for any reference to 40 CFR part 266.

13. "10 CSR 25-7.268" shall be substituted for any reference to 40 CFR part 268.

14. "10 CSR 25-7.270" shall be substituted for any reference to 40 CFR part 270.

15. "10 CSR 25-8.124" shall be substituted for any reference to 40 CFR part 124.

16. "10 CSR 25-11.279" shall be substituted for any reference to 40 CFR part 279.

17. "10 CSR 25-16.273" shall be substituted for any reference to 40 CFR part 273.

18. "Sections 260.350–260.434, RSMo," shall be substituted for "Subtitle C of RCRA Act," or "RCRA," except where those terms are defined in 40 CFR 260.10, incorporated in this rule.

19. "Section 260.380.1(1), RSMo" shall be substituted for "Section 3010 of RCRA."

20. "Section 260.420, RSMo" shall be substituted for "Section 7003 of RCRA."

21. "Waste within the meaning of section 260.360(21), RSMo," shall be substituted for "solid waste within the meaning of section 1004(27) of RCRA." Residual materials specified as wastes under section 260.360(21), RSMo, shall mean any spent materials, sludges, by-products, commercial chemical products, or scrap metal that are solid wastes under 40 CFR 261.2, as incorporated in 10 CSR 25-4.261.

22. "Section 260.360(9), RSMo," shall be substituted for "Section 1004(5) of RCRA."

23. "Chapter 610, RSMo, sections 260.430 and 260.550, RSMo, 10 CSR 25-3.260(1)(B), and 10 CSR 25-7.270(2)(B)" shall be substituted for any reference to the Federal Freedom of Information Act (5 U.S.C. 552(a) and (b)), 40 CFR part 2, or Section 3007(b) of RCRA.

24. "Owner/operator" shall be substituted for each reference to "owner and operator" and "owner or operator" in the 40 CFR parts incorporated in 10 CSR 25.

25. All quantities of solid waste which are defined as hazardous waste pursuant to 10 CSR 25-4 are hazardous waste and are regulated under sections 260.350–260.434, RSMo, and 10 CSR 25. A person shall manage all hazardous waste which is not subject to requirements in 10 CSR 25 in accordance with subsection 260.380.2, RSMo. When a person accumulates one hundred kilograms (100 kg) of nonacute hazardous waste or one kilogram (1 kg) of acutely hazardous waste or one gram (1 g) of 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD), or the aggregate of one hundred kilograms (100 kg) of acute and nonacute hazardous waste, whichever first occurs, that person is subject to the provisions in 10 CSR 25. This provision is in addition to the calendar-month generation provisions in 40 CFR 261.5 which are incorporated by reference and modified in 10 CSR 25-4.261(2)(A).

26. The term variance in 10 CSR 25 means an action of the commission pursuant to section 260.405, RSMo. In any case where a federal rule that is incorporated by reference in 10 CSR 25 uses the term variance but the case-by-case decision or action of the department or commission does not meet the description of a variance pursuant to section 260.405, RSMo, the decision or action shall be considered an exception or exemption based on the conditions set forth in the federal regulation incorporated by reference or the omission from regulation.

27. The rules of grammatical construction in 40 CFR 260.3 incorporated by reference in this rule shall also apply to the incorporated text of 40 CFR parts 266 and 270 and to 10 CSR 25.

(2) This section sets forth specific modifications to the regulations incorporated in section (1) of this rule. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, changes to 40 CFR part 260 subpart A will be located in subsection (2)(A) of this rule.)

(A) The following are changes to 40 CFR part 260 subpart A incorporated in this rule:

1. Confidential business information and availability of information. 40 CFR 260.2 is not incorporated in this rule. In lieu of those provisions, the following shall apply to confidential business information and the availability of information:

A. Any information provided to the department under 10 CSR 25 will be made available to the extent and in the manner authorized by Chapter 610, RSMo, sections 260.430 and 260.550, RSMo, subsection (1)(B) and 10 CSR 25-7.270(2)(B)2. as applicable;

B. Any person who submits information to the department in accordance with 10 CSR 25 may assert a claim of business confidentiality covering a part or all of that information by including a letter with the information which requests protection of specific information from disclosure. Information covered by this claim will be disclosed by the department to the extent and by means of the procedures set forth in Chapter 610, RSMo. However, if no claim accompanies the information when it is received by the department, the information may be made available to the public without further notice to the person submitting it. The department will respond to requests for protection of business information within twenty (20) business days; and

C. The department will respond to requests for information within three (3) business days except as provided in Chapter 610, RSMo, and except as allowed for reasonable cause in accordance with Chapter 610, RSMo. When the period for document production must exceed three (3) business days for reasonable cause, the department will provide the document within no more than twenty (20) business days.

(B) Definitions. *(Reserved)*

(C) 40 CFR part 260 subpart C, Rulemak-ing Petitions, is not incorporated in this rule. Not more than sixty (60) days after promulgation of the final federal determination, the department shall approve or disapprove all delistings granted under 40 CFR 260.20 or 40 CFR 260.22. If the department fails to take action within that sixty (60)-day time frame, the delistings shall be deemed approved.

(D) 40 CFR part 260 Appendix I is not incorporated in this rule.

(3) Missouri Specific Definitions. Definitions of terms used in 10 CSR 25. This section sets forth definitions which modify or add to those definitions in 40 CFR parts 60, 260–270, 273, and 279 and 49 CFR parts 40, 171–180, 383, 387, and 390–397.

(A) Definitions beginning with the letter A.

1. ASTM means the American Society for Testing and Materials.

2. Abandoned or uncontrolled means any property where hazardous waste has been disposed of illegally or where hazardous waste was disposed of prior to regulation under sections 260.350–260.434, RSMo.

3. Active fault means a fault which, according to substantial geologic evidence, is capable of movement along a fault trace. A fault which, according to historical records, has moved along a fault trace is considered an active fault.

4. Attenuation means any physical, chemical, or biological reaction, or a combination of both, transformation occurring in the zone of aeration or zone of saturation that brings about a temporary or permanent decrease in the maximum concentration or total quantity of an applied chemical or biological constituent in a fixed time or distance traveled.

(B) Definitions beginning with the letter B. *(Reserved)*

(C) Definitions beginning with the letter C.

1. CFR means the *Code of Federal Regulations.*

2. CSR means the *Missouri Code of State Regulations*.

3. Commission means the Hazardous Waste Management Commission of Missouri created by section 260.365, RSMo.

4. Compliance procedure means any proceeding instituted under sections 260.350–260.434, RSMo, which seeks to require compliance with, or which is in the nature of an enforcement action or an action to cure a violation of, sections 260.350–
260.434, RSMo, or rules adopted under those sections, or permits, licenses, or certifications issued under those sections. A compliance procedure includes, without limitation, an order issued pursuant to section 260.410, RSMo, or any denial or revocation of or notice of intent to revoke a license, permit, or certification pursuant to, or any civil or criminal action filed in the courts of Missouri pursuant to, sections 260.350–260.434, RSMo. A compliance procedure is considered to be pending from the time an order, denial, revocation, or notice of intent to revoke is issued by the director or judicial proceedings begin, until the director notifies the person subject to the compliance procedure in writing that the violation has been corrected or that the procedure has been withdrawn or dismissed.

(D) Definitions beginning with the letter D.

1. Department means the Missouri Department of Natural Resources.

2. Director means the director of the Missouri Department of Natural Resources.

3. Displacement means the relative movement of any two (2) sides of a fault measured in any direction.

4. DOT means the United States Department of Transportation.

(E) Definitions beginning with the letter E.

1. Extended reporting period means a declaration or endorsement in a liability insurance policy required by 10 CSR 25-7 which provides an extension of the coverage of the policy to claims otherwise covered by the policy and first made during a specified period immediately following the effective date of cancellation or nonrenewal of the policy. The specified period shall be of at least twelve (12) months duration.

(F) Definitions beginning with the letter F.

1. Farmer means a person primarily engaged in the production of crops or livestock for agricultural purposes, or both.

2. Fault means a fracture along which rocks on one (1) side have been displaced with respect to those on the other side.

(G) Definitions beginning with the letter G.

1. Generation means the act or process of producing hazardous waste.

(H) Definitions beginning with the letter H.

1. HSWA means the Hazardous and Solid Waste Amendments of 1984. These amendments were made to the Resource Conservation and Recovery Act by P.L. 98-616, November 8, 1984.

2. Hazardous constituent means any chemical compound listed in 40 CFR part 261 Appendix VIII as incorporated in 10 CSR 25-4.261. (This is different than the term hazardous waste constituent as defined in 40 CFR 260.10.)

3. Hazardous waste means any waste or combination of wastes as defined by or listed in 10 CSR 25-4, which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or which may pose a threat to the health of humans or other living organisms.

4. Hazardous waste transporter means any person or company conducting activities in Missouri which require a hazardous waste transporter license pursuant to 10 CSR 25-6.263. These activities may include, but are not limited to, transportation of hazardous wastes, used oil, and infectious wastes by highway, railway, or waterway.

5. Holocene means the most recent epoch of the Quarternary period, extending from the end of the Pleistocene period to the present, approximately the previous twelve thousand (12,000) years.

6. Household hazardous waste means any household waste excluded from regulation as hazardous waste by 40 CFR 261.4(b)(1) but otherwise meets the definition of hazardous waste in paragraph (2)(H)3. of this rule.

(I) Definitions beginning with the letter I.

1. Identification number means the unique code assigned to each hazardous waste, each hazardous waste generator, transporter, facility, or resource recovery facility pursuant to these rules.

2. International Registration Plan, referred to as IRP, is a system of reporting and apportioning fees to states and other jurisdictions based on the percentage of mileage accumulated while conducting business in those states or jurisdictions.

(J) Definitions beginning with the letter J. *(Reserved)*

(K) Definitions beginning with the letter K. *(Reserved)*

(L) Definitions beginning with the letter L.

1. Land-based management facility means any hazardous waste landfill, land treatment unit, surface impoundment, or waste pile.

(M) Definitions beginning with the letter M.

1. Missouri hazardous waste mileage means the total fleet miles that materials requiring a hazardous waste transporter license are transported in Missouri over a period specified by rule. Additionally, all miles traveled transporting containers with residues of these materials, as defined at 49 CFR 171.8, will be included in the Missouri hazardous waste mileage.

2. Motor vehicle means a vehicle, machine, tractor, trailer, or semitrailer, or any combination of them, propelled or drawn by mechanical power and used upon the highways in transportation. It does not include a vehicle, locomotive, or car operated exclusively on a rail(s).

(N) Definitions beginning with the letter N. (*Reserved)*

(O) Definitions beginning with the letter O.

1. One hundred (100)-year flood means a flood that has a one percent (1%) chance of recurring in any year or a flood of magnitude equaled or exceeded once in one hundred (100) years on the average over a significantly long period. In any given one hundred (100)-year interval, a flood of that magnitude may or may not occur, or more than one (1) flood of that magnitude may occur.

2. One hundred (100)-year floodplain means any land area which is subject to a one percent (1%) or greater chance of flooding in any given year from any source.

3. Operating disposal facility means a hazardous waste management facility permitted or seeking a permit for the construction, operation, or both, including receipt of hazardous waste, of surface impoundment, waste pile, land treatment unit, or landfill.

4. Owner/operator means owner and operator. For the purposes of performing the activities required by these rules, where not specifically required of the owner, the owner may designate in writing that the operator has the authority to perform the duties of the owner/operator. This designation does not relieve the owner of his/her joint liability that these activities are performed.

(P) Definitions beginning with the letter P.

1. Post-closure disposal facility means a hazardous waste management facility which has disposed of hazardous waste, and which is required by applicable state and federal laws and regulations to have a permit to conduct post-closure activities, or to perform necessary post-closure activities under an enforceable document, as defined in 40 CFR 270.1(c)(7) and incorporated by reference in 10 CSR 25-7.270(1).

2. Professional engineer or registered engineer means a professional engineer licensed to practice by the Missouri Board of Architects, Professional Engineers and Land Surveyors.

3. Power unit for the purpose of this regulation is a truck with at least two (2) axles, regardless of licensed vehicle weight or configuration.

4. Preceding year is defined as the period of twelve (12) consecutive months immediately prior to July 1 immediately preceding the commencement of the license year for which license is sought.

(Q) Definitions beginning with the letter Q. (*Reserved)*

(R) Definitions beginning with the letter R.

1. RCRA means the Resource Conservation and Recovery Act, 42 U.S.C. sections 6901–6991.

2. Regional aquifer means a geologic formation, group of formations or part of a formation that contains sufficient saturated permeable material to yield or be capable of yielding water at a sufficient rate to serve as a practical source of water supply.

3. Registry means the Missouri Registry of Confirmed Abandoned or Uncontrolled Hazardous Waste Disposal Sites.

4. Remedial action means any action at a hazardous waste site to protect the public health and environment. These actions may include, but are not limited to: storage; confinement; perimeter protection using dikes, trenches, or ditches; clay cover; neutralization; cleanup of hazardous waste, hazardous substances, or contaminated materials; recycling or reuse; diversion; destruction; segregation of reactive materials; repair or replacement of leaking containers; collection of leachate and runoff; on-site treatment or incineration; provision of alternative water supplies; any monitoring reasonably required to assure that these actions protect the public health and environment; or any combination of these actions.

5. Remedial action plan means the specific procedures to be followed in implementation of any remedial action and all necessary, related procedures including, but not limited to, safety, analysis, sampling, handling, packaging, storing, removing, transporting, labeling, registering, and site security. A remedial action plan has a defined endpoint, agreed to in advance, which will complete the plan. Additional remedial actions may be necessary after completion of a remedial action plan dependent upon results of sample analysis or development of new information.

6. Residual materials means any spent materials, sludges, by-products, commercial chemical products, or scrap metals that are solid wastes under 40 CFR 261.2, as incorporated in 10 CSR 25-4.261.

7. Resource recovery means the reclamation of energy or materials from waste, its reuse, or its transformation into new products which are not wastes.

8. Responsible party means any person(s) liable for costs of removal actions or remedial action or other response costs or damages pursuant to Section 107 of the federal Comprehensive Environmental Re-sponse, Compensation and Liability Act of 1980, 42 U.S.C. 9607–9657 as amended by P.L. 99-499 Superfund Amendments, and Reauthorization Act of 1986, or any current owners or other person willing to assume responsibility.

(S) Definitions beginning with the letter S.

1. Site, for purposes of 10 CSR 25-10, means the smallest geographic boundary which contains known chemical contamination. A buffer zone may be included within the area.

2. Standby trust fund means a trust fund which must be established by the owner or operator who obtains a surety bond or provides other security as specified in these rules.

3. Substantial change means any change in use of a site which may result in a spread of contamination over additional portions of a site or off-site, an increase in human exposure to hazardous materials, an increase in adverse environmental impacts, or a situation making potential remedial actions to correct problems at the site more difficult to undertake or complete.

(T) Definitions beginning with the letter T.

1. Training means formal instruction which supplements an employee's existing job knowledge and is designed to protect human health and the environment through increased awareness and improved job proficiency.

2. Transporter; see hazardous waste transporter.

3. True vapor pressure means the pressure exerted when a solid or liquid is in equilibrium with its own vapor. The vapor pressure is a function of the substance and of the temperature.

4. Twenty-four (24)-hour, twenty-five (25)-year storm means a storm of twenty-four (24)-hour duration for which the frequency of occurrence is once in twenty-five (25) years.

(U) Definitions beginning with the letter U.

1. Universal waste means any of the hazardous wastes that are defined under the universal waste requirements of 10 CSR 25-16.273(2)(A).

2. Used oil.

A. The definition of used oil at 40 CFR 260.10 is amended to include, but not be limited to, petroleum-derived and synthetic oils which have been spilled into the environment or used for any of the following:

(I) Lubrication/cutting oil;

(II) Heat transfer;

(III) Hydraulic power; or

(IV) Insulation in dielectric transformers.

B. The definition of used oil at 40 CFR 260.10 is amended to exclude used petroleum-derived or synthetic oils which have been used as solvents. (Note: Used ethylene glycol is not regulated as used oil under 10 CSR 25.)

C. Except for used oil that meets the used oil specifications found in 40 CFR 279.11, any amount of used oil that exhibits a hazardous characteristic and is released into the environment is a hazardous waste and shall be managed in compliance with the requirements of 10 CSR 25, Chapters 3–9 and 13. Any exclusions from the definition of solid waste or hazardous waste will apply.

3. USGS means United States Geological Survey.

4. U.S. importer means a United States-based person who is in corporate good standing with the U.S. state in which they are registered to conduct business and who will be assuming all generator responsibilities and liabilities specified in sections 260.350–260.430, RSMo, for wastes which the U.S. importer has arranged to be imported from a foreign country.

(V) Definitions beginning with the letter V.

1. Vapor recovery system means a system capable of collecting vapors and discharged gases and a vapor processing system capable of processing those vapors and gases so as to control emission of contaminants to the atmosphere. Emission not retained by vapor recovery systems, except for emissions regulated in 10 CSR 25, are regulated by rules adopted by the Missouri Air Conservation Commission, 10 CSR 10.

2. Vehicle, for the purpose of this regulation, refers to a power unit.

(W) Definitions beginning with the letter W.

1. Washout means the fluvial transport of hazardous waste from a hazardous waste management unit as a result of flooding.

2. Waste means any material for which no use or sale is intended and which will be discarded or any material which has been or is being discarded. Waste shall also mean certain residual materials which may be sold for purposes of energy or materials reclamation, reuse, or transformation into new products which are not wastes. Waste shall also mean hazardous waste fuels.

(X) Definitions beginning with the letter X. *(Reserved)*

(Y) Definitions beginning with the letter Y.
(Reserved)

(Z) Definitions beginning with the letter Z.
(Reserved)

AUTHORITY: section 260.370, RSMo Supp. 2010, and section 260.395, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. Amended: Filed Feb. 3, 1987, effective Aug. 1, 1987. Amended: Filed Dec. 1, 1987, effective Aug. 12, 1988. Amended: Filed Feb. 16, 1990, effective Dec. 31, 1990. Amended: Filed Jan. 15, 1991, effective Aug. 1, 1991. Amended: Filed Sept. 4, 1991, effective Feb. 6, 1992. Amended: Filed Feb. 14, 1992, effective Dec. 3, 1992. Amended: Filed Jan. 5, 1993, effective Aug. 9, 1993. Amended: Filed June 3, 1993, effective Jan. 31, 1994. Amended: Filed Jan. 5, 1994, effective Aug. 28, 1994. Amended: Filed Aug. 16, 1995, effective April 30, 1996. Amended: Filed June 1, 1998, effective Jan. 30, 1999. Amended: Filed Feb. 1, 2001, effective Oct. 30, 2001. Amended: Filed Dec. 17, 2001, effective Aug. 30, 2002. Amended: Filed March 31, 2006, effective Dec. 30, 2006. Amended: Filed Oct. 15, 2008, effective June 30, 2009. Amended: Filed April 15, 2011, effective Dec. 30, 2011.*

**Original authority: 260.370, RSMo 1977, amended 1980, 1988, 1993, 1995, 2004, 2010 and 260.395, RSMo 1977, amended 1980, 1983, 1985, 1988, 2000.*

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10 CSR 25-4.261 Methods for Identifying Hazardous Waste

PURPOSE: This rule sets forth characteristics and lists by which a generator can determine whether his/her waste is hazardous. This rule defines hazardous waste under sections 260.475–260.479, RSMo. The federal regulations in 40 CFR part 261 are incorporated by reference, subject to the modifications set forth in this rule.

(1) The regulations set forth in 40 CFR part 261, July 1, 2010, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference, except for the changes made at 55 FR 50450, December 6, 1990, 56 FR 27332, June 13, 1991, 60 FR 7366, February 7, 1995, 63 FR 33823, June 19, 1998, 70 FR 53453, September 8, 2005, 73 FR 64667 to 73 FR 64788, October 30, 2008, and 73 FR 77954, December 19, 2008. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) This section sets forth specific modifications of the regulations incorporated in section (1) of this rule. A person required to identify a hazardous waste shall comply with this section as it modifies 40 CFR part 261 as incorporated in this rule. (Comment: This section has been organized in order that all Missouri additions, changes, or deletions to any subpart of the federal regulation are noted within the corresponding subsection of this section. For example, changes to 40 CFR part 261 subpart A will be located in subsection (2)(A) of this rule.)

(A) General. The following are **changes** to 40 CFR part 261 subpart A incorporated in this rule:

1. Material that is stored or accumulated in surface impoundments or waste piles is inherently waste-like as provided in 40 CFR 261.2(d) incorporated in this rule, and is a solid waste, regardless of whether the material is recycled;

2. A solid waste, as defined in 40 CFR 261.2, as incorporated in this rule, is a hazardous waste if it is a mixture of solid waste and one (1) or more hazardous wastes listed in 40 CFR part 261 subpart D, as incorporated in this rule, and has not been excluded from 40 CFR 261.3(a)(2), as incorporated in this rule, under 40 CFR 260.20 and 260.22, as incorporated in 10 CSR 25-3.260. However, mixtures of solid wastes and hazardous wastes listed in 40 CFR part 261 subpart D, as incorporated in this rule, are not hazardous wastes (except by application of 40 CFR part 261.3(a)(2)(i) or (ii), as incorporated in this rule) if the generator can demonstrate that the mixture consists of wastewater, the discharge of which is regulated under Chapter 644, RSMo, the Missouri Clean Water Law;

3. In Table 1 of 40 CFR 261.2, add an asterisk in column 3, row 6, Reclamation of Commercial Chemical Products listed in 40 CFR 261.33 and add the following additional footnote: "Note 2. Commercial chemical products listed in 40 CFR 261.33 are not solid wastes when the original manufacturer uses, reuses, or legitimately recycles the material in his/her manufacturing process";

4. *(Reserved)*

5. In addition to the requirements in 40 CFR 261.3 incorporated in this rule, hazardous waste may not be diluted solely for the purpose of rendering the waste nonhazardous unless dilution is warranted in an emergency response situation or where the dilution is part of a hazardous waste treatment process regulated or exempted under 10 CSR 25-7 or 10 CSR 25-9;

6. Fly ash that is not regulated under sections 260.200–260.245, RSMo, or sections 644.006–644.564, RSMo, or is not beneficially reused as allowed under 10 CSR 80-2.020(9)(B), and fails Toxicity Characteristic Leaching Procedure (TCLP) is not subject to the exclusion at 40 CFR 261.4(b)(4) and shall be disposed of in a permitted hazardous waste facility;

7. In 40 CFR 261.4(a)(8)(i) incorporated in this rule, substitute "is a totally enclosed treatment facility" for "through completion of reclamation is closed";

8. 40 CFR 261.4(a)(11) is not incorporated in this rule;

9. 40 CFR 261.4(a)(16) is not incorporated in this rule (Note: The paragraph at 40 CFR 261.4(a)(16) added by 63 FR 33823, June 19, 1998, is the paragraph not incorporated by 10 CSR 25-4.261(2)(A)9.);

10. Household hazardous waste which is segregated from the solid waste stream becomes a regulated hazardous waste upon acceptance by delivery at a commercial hazardous waste treatment, storage, or disposal facility. Any waste for which the commercial facility becomes the generator in this way shall not be subject to waste minimization requirements under 40 CFR 264.73(b)(9), as incorporated by 10 CSR 25-7.264(1), nor shall that facility be required to pay hazardous waste fees and taxes on that waste pursuant to 10 CSR 25-12.010;

11. A generator shall submit the information required in 40 CFR 261.4(e)(2)(v)(C) as incorporated in this rule to the department along with the Generator's Hazardous Waste Summary Report required in 10 CSR 25-5.262(2)(D)1.;

12. The changes to 40 CFR 261.5, special requirements for hazardous waste generated by small quantity generators, incorporated in this rule are as follows:

A. The modification set forth in 10 CSR 25-3.260(1)(A)25. applies in this rule in addition to other modifications set forth;

B. 40 CFR 261.5(g)(2) is not incorporated in this rule;

C. A process, procedure, method, or technology is considered to be on-site treatment for the purposes of 40 CFR 261.5(f)(3) and 40 CFR 261.5(g)(3), as incorporated in this rule, only if it meets the following criteria:

(I) The process, procedure, method, or technology reduces the hazardous characteristic(s) and/or the quantity of a hazardous waste; and

(II) The process, procedure, method, or technology does not result in off-site emissions of any hazardous waste or constituent; and

D. If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to 40 CFR 279.10(b)(3) as incorporated in 10 CSR 25-11.279;

13. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 261.6(a)(3)(i), as incorporated in this rule. The state may not assume authority from the Environmental Protection Agency (EPA) to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does not relieve the regulated person of the responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies;

14. 40 CFR 261.6(a)(4) is amended by adding the following sentence: "Used oil that exhibits a hazardous characteristic and that is released into the environment is subject to the requirements of 10 CSR 25-3, 4, 5, 6, 7, 8, 9, and 13.";

15. *(Reserved)*

16. Recyclable materials that meet the definition of used oil in 40 CFR 260.10 as incorporated in 10 CSR 25-3.260(1) shall be managed in accordance with 10 CSR 25-11.279 and applicable portions of 10 CSR 25-3.260–10 CSR 25-9.020;

17. The resource recovery of hazardous waste is regulated by 10 CSR 25-9.020. An owner/operator of a facility that uses, reuses, or recycles hazardous waste shall be certified under 10 CSR 25-9 or permitted under 10 CSR 25-7, unless otherwise excluded. Therefore, the parenthetic text in 40 CFR 261.6(c)(1) is not incorporated in this rule; and

18. In accordance with section 260.432.5(2), RSMo, used cathode ray tubes (CRTs) may not be placed in a sanitary landfill, except as permitted by section 260.380.3, RSMo.

(B) Criteria for Identifying the Characteristics of Hazardous Waste and for Listing Hazardous Wastes. *(Reserved)*

(C) Characteristics of Hazardous Waste. *(Reserved)*

(D) Lists of Hazardous Wastes. The following are additions or changes to the lists in 40 CFR part 261 subpart D, incorporated in this rule:

1. Hazardous waste identified by the Environmental Protection Agency (EPA) hazardous waste number F020, F023, or F027 is hazardous waste even if highly purified 2,4,5-trichlorophenol is used. Therefore, the following language is deleted from 40 CFR 261.31 incorporated in this rule:

A. In F020, delete the words "(This listing does not include wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol.)";

B. In F023, delete the words "(This listing does not include wastes from equipment used only for the production or use of Hexachlorophene from highly purified 2,4,5-trichlorophenol.)"; and

C. In F027, delete the words "(This listing does not include formulations containing Hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.)";

2. Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill of waste listed in F020, F021, F022, F023, F026, or F027 (including the changes made in 10 CSR 25-4.261(2)(D)1.), regardless of the quantity or time of the spill or release, is an acutely hazardous waste and is designated the Missouri hazardous waste number MH01. Note: This does not include hexachlorophene soap rinses resulting from medicinal uses.);

3. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) is an acutely hazardous waste and is designated the Missouri hazardous waste number MH02. Without regard to any quantity specified in 40 CFR 261.5, as incorporated and modified in paragraph (2)(A)10. of this rule, if a generator generates less than one gram (1 g) of 2,3,7,8-TCDD in a calendar month and does not accumulate one gram (1 g) of 2,3,7,8-TCDD at any one time, that generator shall manage that hazardous waste in accordance with subsection 260.380.2, RSMo. When a generator generates one gram (1 g) of 2,3,7,8-TCDD in a calendar month or accumulates at least one gram (1 g) of 2,3,7,8-TCDD at any one time, that generator shall manage that hazardous waste in accordance with the provisions in 10 CSR 25;

4. 40 CFR 261.38 is not incorporated in this rule.

(E) Exclusions/Exemptions.

1. The substitution of the director of the Department of Natural Resources for the regional administrator discussed in 10 CSR 25-3.260(1)A.1. does not apply to the requirement for notification of the export of used CRTs established in 40 CFR 261.41.

DRAFT

10 CSR 25-5.262 Standards Applicable to Generators of Hazardous Waste

PURPOSE: This rule sets forth standards for generators of hazardous waste, incorporates 40 CFR part 262 by reference, and sets forth additional state standards.

(1) The regulations set forth in 49 CFR part 172, October 1, 1999, 40 CFR 302.4 and .5, July 1, 2006, and 40 CFR part 262, July 1, 2010, except Subpart H, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) A generator located in Missouri, except as conditionally exempted in accordance with 10 CSR 25-4.261, shall comply with the requirements of this section in addition to the requirements incorporated in section (1). Where contradictory or conflicting requirements exist in 10 CSR 25, the more stringent shall control. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the additional storage standards which are added to 40 CFR part 262 subpart C are found in subsection (2)(C) of this rule.)

(A) General. The following registration requirements are additional requirements to, or modifications of, the requirements specified in 40 CFR part 262 subpart A:

1. In lieu of 40 CFR 262.12(a) and (c), a generator located in Missouri shall comply with the following requirements:

A. A person generating in one (1) month or accumulating at any one (1) time the quantities of hazardous waste specified in 10 CSR 25-4.261 and a transporter who is required to register as a generator under 10 CSR 25-6.263 shall register and is subject to applicable rules under 10 CSR 25-3.260–10 CSR 25-9.020 and 10 CSR 25-12.010; and

B. Conditionally exempt generators may choose to register and obtain Environmental Protection Agency (EPA) and Missouri identification numbers, but in doing so will be subject to any initial registration fee and annual renewal fee outlined in this chapter;

2. An owner/operator of a treatment, storage, disposal, or resource recovery facility who ships hazardous waste from the facility shall comply with this rule;

3. The following constitutes the procedure for registering:

A. A person who is required to register shall file a completed registration form furnished by the department. The department shall require an original ink signature on all registration forms before processing. In the event the department develops the ability to accept electronic submission of the registration form, the signature requirement will be consistent with the legally-accepted standards in Missouri for an electronic signature on documents. All generators located in Missouri shall use only the Missouri version of the registration form;

B. A person required to register shall also complete and file an updated generator registration form if the information filed with the department changes;

C. The department may request additional information, including information concerning the nature and hazards associated with a particular waste or any information or reports concerning the quantities and disposition of any hazardous wastes as necessary to authorize storage, treatment, or disposal and to ensure proper hazardous waste management;

D. A person who is required to register, and those conditionally-exempt generators who choose to register, shall pay a one-hundred-dollar ($100) initial or reactivation registration fee at the time their registration form is filed with the department. If a generator site has an inactive registration, and a generator required to register reactivates that registration, the generator shall file a registration form and pay the one-hundred-dollar ($100) registration reactivation fee. The department shall not process any form for an initial registration or reactivation of a registration if the one-hundred-dollar ($100) fee is not included. Generators required to register shall thereafter pay an annual renewal fee of one hundred dollars ($100) in order to maintain their registration in good standing; and

E. Any person who pays the registration fee with what is found to be an insufficient check shall have their registration immediately revoked;

4. The following constitutes the procedure for registration renewal:

A. The calendar year shall constitute the annual registration period;

B. Annual registration renewal billings will be sent by December 1 of each year to all generators holding an active registration;

C. Any generator initially registering between October 1 and December 31 of any given year shall pay the initial registration fee, but shall not pay the annual renewal fee for the calendar year immediately following their initial registration. From that year forward, they shall pay the annual renewal fee;

D. Any generator required to register who fails to pay the annual renewal fee by the due date specified on the billing shall be administratively inactivated and subject to enforcement action for failure to properly maintain their registration;

E. Generators administratively inactivated for failure to pay the renewal fee in a timely manner, who later in the same registration year pay the annual renewal fee, shall pay the fifteen-percent (15%) late fee required by section 260.380.4, RSMo, in addition to the one-hundred-dollar ($100) annual renewal fee for each applicable registration year and shall file an updated generator registration form with the department before their registration is reactivated by the department;

F. Generators who request that their registration be made inactive rather than pay the renewal fee, who later in that same renewal year pay the annual renewal fee to reactivate their registration, shall pay the fifteen-percent (15%) late fee required by section 260.380.4, RSMo, in addition to the one-hundred-dollar ($100) annual renewal fee and file an updated generator registration form with the department before their registration is reactivated by the department; and

G. Any person who pays the annual renewal fee with what is found to be an insufficient check shall have their registration immediately revoked; and

5. The department may administratively inactivate the registration of generators that fail to pay any applicable hazardous waste fees and taxes in a timely manner after appropriate notice to do so.

(B) The Manifest. Additional manifest and reporting requirements are set forth in subsections (2)(D) and (E). This subsection is applicable to all Missouri generators and to all other generators who deposit hazardous waste in Missouri. (Note: This section is not applicable to an out-of-state or international generator who is shipping hazardous waste through, in less than ten (10) days, but not depositing hazardous waste in Missouri. This subsection does not prevent a transporter from voluntarily carrying information in addition to the manifest. Any reference to the United States Environmental Protection Agency (EPA) form 8700-22 means the form as revised by EPA and approved by the federal Office of Management and Budget (OMB)).

1. Generators must list the Missouri waste code MH02 if the hazardous waste is 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) as listed in 10 CSR 25-4.261(2)(D)3.

2. If the waste contains MH02 or MH01, these must be one (1) of the six (6) waste codes listed on the manifest.

3. Generators must list the Missouri waste code D098 if the hazardous waste is a used oil as described in 10 CSR 25-11.279(2)(I)1.B.

4. Generators must record either the total weight in kilograms or pounds or the specific gravity for wastes listed or measured in gallons, liters, or cubic yards.

5. Manifest reporting. This paragraph sets forth additional requirements for manifest reporting. The generator shall contract with the designated facility to return the completed manifest to the generator within thirty-five (35) days after the hazardous waste was accepted by the initial transporter. A generator, in addition to this requirement, and where applicable under paragraph (2)(D)2. of this rule, shall file exception reports.

(C) Pretransport, Containerization, and Labeling Requirements.

1. During the entire time hazardous waste is accumulated in storage on-site, generators shall package, mark, and label hazardous waste containers in compliance with the requirements of 40 CFR 262.32 and 40 CFR part 262 subpart C, as incorporated and modified within these regulations. The generator is not required to mark the manifest document number for the shipment on the container until it is prepared for off-site shipment.

2. This paragraph sets forth requirements for storage of hazardous waste based on the quantity of waste generated or accumulated.

A. Notwithstanding any other provisions of this rule to the contrary, a person who generates one hundred kilograms (100 kg) or more, but fewer than one thousand kilograms (1000 kg) of nonacute hazardous waste in a calendar month may store these hazardous wastes in quantities, according to time frames and under the conditions specified in 40 CFR 262.34(d) as incorporated in this rule. However, upon accumulating one thousand kilograms (1000 kg) of nonacute hazardous waste, the generator must also comply with 40 CFR 262.34(a)(1) incorporated in this rule rather than 40 CFR 262.34(d)(3) incorporated in this rule, 40 CFR part 265 subpart D as incorporated in 10 CSR 25-7.265(1) and modified in 10 CSR 25-7.265(2)(D) rather than 40 CFR 262.34(d)(5) incorporated in this rule, and 40 CFR 265.16 as incorporated in 10 CSR 25-7.265(1) and modified in 10 CSR 25-7.265(2)(D) in addition to the requirements of 40 CFR 262.34(d) incorporated in this rule.

B. A person who generates one kilogram (1 kg) of acutely hazardous waste defined by or listed in 10 CSR 25-4.261 or one gram (1 g) of 2,3,7,8-TCDD or one thousand kilograms (1000 kg) of nonacute hazardous waste, or an aggregate of one thousand kilograms (1000 kg) of hazardous waste, as listed in 10 CSR 25-4.261 shall comply with 40 CFR 262.34(a) and (b) as incorporated in this rule.

C. General inspection requirements. In addition to the requirements in 40 CFR Part 262, a generator shall also comply with the following requirements.

(I) The owner/operator shall inspect his/her facility for malfunction, deterioration, or both, operator error, and any evidence of discharges which may be causing or could cause the release of hazardous waste constituents to the environment or could pose a threat to human health. The owner/operator shall conduct these inspections often enough to identify and correct any problems of that nature before they cause harm to human health or the environment.

(II) The frequency of inspection may vary for the items that require inspection. However, it should be based on the rate of possible 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, shall be inspected daily when in use. At a minimum, the inspection schedule shall include the terms and frequencies set forth in the applicable regulations in 40 CFR 265.174 and 40 CFR 265.195, incorporated in 10 CSR 25-7.265; and

(III) The owner/operator shall remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action shall be taken immediately.

D. Containment for storage in containers. This subparagraph sets forth additional requirements for storage of hazardous waste in containers.

(I) Container storage areas shall have a containment system that is designed and operated in accordance with part (2)(C)2. D.(III) of this rule, except as provided in part (2)(C)2.D.(II) of this rule.

(II) Storage areas that store containers holding only wastes that do not contain free liquids or storage areas that store less than one thousand kilograms (1000 kg) of nonacute hazardous waste containing free liquids need not have a containment system as described in part (2)(C)2.D.(I) of this rule, provided that the storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation, or the containers are elevated or are otherwise protected from contact with accumulated liquid.

(III) A containment system shall be designed, maintained, and operated as follows:

(a) The containment system shall include a base which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed. The base shall be under the container;

(b) The base shall be sloped or the containment system shall be designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or are otherwise protected from contact with accumulated liquids;

(c) The containment system shall have a capacity equal to ten percent (10%) of the containerized waste volume or the volume of the largest container, whichever is greater. (Containers that do not contain free liquids need not be considered in this calculation);

(d) Run-on into the containment system shall be prevented unless the collection system has sufficient excess capacity in addition to that required in subpart (2)(C)2.B.(III)(c) of this rule to contain any run-on which might enter the system; and

(e) Spilled or leaked waste and accumulated precipitation shall be removed from the sump or collection area as necessary to prevent overflow of the collection system.

(IV) The containment system must also be inspected as part of the weekly inspections required by 40 CFR 265.174 as incorporated in 10 CSR 25-7.265.

E. Tanks. This subparagraph sets forth additional requirements for storage of hazardous waste in tanks. Additional requirements set forth in paragraph (2)(C)2. apply to storage of hazardous waste in tank systems.

F. General requirements for ignitable, reactive, incompatible, or volatile wastes.

(I) Volatile waste having a true vapor pressure of greater than seventy-eight millimeters (78 mm) of mercury at twenty-five degrees Celsius (25°C) shall not be placed in an open tank.

(II) The owner/operator shall take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. These hazardous wastes shall be separated and protected from sources of ignition or reaction including, but not limited to, open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (that is, from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner/operator shall confine smoking and open flame to specially designated locations. No Smoking signs shall be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

G. Preparedness and prevention. In addition to the required equipment specified in 40 CFR 265.32, incorporated in 10 CSR 25-7.265, a generator shall also provide safety equipment such as fire blankets, gas masks, and self-contained breathing apparatus.

3. Satellite accumulation. In addition to the requirements in 40 CFR 262.34(c), the generator shall comply with the following requirements: Within one (1) year from the date satellite storage begins, irrespective of the quantity of hazardous waste in the satellite storage area, the hazardous waste shall be transferred to the area where hazardous waste is stored during the ninety (90)-, one hundred eighty (180)-, or two hundred seventy (270)-day storage period. And in 40 CFR 262.34(c)(1)(ii), add the words "Mark his containers either with the words 'Hazardous Waste' or with other words that identify the contents of the containers and the beginning date of satellite storage."

4. 40 CFR 262.34(a)(1)(iii) is not incorporated in this rule.

5. In addition to requirements in 40 CFR 262.34(d), a generator, upon generating one thousand kilograms (1000 kg) of nonacute hazardous waste, in a calendar month or accumulating one thousand kilograms (1000 kg) of nonacute hazardous waste, shall comply with paragraph (2)(C)2. of this rule.

6. All generators shall meet the special requirements for ignitable or reactive waste set forth in 40 CFR 265.176 incorporated in 10 CSR 25-7.265 and, therefore, the following language in 40 CFR 262.34(d)(2) is not incorporated in this rule: "except the generator need not comply with subsection 265.176."

7. Closure. At closure of the storage area, the generator shall remove and properly dispose of all hazardous waste and hazardous residues. For the purpose of this paragraph, closure shall occur when the storage of hazardous wastes has not occurred or is not expected to occur for one (1) year.

(D) Record Keeping and Reporting. In addition to requirements in 40 CFR 262.40, generators shall retain registration information required in subsection (2)(A) of this rule and the Generator's Hazardous Waste Summary Report required in paragraph (2)(D)1. of this rule for no fewer than three (3) years. The period of record retention referred to in 40 CFR 262.40(d) begins the day the initial transporter signs the manifest. The period of record retention referred to extends upon the written requests of the department or automatically during the course of any unresolved enforcement action regarding the regulated activity.

1. This paragraph establishes requirements for quarterly Generator's Hazardous Waste Summary Reports.

A. All generators who are required to register in accordance with subsection (2)(A) of this rule shall complete a Generator's Hazardous Waste Summary Report. This report shall be completed on a form provided by the department or on a reproduction of the form provided by the department or in the same format as the form provided by the department after review and approval by the department.

B. Persons who do not ship any hazardous wastes or who make only one (1) shipment of hazardous waste during the entire reporting year, July 1 through June 30, or are defined as a small quantity generator for the entire reporting year, may file an annual report by August 14 following the reporting year period. However, persons who are defined as a large quantity generator and have more than one (1) shipment of hazardous waste during the reporting years shall file quarterly.

C. A generator who is registered with the department shall report the quantity, type, and status of all hazardous waste(s) shipped off-site during the reporting period on the Generator's Hazardous Waste Summary Report regardless of the destination of the shipment(s).

D. The Generator's Hazardous Waste Summary Report shall be signed and certified by an authorized representative as defined in 40 CFR 260.10 incorporated by reference in 10 CSR 25-3. The certification statement shall read as follows: "CERTIFICATION: I certify under penalty of law that I personally examined and am familiar with the information submitted on this form and all attached documents and, 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." The handwritten signature of the authorized representatives shall follow this certification.

E. The generator shall submit the completed Generator's Hazardous Waste Summary Report within forty-five (45) days after the end of each reporting period. The reporting periods and submittal dates are as follows: January 1 through March 31, with a submittal date of May 14 of the same year; April 1 through June 30, with a submittal date of August 14 of the same year; July 1 through September 30, with a submittal date of November 14 of the same year; and October 1 through December 31, with a submittal date of February 14 of the following year.

F. A generator shall submit the information required in 40 CFR 261.4(e)(2)(v)(C) incorporated by reference in 10 CSR 25-4.261(1) to the department along with the completed Generator's Hazardous Waste Summary Report.

G. Generators failing to file the reports required by this rule shall have their registration administratively inactivated. Their registration shall be reactivated after all required reporting is filed, applicable fees are paid, and an updated generator registration form is submitted to the department.

2. Exception reporting. 40 CFR 262.42 is not incorporated in this rule. In lieu of those requirements, a generator shall comply with the following requirements:

A. A generator shall contract with the designated facility to return the completed manifest to the generator within thirty-five (35) days after the date the waste was accepted by the initial transporter. A generator, in addition to the requirements of this subsection, shall comply with manifest reporting requirements in paragraph (2)(B)6. of this rule;

B. A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within thirty-five (35) days of the date the waste was accepted by the initial transporter shall contact the transporter, the owner, or both, or operator of the designated facility, to determine the status of the hazardous waste;

C. A generator who has not received the completed manifest with the handwritten signature of the designated facility operator within thirty-five (35) days from the date the waste was accepted by the initial transporter shall submit a completed exception report to the department within forty-five (45) days from the date the waste was accepted by the initial transporter; and

D. The exception report may be completed on the exception report form provided by the department or in a format which shall include the following: the generator's EPA identification number (if applicable), the Missouri generator identification number and the generator's name, address, and telephone number; the name, address, phone number, EPA identification number (if applicable), and Missouri transporter license number for each transporter; the EPA identification number of the facility (if applicable), the Missouri facility identification number, the facility telephone number, and the designated facility's name and address; the Missouri and EPA hazardous waste manifest document numbers followed by the date of shipment; the waste description and EPA waste code identification number as listed in 10 CSR 25-4 for each hazardous waste appearing on the manifest; the total quantity of each hazardous waste and the appropriate abbreviation for units of measure as follows: G—gallons (liquids only); P—pounds; T—tons (2,000 lbs.); Y—cubic yards; L—liters (liquids only); K—kilograms; M—metric tons (1,000 kg); N—cubic meters; the following certification statement, signed and dated by an authorized representative of the generator: "I have personally examined and am familiar with the information submitted on this form. I hereby certify that the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information which include fine and imprisonment"; a legible copy of the manifest document originated by the generator and signed by the initial transporter which was retained by the generator and for which the generator does not have confirmation of delivery; and a cover letter signed by the generator or his/her authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts. The director may require a generator to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 10 CSR 25-4.261 as the director deems necessary under section 260.375(7), RSMo.

3. Reporting requirements for small quantity generators. 40 CFR 262.44 is not incorporated in this rule.

(E) Exports of Hazardous Waste. This subsection modifies the incorporation of 40 CFR part 262 subpart E. The state cannot assume authority from the EPA to receive notifications of intent to export or to transmit this information to other countries through the Department of State or to transmit acknowledgements of consent to the exporter. In addition, the annual reports and exception reports required in 40 CFR 262.55 and 262.56, incorporated in this rule, shall be filed with the EPA administrator and copies shall be provided to the department. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 262.51, 262.52, 262.53, 262.54, 262.55, 262.56, and 262.57, as incorporated in this rule. This modification does not relieve the regulated person of his/her responsibility to comply with the Resource Conservation and Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies (for example, the federal Department of Transportation and the Bureau of the Census of the Department of Commerce).

(F) Imports of Hazardous Waste. The United States importer shall also comply with the following requirements:

1. In addition to registration requirements specified in this section, the United States importer shall register as generator in accordance with this section and shall be responsible for compliance with all applicable requirements specified in this section. The United States importer shall register with the department as a generator, and four (4) weeks in advance of the date the waste is expected to enter the United States, shall specifically identify hazardous waste(s) intended to be imported by their EPA waste number(s) found in 40 CFR 261 and this section; and

2. The United States importer shall keep and maintain the following information on each shipment which is imported and make available upon departmental request:

A. If the waste is a mixed bulk shipment of multi-generator wastes, the individual original foreign generator's names and addresses and the wastes' technical chemical names from each source;

B. Quantity of waste from each imported source; and

C. List of EPA waste numbers found in 40 CFR 261 and this section which are applicable to the waste(s) from each source.

(G) Farmers. *(Reserved)*

(H) 40 CFR 262, subpart H, Transfrontier shipments of hazardous waste for recovery within the OECD, is not incorporated in this rule.

(I) Emergency Procedures. In the event of a spill of hazardous waste at the generator's site, where there is clear and imminent danger to humans or the environment, the generator shall take reasonable action to eliminate the danger. In the event of a spill of a reportable quantity of material under 40 CFR 302.4 and 302.5 (Note: this includes table 302.4), a generator shall notify the department in accordance with the notification procedure set forth in 10 CSR 24-3.010.

(J) Generator Fee and Taxes. A generator who is required to register under this rule, unless otherwise exempted, shall pay fees and taxes in accordance with 10 CSR 25-12.010. Generators failing to pay the fees, taxes, or applicable late fees outlined in 10 CSR 25-12.010 by the due date shall have their registration administratively inactivated. Their registration shall be reactivated after all applicable fees, taxes, and late fees are paid and an updated generator registration form is submitted to the department.

DRAFT

10 CSR 25-7.264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

PURPOSE: This rule incorporates and modifies the federal regulations in 40 CFR part 264 by reference and sets forth additional state requirements.

(1) The regulations set forth in 40 CFR part 264, July 1, 2010, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modification set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control. "Owner/operator," as defined in 10 CSR 25-3.260(2)(O)3., shall be substituted for any reference to "owner and operator" or "owner or operator" in 40 CFR part 264 incorporated in this rule.

(2) The owner/operator of a permitted hazardous waste treatment, storage, or disposal facility shall comply with this section in addition to the regulations of 40 CFR part 264. In the case of contradictory or conflicting requirements, the more stringent shall control. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the requirements to be added to 40 CFR part 264 subpart E are found in subsection (2)(E) of this rule.)

(A) General. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart A.

1. A treatment permit is not required under this rule for a resource recovery process that has been certified by the department in accordance with 10 CSR 25-9.020. Storage of hazardous waste prior to resource recovery must be in compliance with this rule.

2. A permit is not required under this rule for an elementary neutralization unit or a wastewater treatment unit receiving only hazardous waste that is generated on-site or generated by its operator or only one (1) generator if the owner/operator, upon request, can demonstrate to the satisfaction of the department compliance with the requirements in 10 CSR 25-7.270(2)(A)3.

3. Hazardous waste which must be managed in a permitted unit (for example, waste generated on-site and stored beyond the time frames allowed without a permit pursuant to 10 CSR 25-5.262, waste received from off-site, certain hazardous waste fuels, etc.) shall not be stored or managed outside an area or unit which does not have a permit or interim status for that waste for a period which exceeds twenty-four (24) hours. This provision shall not apply to railcars held for the period allowed by, and managed in accordance with, 10 CSR 25-7.264(3) of this regulation. (Comment: The purpose of this paragraph is to allow necessary movement of hazardous waste into, out of, and through facilities, and not to evade permit requirements.)

(B) General Facility Standards. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart B.

1. The substitution of terms at 10 CSR 25-3.260(1)(A)1. does not apply to 40 CFR 264.12(a), incorporated by reference in this rule. In addition to the requirements in 40 CFR 264.12(a) incorporated in this rule, an owner/operator shall submit to the department a separate analysis for each hazardous waste that s/he intends to import. Each analysis shall contain the following information: the foreign generator's name, site address, and telephone number; a list of applicable United States Environmental Protection Agency (EPA) waste codes and a percentage of each for each hazardous waste; the flash point determined in accordance with 40 CFR 261.21 incorporated by reference in 10 CSR 25-4; a list of reactive waste(s) as defined in 40 CFR 261.23 incorporated by reference in 10 CSR 25-4; and results of toxicity tests conducted in accordance with 40 CFR 261.24 incorporated by reference in 10 CSR 25-4.261, if applicable.

2. Information describing the frequency and type of analysis performed on run off and leachate generated at the hazardous waste management units shall be included as part of the waste analysis plan required in 40 CFR 264.13(b) incorporated in this rule.

3. 40 CFR 264.15(b)(5) is not incorporated in this rule.

4. The comment following 40 CFR 264.18(a) is not incorporated in this rule.

(C) Preparedness and Prevention. *(Reserved)*

(D) Contingency Plan and Emergency Procedures. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart D.

1. The government official described in 40 CFR 264.56(d)(2) incorporated in this rule as the on-scene coordinator shall be contacted and further identified in the report as one (1) of the following:

A. The department's Emergency Response Coordinator (573) 634-2436 or (573) 634-CHEM;

B. The EPA Region VII Emergency Planning and Response Branch (913) 236-3778; or

C. The National Response Center identified in 40 CFR 264.56(d)(2), incorporated in this rule.

(E) Manifest System, Record Keeping, and Reporting. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart E.

1. Missouri requires an original copy of the manifest to be submitted to the department by all instate and out-of-state Treatment, Storage, or Disposal Facilities (TSDFs) in accordance with 40 CFR 264.71(e).

2. As it becomes available, the following additional information shall be maintained in the operating record described in 40 CFR 264.73 incorporated in this rule until final closure, at which time the operating record shall be submitted to the department:

A. The information from each manifest shall be maintained in the operating record;

B. In addition to the requirements in 40 CFR 264.73(b)(2) incorporated in this rule, an owner/operator of a hazardous waste disposal facility shall record the location and quantity of each hazardous waste shipment on a map or diagram of each cell or disposal area with respect to a surveyed permanent benchmark and baseline;

C. In addition to the requirements in 40 CFR 264.73(b)(2) incorporated in this rule, an owner/operator of a facility which has had a release or which has hazardous waste or hazardous waste constituent migration beyond the hazardous waste management unit shall record the locations and concentrations of contamination on a map or diagram with respect to a surveyed permanent benchmark and baseline;

D. If applicable, information regarding volumes, dates of removal, and disposition of leachate removed from collection points shall be maintained in the operating record; and

E. A complete copy of the final, approved permit application, including all approved engineering plans, shall be maintained in the operating record.

3. The owner/operator of a hazardous waste management facility shall submit a report to the department as set forth in this paragraph.

A. All owners/operators shall comply with the reporting requirements in 10 CSR 25-5.262(2)(D) regardless of whether the owner/operator is required to register as a generator pursuant to 10 CSR 25-5.262(2)(A)1.

B. In addition to the requirements in 10 CSR 25-5.262(2)(D) for hazardous waste generated on-site and shipped off-site for treatment, storage, resource recovery, or disposal, the owner/operator shall meet the same requirements for the following:

(I) All hazardous waste generated on-site during the reporting period that is managed on-site; and

(II) All hazardous waste received from off-site during the reporting period, including hazardous waste generated by another generator and hazardous waste generated at other sites under the control of the owner/operator.

C. In addition to the information required in 10 CSR 25-5.262(2)(D), an owner/operator shall include the following information in the summary report:

(I) A description and the quantity of each hazardous waste that was both generated and managed on-site during the reporting period;

(II) For each hazardous waste that was received from off-site, a description and the quantity of each hazardous waste, the corresponding state, and EPA identification numbers of each generator;

(III) For imports, the name and address of the foreign generator;

(IV) The corresponding method of treatment, storage, resource recovery, disposal, or other approved management method used for each hazardous waste;

(V) The quantity and description of hazardous waste residue generated by the facility; and

(VI) A summary of both quantitative and qualitative groundwater monitoring data that was received during the reporting period, as required in 40 CFR part 264 subpart F incorporated in this rule and subsection (2)(F) of this rule. (Comment: This does not change the frequency of monitoring required by rules or in specific permit conditions. It only changes the frequency of reporting.)

4. As outlined in section 260.380.2, RSMo, all owners/operators shall pay a fee to the department of two dollars ($2) per ton or portion thereof for any and all hazardous waste received from outside of Missouri. This fee shall be referred to as the Out-of-State Waste Fee and shall not be paid on hazardous waste received directly from other permitted treatment, storage, and disposal facilities located in Missouri.

A. For each owner/operator, this fee shall be paid on or before January 1 of each year and shall be based on the total tons of hazardous waste received in the aggregate by that owner/operator for the twelve (12)-month period ending the previous June 30. As outlined in section 260.380.4, RSMo, failure to pay this fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total original fee. Each twelve (12)-month period ending on June 30 shall be referred to as a reporting year.

B. Owners/operators may elect, but are not required, to pay this fee on a quarterly basis at the time they file the reporting required in subparagraphs (2)(E)3.B. and C. of this rule. If they do not choose to pay the fee quarterly, owners/operators may elect, but are not required, to pay the fee at the time they file their final quarterly report of each reporting year. However, the total fee for each reporting year must be paid on or before January 1 immediately following the end of each reporting year.

EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

Example 1. ABC Company reports receiving 250 tons of hazardous waste from outside of Missouri:

$2 × 250 tons = $500 fee

Example 2. ABC Company reports receiving 410.6 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 411:

$2 × 411 tons = $822 fee

Example 3. ABC Company reports receiving 52,149.3 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 52,150:

$2 × 52,150 tons = $104,300 fee

(F) Releases From Solid Waste Management Units. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart F.

1. If the department determines that there is a significant risk to human health or the environment resulting from ground or surface water contamination from operation of any hazardous waste management facility or solid waste management unit, the department may condition the permit for a facility or unit; or upon issuance or reissuance or by modification of a permit, the department may require that an owner/operator of the facility comply with the requirements of this section. An owner/operator shall furnish to the department, within a reasonable time period, any information which the department requests to comply with this subsection.

2. In addition to requirements in 40 CFR 264.91(a)(3) and 40 CFR 264.100(e)(2) incorporated in this rule, the owner/operator shall document in the operating record all efforts taken to monitor groundwater or take corrective action beyond the facility boundary.

3. The facility permit will include, as described in 40 CFR 264.100(b) incorporated in this rule, a course of action to implement remedial procedures. The corrective action program may include, if necessary, closure of the appropriate units to prevent further leachate generation and transport.

4. This paragraph sets forth requirements for surface water monitoring.

A. The owner/operator is exempt from regulations under this paragraph if—

(I) S/he is exempted under this subsection and 40 CFR part 264 subpart F, incorporated in this rule; or

(II) The department finds based upon a demonstration by the owner/operator, that there is low potential for migration of liquid from the facility or unit to surface water bodies throughout the post-closure care period. This demonstration shall be certified by a registered geologist or professional engineer registered in Missouri; or

(III) The surface water runoff from the regulated unit(s) is being monitored in accordance with the facility's National Pollutant Discharges Elimination System (NPDES) or state operating stormwater discharge permit and the NPDES or state operating permit is substantially equivalent to that which would otherwise be required under this section.

B. An owner/operator shall establish a surface water monitoring program, except as provided otherwise in subparagraph (2)(F)4.A. of this rule. This program shall be designed to protect human health and the environment. The owner/operator, at a minimum, shall fulfill the following requirements:

(I) The surface water monitoring system shall consist of a sufficient number of points at appropriate locations to yield surface water samples that—

(a) Represent the quality of background surface water that has not been affected by any contamination from the facility (for example, upgradient); and

(b) Represent the quality of surface water hydrologically downgradient of the facility or regulated units;

(II) The surface water monitoring program must include consistent sampling and analysis procedures that are designed to ensure monitoring results which provide a reliable indication of surface water quality at the facility and changes in the water quality due to the impact of the facility or regulated units;

(III) The owner/operator shall report to the department the surface water analysis by including it in the routine reports required by part (2)(E)3.C.(VI) of this rule; and

(IV) If the department determines, based upon the findings in the reports submitted under part III of this subparagraph, that there is a substantial threat to human health or the environment, it will direct the owner/operator, through modification of the facility permit, to take corrective and preventative measures.

5. The department may require additional monitoring to protect human health and the environment.

(G) Closure and Post-Closure. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart G.

1. The incorporation by reference of 40 CFR 264.113(d) and (e) does not relieve the owner/operator of his/her responsibility to comply with 10 CSR 80.

2. The owner/operator of a hazardous waste unit which is certifying closure with residues left in place, regardless of the level of treatment to render the residue nonhazardous, shall meet the requirements in 40 CFR 264.116 incorporated in this rule.

3. In addition to requirements in 40 CFR 264.116, when an owner/operator certifies a closure which did not result in the removal of wastes to background levels, the owner/operator shall record, in accordance with state law, a notation on an instrument which is normally examined during title search that in perpetuity will notify any potential purchaser of the property that the land has been used to manage hazardous waste.

4. In addition to requirements in 40 CFR 264.116 and 264.119 as incorporated in this rule, an owner/operator shall submit a notarized statement to the department certifying that the owner/operator has caused the notation(s) to be recorded. The notation shall be recorded with the recorder(s) of deeds in all counties in which the facility is located.

(H) Financial Assurance Requirements. This subsection sets forth the requirements which modify or add to those requirements in 40 CFR part 264 subpart H.

1. For purposes of this subsection, commercial treatment, storage, or disposal (TSD) facility means any facility that would be considered a commercial hazardous waste TSD facility for the purposes of 10 CSR 25-12.020, or any facility that is certified as an R2 resource recovery facility according to 10 CSR 25-9.020, or any facility that receives for remuneration polychlorinated biphenyls (PCB) material or PCB units as defined by 10 CSR 25-13.010.

2. In 40 CFR 264.143(a)(3), incorporated by reference in this rule, delete "the term of the initial RCRA permit" and insert in its place "a period of five (5) years, beginning with the date the permit is issued."

3. In 40 CFR 264.145(a)(3), incorporated by reference in this rule, delete "the term of the initial RCRA permit" and insert in its place "a period of five (5) years, beginning with the date the permit is issued."

4. This paragraph modifies the requirements for surety bonds guaranteeing payment into a closure trust fund or post-closure trust fund per 40 CFR 264.143(b) or 40 CFR 264.145(b), incorporated in this rule.

A. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-closure trust fund shall be authorized to do business in Missouri.

B. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-closure trust fund shall not cancel, terminate, or fail to renew a surety bond guaranteeing payment into a closure or post-closure trust fund, and the surety bond shall remain in full force and effect in the event that on or before the date of cancellation:

(I) The director deems the facility abandoned; or

(II) The permit is terminated or revoked, or a new permit is denied; or

(III) Closure is ordered by the department or a court of competent jurisdiction; or

(IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under 11 U.S.C. section 1, et seq.; or

(V) The premium due is paid; or

(VI) An appeal of an order to close the facility as specified in part (4)(H)4.B.(III) of this subparagraph is pending.

C. Facilities that have a surety bond or bond(s) guaranteeing payment into a closure trust fund or a post-closure trust fund as of the effective date of this subparagraph shall modify their surety instruments to comply with this paragraph within twelve (12) months of the effective date of this subparagraph.

5. This paragraph modifies the requirements for surety bonds guaranteeing performance of closure or performance of post-closure care per 40 CFR 264.143(c) or 40 CFR 264.145(c), incorporated in this rule.

A. A surety company issuing a surety bond for closure or post-closure performance shall be authorized to do business in Missouri.

B. Any surety company issuing a surety bond for closure or post-closure performance shall not cancel, terminate, or fail to renew a surety bond guaranteeing performance of closure or post-closure care and the surety bond shall remain in full force and effect in the event that on or before the date of cancellation:

(I) The director deems the facility abandoned; or

(II) The permit is terminated or revoked, or a new permit is denied; or

(III) Closure is ordered by the department or a court of competent jurisdiction; or

(IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), *United States Code*; or

(V) The premium due is paid; or

(VI) An appeal of an order to close the facility as specified in part (4)(H)5.B.(III) of this subparagraph is pending.

C. Facilities that have a surety bond or bonds guaranteeing performance of closure or performance of post-closure care as of the effective date of this subparagraph shall modify their surety instruments to comply with this paragraph within twelve (12) months of the effective date of this subparagraph.

6. This paragraph modifies the requirements for letters of credit per 40 CFR 264.143(d), 40 CFR 264.145(d), and 40 CFR 264.147(h), incorporated in this rule. Letters of credit shall be issued by a state- or federally-chartered and regulated bank or trust association.

7. An owner/operator of a facility that is a commercial TSD facility may not satisfy financial assurance requirements for closure, post-closure, or liability coverage, or any combination of these, by the use of a financial test as specified in 40 CFR 264.143(f), 40 CFR 264.145(f), or 264.147(f), incorporated in this rule.

8. This paragraph modifies the requirements for closure insurance per 40 CFR 264.143(e), incorporated in this rule, post-closure insurance per 40 CFR 264.145(e), incorporated in this rule, liability coverage for sudden accidental occurrences per 40 CFR 264.147(a)(1), incorporated in this rule, and liability coverage for non-sudden accidental occurrences per 40 CFR 264.147(b)(1), incorporated in this rule. Each insurance policy shall be issued by an insurer who, at a minimum, is licensed to transact the business of insurance or is eligible to provide insurance as an excess or surplus lines insurer in Missouri.

9. In 40 CFR 264.143(f), incorporated in this rule, delete "or a firm with a 'substantial business relationship' with the owner or operator."

10. In 40 CFR 264.145(f), incorporated in this rule, delete "or a firm with 'a substantial business relationship' with the owner or operator."

11. In 40 CFR 264.147(g), incorporated in this rule, delete "or a firm with a 'substantial business relationship' with the owner or operator."

(I) Containers. This subsection sets forth requirements in addition to 40 CFR part 264 subpart I incorporated in this rule.

1. An owner/operator of a facility which treats hazardous waste in containers shall meet the requirements of 40 CFR 264.601–264.603 incorporated in this rule and subsection (2)(X) of this rule.

2. Containers storing hazardous waste must be marked and labeled in accordance with 10 CSR 25-5.262(2)(C) during the entire storage period.

3. Container storage areas which close without removing all hazardous waste and/or hazardous waste constituents to below background levels may pursue either a risk-based closure if there is no evidence of groundwater or surface water contamination or, in the absence of such evidence, close in accordance with 10 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The owner/operator shall also comply with the requirements of 10 CSR 25-7.264(2)(G).

4. Containers holding ignitable or reactive waste that are stored outdoors or in buildings not equipped with sprinkler systems shall be located at least fifty feet (50') from the facility's property line.

5. Containers holding ignitable or reactive waste that are stored indoors shall be located at least fifty feet (50') from the facility's property line unless the following requirements are satisfied:

A. Exposing walls that are located more than ten feet (10') but less than fifty feet (50') from a boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least two (2) hours, with each opening protected by an automatically-closing listed one and one-half (1.5) hour (B) fire door;

B. Exposing walls that are located less than ten feet (10') from a boundary line of adjoining property, that can be built upon, shall have a fire-resistance rating of at least four (4) hours, with each opening protected by an automatically-closing listed three (3)-hour (A) fire door (Comment: All fire doors, closure devices, and windows shall be installed in accordance with the National Fire Protection Agency (NFPA) Code 80, *Standards for Fire Doors and Windows*, 1995 edition);

C. The construction design of exterior walls shall provide ready accessibility for fire-fighting operations through the provision of access openings, windows, or lightweight noncombustible wall panels;

D. Container storage areas shall be provided with automatic fire suppression systems designed and installed in accordance with the NFPA 14 (1996 edition), NFPA 15 (1996 edition), NFPA 16 (1995 edition), NFPA 16A (1994 edition), NFPA 17 (1998 edition), NFPA 17A (1998 edition), NFPA 18 (1995 edition), NFPA 20 (1996 edition), NFPA 22 (1996 edition), and NFPA 24 (1995 edition) standards. Final design of these systems shall be approved by a qualified, registered professional engineer in Missouri;

E. Each container storage area shall have preconnected hose lines capable of reaching the entire area. The fire hose shall be either a one and one-half (1.5)-inch line or a one-inch (1") hard rubber line. Where a one and one-half (1.5)-inch fire hose is used, it shall be installed in accordance with NFPA 14 (1996 edition). Hand-held fire extinguishers rated for the appropriate class of fire shall be available at each storage area;

F. Only containers meeting the requirements of, and containing products authorized by, Chapter I, Title 49 of the *Code of Federal Regulations* (DOT Regulations) or NFPA 386, *Standard for Portable Shipping Tanks* shall be used;

G. All storage of ignitable or reactive materials shall be organized in a manner which will not physically obstruct a means of egress. Materials shall not be placed in a manner that a fire would preclude egress from the area. Evacuation plans shall recognize the locations of any automatically-closing fire doors;

H. All containers shall be arranged so there is a minimum aisle space of four feet (4') between rows, allowing accessibility to each individual container. Double rows can be utilized. Containers shall not be stacked or placed closer than three feet (3') from ceilings or any roof members, or both; and

I. Explosive gas levels in the facility shall be monitored continuously. If the facility is not manned twenty-four (24) hours per day, a telemetry system shall be provided to alarm designated response personnel.

(J) Tanks. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 264 subpart J.

1. Hazardous waste that has a true vapor pressure of greater than seventy-eight millimeters of mercury (78 mm Hg) at twenty-five degrees Celsius (25 °C) is considered to be volatile and shall not be placed in an open tank.

2. 40 CFR 264.190(c) is not incorporated by reference.

3. In 40 CFR 264.193(g) incorporated in this rule, delete “or that in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to human health or the environment.” 40 CFR 264.193(g)(2) and its subdivisions are not incorporated in this rule.

4. For purposes of 40 CFR 264.193(h) incorporated in this rule, “variance” means exception.

5. In 40 CFR 264.196(c) and 40 CFR 264.196(c)(1) incorporated in this rule, delete “visible” and “visual.” Tank storage areas which close without removing all hazardous waste and/or hazardous waste constituents to below background levels may pursue either a risk-based closure if there is no evidence of groundwater or surface water contamination or in the absence of such evidence, close in accordance with 10 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The owner/operator shall also comply with the requirements of 10 CSR 25-7.264(2)(G).

6. An owner/operator of a facility which treats hazardous waste in a tank system shall meet the requirements of 40 CFR 264.601–40 CFR 264.603 incorporated in this rule and subsection (2)(X) of this rule.

(K) Surface Impoundments. This subsection sets forth standards and requirements which modify or add to those requirements in 40 CFR part 264 subpart K.

1. Design and operating requirements are as follows:

A. Any existing surface impoundment or existing portion of a surface impoundment shall be replaced with a new surface impoundment in compliance with 40 CFR part 264 subpart K, incorporated in this rule, and this subsection prior to permit issuance;

B. Each new surface impoundment shall be constructed with a double liner as required in 40 CFR 264.221(c), incorporated in this rule, and subparagraphs (2)(K)1.C. and D. of this rule;

C. The lower component of the composite liner required by 40 CFR 264.221(c) shall, at a minimum, consist of at least three feet (3') of clay, recompacted to ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%) below and four percent (4%) above the optimum moisture content. The soils used for this purpose shall meet the following minimum specifications:

(I) Be classified under the United Soil Classification Systems as CL, CH, or SC (American Society for Testing and Materials (ASTM) Standard D2487-93, current edition approved September 15, 1993, published November 1993);

(II) Allow more than thirty percent (30%) passable through a No. 200 sieve (ASTM Test D1140-54 (reapproved 1971), current edition approved September 15, 1954);

(III) Have a liquid limit equal to or greater than thirty (30) (ASTM Test D4318-95a, current edition approved December 10, 1995, published April 1996);

(IV) Have a plasticity index equal to or greater than fifteen (15) (ASTM Test D4318-95a, as previously referenced in this rule); and

(V) Have a coefficient of permeability equal to or less than 1 × 10-8 cm/sec when compacted to ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%) below and four percent (4%) above the optimum moisture content, and when tested by using the indirect calculation from the one (1)-dimensional consolidation test for clay rich soils (ASTM D2435-96, current edition approved June 10, 1996, published August 1996) or other procedures approved by the department;

D. The leak detection system required by 40 CFR 264.221(c)(2) shall cover the entire sides and bottom of the surface impoundment;

E. When liquids are detected in the leak detection system installed to comply with subparagraph (2)(K)1.D. of this rule and 40 CFR 264.221(c)(2), the owner/operator shall—

(I) Notify the department in writing within thirty (30) days of the event;

(II) Continue to operate and maintain the leak detection system so that the liquids are removed as they accumulate or with sufficient frequency to prevent backwater within the system; and

(III) Implement leachate monitoring in accordance with paragraph (2)(K)1.F. of this rule and the facility permit;

F. This paragraph sets forth requirements for leachate monitoring at surface impoundments. An owner/operator that is required under subparagraph (2)(K)1.E. of this rule to initiate leachate monitoring shall comply with parts (2)(K)1.F.(I)–(IV) of this rule.

(I) The owner/operator shall remove any accumulated leachate in the leak detection system collection sumps at least weekly during the active life and closure period. After the final cover is installed, accumulated leachate shall be removed at least as often as the owner/operator is required by 40 CFR 264.226(d)(2) to record the amount of liquids removed from the system.

(II) The owner/operator shall analyze the leachate at least annually. At a minimum, the annual leachate analyses shall be conducted for indicator parameters (that is pH, specific conductance, dissolved organic carbon, and total organic halogen) and selected hazardous waste constituents. The hazardous waste constituents selected must provide a reliable indication of the presence of hazardous constituents that are reasonably expected to be in or derived from wastes contained in each unit.

(III) The owner/operator shall calculate the average daily flow rate for each sump as required by 40 CFR 264.222(b). If the department determines that the leachate generation rate is greater than reasonably expected for any unit, the department may require the owner/operator to provide additional information to evaluate the existing conditions.

(IV) In accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in this rule, the owner/operator shall submit to the department all information required to comply with parts (2)(K)1.F.(I)–(III) of this rule.

(V) The department may require more frequent leachate collection and analysis than that outlined in parts (2)(K)1.F.(I)–(III) of this rule if determined necessary. The frequency of leachate collection and analysis will be specified in the facility permit.

(VI) Indicator parameters and constituents to be monitored as required by part (2)(K)1.F.(II) of this rule will be specified by the department in the facility permit. If the department determines that results of the chemical analyses are outside of the range that is reasonably expected for any unit, the department may require the owner/operator to provide additional information to evaluate the existing conditions;

G. The owner/operator shall measure daily precipitation at the facility until final closure is certified. During the post-closure care period of the facility, the owner/operator shall also record and report regional precipitation from the nearest weather recording station in accordance with the schedule established for the maintenance of the facility. The information required under this paragraph shall be submitted to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in this rule; and

H. If the leachate monitoring (implemented in accordance with subparagraph (2)(K)1.F. of this rule) detects hazardous waste(s) constituents in the leak detection system, a leak in the surface impoundment liner is indicated and the owner/operator shall—

(I) Within seven (7) days after detecting the leak, notify the department in writing of the leak;

(II) Remove, within the period of time specified in the permit, accumulated liquid, repair or replace the leaking liner to prevent the migration of hazardous waste liquids through the liner and obtain a certification from a registered professional engineer that, to the best of his/her knowledge and opinion, the leak has been stopped; and

(III) Obtain, after performing the necessary repairs, written approval from the department prior to placing the surface impoundment in service again.

2. Those surface impoundments which are intended to be closed without removing the hazardous waste shall meet the requirements of subparagraph (2)(N)1.A. and 40 CFR part 264 subpart N, incorporated in this rule. If the site cannot meet these requirements and contamination exists beyond the liner of the surface impoundment, the owner/operator shall clean up contaminated residues and hazardous constituents to the greatest extent practical during closure. If the department determines, based on the potential impact on human health and the environment, that it is not necessary or feasible to remove contaminated material down to background concentrations during closure, the owner/operator shall—

A. Comply with subsection 40 CFR 264.228(b) incorporated in this rule; or

B. Submit and obtain approval for a delisting petition pursuant to 40 CFR 260.20 and 40 CFR 260.22 for the contaminated material not removed during closure.

3. An owner/operator of a facility which treats hazardous waste in a surface impoundment shall meet the requirements of 40 CFR 264.601–40 CFR 264.603 incorporated in this rule and subsection (2)(X) of this rule.

(L) Waste Piles. This subsection sets forth standards which modify or add to those requirements in 40 CFR part 264 subpart L.

1. In addition to the requirements in 40 CFR part 264.250(c) incorporated in this rule, the waste pile must be at least ten feet (10') above the historical high groundwater table to be exempt from the regulatory requirements in 40 CFR 264.251 incorporated in this rule, 40 CFR part 264 subpart F incorporated in this rule, and subsection (2)(F) of this rule.

2. Design and operating requirements are as follows:

A. Any existing waste pile or existing portion of a waste pile shall be replaced with a new waste pile in compliance with 40 CFR 264 subpart L, incorporated in this rule, and this subsection prior to permit issuance;

B. Each new waste pile shall be constructed with a double liner as required in 40 CFR 264.251(c), incorporated in this rule, and subparagraphs (2)(L)2.C. and D. of this rule;

C. The lower component of the composite liner required by 40 CFR 264.251(c), at a minimum, shall consist of at least three feet (3') of clay, recompacted to ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%) below and four percent (4%) above the optimum moisture content. The soils used for this purpose shall meet the following minimum specifications:

(I) Be classified under the United Soil Classification Systems as CL, CH, or SC (ASTM Standard D2487-93, as previously referenced in this rule);

(II) Allow more than thirty percent (30%) passable through a No. 200 sieve (ASTM Test D1140, as previously referenced in this rule);

(III) Have a liquid limit equal to or greater than thirty (30) (ASTM Test D4318-95a, as previously referenced in this rule);

(IV) Have a plasticity index equal to or greater than fifteen (15) (ASTM Test D4318-95a, as previously referenced in this rule); and

(V) Have a coefficient of permeability equal to or less than 1 × 10-8 cm/sec when compacted to ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%) below and four percent (4%) above the optimum moisture content, and when tested by using the indirect calculation from the one (1) dimensional consolidation test for clay rich soils (ASTM D2435-96, as previously referenced in this rule) or other procedures approved by the department;

D. The leak detection system required by 40 CFR 264.251(c)(3) shall be capable of detecting leaks from the entire area of the waste pile;

E. When liquids are detected in the leachate collection/removal system installed to comply with 40 CFR 264.251(c)(2), the owner/operator shall—

(I) Notify the department in writing within thirty (30) days of the event;

(II) Continue to operate and maintain the leachate collection/removal and leak detection systems so that the liquids are removed as they accumulate or with sufficient frequency to prevent backwater within the system; and

(III) Implement leachate monitoring in accordance with subparagraph (2)(L)2.F. of this rule and the facility permit;

F. This paragraph sets forth requirements for leachate monitoring at waste piles. An owner/operator that is required under subparagraph (2)(L)2.E. to initiate leachate monitoring shall comply with parts (2)(L)2.F.(I)–(IV) of this rule.

(I) The owner/operator shall remove any accumulated leachate in the leachate collection/removal and leak detection system collection sumps at least weekly during the active life and closure period. After the final cover is installed, accumulated leachate shall be removed at least as often as the owner/operator is required by subparagraph (2)(L)3.A. of this rule to record the amount of liquids removed from the system.

(II) The owner/operator shall analyze leachate from the leak detection system at least annually. If leachate has not yet been discovered in the leak detection system, the annual analysis shall be completed on leachate collected from the leachate collection/removal system. At a minimum, the annual leachate analyses shall be conducted for indicator parameters (that is pH, specific conductance, dissolved organic carbon, and total organic halogen) and selected hazardous waste constituents. The hazardous waste constituents selected must provide a reliable indication of the presence of hazardous constituents that are reasonably expected to be in or derived from wastes contained in each unit.

(III) The owner/operator shall calculate the average daily flow rate for each sump in the leak detection system as required by 40 CFR 264.252(b), in addition the average daily flow rate for each sump calculated in a similar manner. If the unit is closed in accordance with 40 CFR 264.258(b), the average daily flow rates shall be calculated at the same frequency as the recording of leachate removal as required by subparagraph (2)(L)3.B. of this rule. If the department determines that the leachate generation rate is greater than reasonably expected for any unit, the department may require the owner/operator to provide additional information to evaluate the existing conditions.

(IV) The owner/operator shall submit all information required to comply with parts (2)(L)2.F.(I)–(III) of this rule to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in this rule.

(V) The department may require more frequent leachate collection and analysis than that outlined in parts (2)(L)2.F.(I)–(III) of this rule if determined necessary. The frequency of leachate collection and analysis will be specified in the facility permit.

(VI) Indicator parameters and constituents to be monitored, as required by part (2)(L)2.F.(II) of this rule, will be specified by the department in the facility permit. If the department determines that results of the chemical analyses are outside of the range that is reasonably expected for any unit, the department may require the owner/operator to provide additional information to evaluate the existing conditions;

G. The owner/operator shall measure daily precipitation at the facility until final closure is certified. During the post-closure care period of the facility, the owner/operator shall also record and report regional precipitation from the nearest weather recording station in accordance with the schedule established for the maintenance of the facility. The information required under this paragraph shall be submitted to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in this rule; and

H. If the leachate monitoring (implemented in accordance with subparagraph (2)(L)2.F. of this rule) detects hazardous waste constituents in the leak detection system, a leak in the waste pile liner is indicated, and the owner/operator shall—

(I) Notify the department in writing of the leak within seven (7) days after detecting the leak;

(II) Remove, within the period of time specified in the permits, accumulated liquid, repair or replace the leaking liner to prevent the migration of hazardous waste liquids through the liner and obtain a certification from a registered professional engineer that, to the best of his/her knowledge and opinion, the leak has been stopped; and

(III) Obtain, after performing the necessary repairs, written approval from the department prior to placing the waste pile in service again.

3. This paragraph sets forth standards which modify or add to those requirements in 40 CFR 264.254(c) for monitoring and inspection.

A. In addition to recording the amount of liquids removed from each leak detection system sump at least once per week during the active live and closure period, the owner/operator shall record the amount of liquids removed from each leachate collection/removal system sump at the same frequency.

B. If the waste pile is closed in accordance with 40 CFR 264.258(b), following closure the amount of liquids removed from each leachate collection/removal and leak detection system sump shall be recorded at least monthly. If the liquid level in the sump stays below the pump operating level for two (2) consecutive months, the amount of liquids in the sump must be recorded at least quarterly. If the liquid level in the sump stays below the pump operating level for two (2) consecutive quarters, the amount of liquids in the sump shall be recorded at least semiannually. If at any time during the post-closure care period the pump operating level is exceeded at units on quarterly or semiannual recording schedules, the owner/operator must return to monthly recording of amounts of liquids removed from each sump until the liquid level again stays below the pump operating level for two (2) consecutive months.

(M) Land Treatment. *(Reserved)*

(N) Landfills. This subsection sets forth standards which modify or add to those requirements in 40 CFR part 264 subpart N.

1. This paragraph sets forth standards for a site suitability demonstration.

A. Location standards.

(I) A landfill shall be located so as to minimize discharges and the potential for harm to human health and the environment.

(II) A landfill shall be located so that a total of no less than thirty feet (30') of soil or other material, which has a coefficient of permeability of less than 1 × 10-7 cm/sec, when tested according to subpart (2)(N)1.B.(II)(d) of this rule, lies between the bottom of the lowest artificial liner or lowest engineered soil liner and the uppermost regional aquifer.

(III) The requirements of part (2)(N)1.A.(II) of this rule do not apply to a landfill which meets the following criteria:

(a) Demonstrates to the satisfaction of the department by a combination of laboratory tests, field test and development of models that naturally occurring materials between the lowest artificial liner or lowest engineered soil liner and the uppermost regional aquifer would retard the migration of hazardous constituents contained in the waste to at least the same degree that thirty feet (30') of material having a coefficient of permeability of 1 × 10-7 cm/sec when tested according to subpart (2)(N)1.B.(II)(d) would retard the migration of water, but in no case shall the thickness of the naturally occurring material be less than twenty feet (20');

(b) Receives only wastes generated by its operator(s); and

(c) Meeting the criteria in subparts (2)(N)1.A.(III)(a) and (b) shall not waive compliance with any regulations except those set forth in part (2)(N)1.A.(II) of this rule.

(IV) No landfill shall be located in the following areas:

(a) In a wetland;

(b) Within two hundred feet (200') of a fault which has had surface displacement in Holocene time;

(c) In a one hundred (100)-year flood plain;

(d) In an area of unstable soil deposits or area(s) containing landslides; or

(e) In an area subject to catastrophic collapse as evaluated by the Division of Geology and Land Survey.

B. The permit application shall include the following engineering reports:

(I) A geologic description of the region in which the site is located, which description shall be prepared by a qualified geologist familiar with the region;

(II) A description of the natural soils and bedrock underlying the site including a representative number of borings that indicate the type, depth and thickness of soils, bedrock, and other materials underlying the site and test results that indicate the following parameters for soils or other materials underlying the site. The following test methods shall be utilized unless other procedures have been evaluated and approved by the department:

(a) Atterberg limits (ASTM D4318-95a, as previously referenced in this rule);

(b) pH (*Methods of Soil Analysis Part II, Chemical and Microbiological Properties*, A.L. Page, Ed. American Society of Agronomy, 2nd Ed., 1982, pp. 200–209);

(c) Maximum dry density at optimum moisture content (ASTM D1557-91, current edition approved November 18, 1991, published January 1992);

(d) Coefficient of permeability, which is the indirect calculation from the one (1)-dimensional consolidation test for clay rich soils (ASTM D2435-96, as previously referenced in this rule) or other laboratory procedures found in the professional literature and approved by the department;

(e) Grain size distribution, Unified Soil Classification System designation (ASTM Standards D2487-93, as previously referenced in this rule and D422-63 (reapproved 1990) current edition approved November 21, 1963); and

(f) Cation exchange capacity (*Methods of Soil Analysis Part II, Chemical and Microbiological Properties*, A.L. Page, Ed., American Society of Agronomy, 2nd Ed., 1982, pp. 149–157);

(III) A hydrogeologic study conducted at the site to determine the potential for transport of groundwater and contaminants. This study shall include:

(a) Piezometric contours of groundwater;

(b) Potential direction(s) of groundwater movement and estimated rate(s);

(c) Identification and description of the aquifer(s);

(d) Background water quality data; and

(e) Field permeability tests as found in the professional literature and approved by the department;

(IV) A present water balance which shall be determined as outlined in *Use of the Water Balance Method for Predicting Leachate Generation from Solid Waste Disposal Sites*, EPA/530/SW-168 or an equivalent method approved by the department;

(V) Engineering and geologic drawings that delineate—

(a) Typical disposal cells for each hazardous waste type;

(b) Structures for surface water control;

(c) Locations of borings and monitoring systems;

(d) Leachate collection systems, bottom elevations, and cover elevations for each disposal area; and

(e) Stratigraphic cross-sections of the geologic setting showing, at a minimum, boring locations and depths, trench design and depths, and piezometric surfaces and water tables where present; and

(VI) Any other applicable details.

2. This paragraph sets forth additional design and operating requirements.

A. Any existing landfill or existing portion of a landfill shall be replaced with a new landfill in compliance with 40 CFR part 264 subpart N, incorporated in this rule, and this subsection prior to permit issuance;

B. Each new landfill shall be constructed with a double liner as required in 40 CFR 264.301(c), incorporated in this rule, and subparagraphs (2)(N)2.C. of this rule;

C. The lower component of the composite liner required by 40 CFR 264.301(c), at a minimum, shall consist of at least three feet (3') of clay, recompacted to ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%) below and four percent (4%) above the optimum moisture content. The soils used for this purpose shall meet the following minimum specifications:

(I) Be classified under the United Soil Classification Systems as CL, CH, or SC (ASTM Standard D2487-93, as previously referenced in this rule);

(II) Allow more than thirty percent (30%) passable through a No. 200 sieve (ASTM Test D1140, as previously referenced in this rule);

(III) Have a liquid limit equal to or greater than thirty (30) (ASTM Test D4318-95a, as previously referenced in this rule);

(IV) Have a plasticity index equal to or greater than fifteen (15) (ASTM Test D4318-95a, as previously referenced by this rule); and

(V) Have a coefficient of permeability equal to or less than 1 × 10-8 cm/sec when compacted to ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%) below and four percent (4%) above the optimum moisture content, and when tested by using the indirect calculation from the one (1)-dimensional consolidation test for clay rich soils (ASTM D2435-96, as previously referenced by this rule) or other procedures approved by the department;

D. Each detection or collection and removal system shall meet the requirements of 40 CFR 264.301(c)(3)(I)–(V), incorporated in this rule.

E. The leak detection system required by 40 CFR 264.301(c)(3) shall be capable of detecting leaks from the entire sides and bottom of each cell.

F. When liquids are detected in the leachate collection/removal system installed to comply with 40 CFR 264.301(c)(2), the owner/operator shall—

(I) Notify the department in writing within thirty (30) days of the event;

(II) Continue to operate and maintain the leachate collection/removal and leak detection systems so that the liquids are removed as they accumulate or with sufficient frequency to prevent backwater within the system; and

(III) Implement leachate monitoring in accordance with subparagraph (2)(N)2.G. of this rule and the facility permit;

G. This paragraph sets forth requirements for leachate monitoring at landfills. An owner/operator that is required under subparagraph (2)(N)2.F. to initiate leachate monitoring shall comply with parts (2)(N)2.G.(I)–(V) of this rule.

(I) The owner/operator shall remove any accumulated leachate in the leachate collection/removal and leak detection system collection sumps at least weekly during the active life and closure period. After the final cover is installed, accumulated leachate shall be removed at least as often as the owner/operator is required by 40 CFR 264.303(c)(2) to record the amount of liquids removed from the systems.

(II) The owner/operator shall analyze leachate from the leak detection system at least annually. If leachate has not yet been discovered in the leak detection system, the annual analysis shall be completed on leachate collected from the leachate collection/removal system. At a minimum, the annual leachate analyses shall be conducted for indicator parameters (that is pH, specific conductance, dissolved organic carbon, and total organic halogen) and selected hazardous waste constituents. The hazardous waste constituents selected must provide a reliable indication of the presence of hazardous constituents that are reasonably expected to be in or derived from wastes contained in each unit.

(III) At the first occurrence of leachate in the leak detection system, the owner/operator shall analyze leachate from that system for the complete list of parameters identified in 40 CFR part 264 Appendix IX.

(IV) The owner/operator shall calculate the average daily flow rate for each sump in the leak detection system as required by 40 CFR 264.302(b). In addition, the average daily flow rate for each sump in each of the leachate collection/removal systems shall also be calculated in a similar manner. Following closure, the average daily flow rates shall be calculated at the same frequency as the recording of leachate removal as required by 40 CFR 264.303(c)(2). If the department determines that the leachate generation rate is greater than reasonably expected for any unit, the department may require the owner/operator to provide additional information to evaluate the existing conditions.

(V) The owner/operator shall submit all information required to comply with parts (2)(N)2.G.(I)–(IV) of this rule to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in this rule.

(VI) The department may require more frequent leachate collection and analysis than that outlined in parts (2)(N)2.G.(I)–(IV) of this rule if determined necessary. The frequency of leachate collection and analysis will be specified in the facility permit.

(VII) Indicator parameters and constituents to be monitored as required by part (2)(N)2.G.(II) of this rule will be specified by the department in the facility permit. If the department determines that results of the chemical analyses are outside of the range that is reasonably expected for any unit, the department may require the owner/operator to provide additional information to evaluate the existing conditions.

H. The owner/operator shall measure daily precipitation at the facility until final closure is certified. During the post-closure care period of the facility, the owner/operator shall also record and report regional precipitation from the nearest weather recording station in accordance with the schedule established for the maintenance of the facility. The information required under this paragraph shall be submitted to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in this rule.

I. If the volume or rate of flow of leachate contained in the leak detection system (implemented in accordance with subparagraph (2)(N)2.G. of this rule) exceeds ten percent (10%) of the action leakage rate as defined in 40 CFR 264.302, incorporated in this rule, then the owner/operator shall analyze the leachate for the indicator parameters and constituents outlined in the facility permit. If the analyzed leachate exceeds the detection limits outlined in the facility permit, the owner/operator shall—

(I) Notify the department in writing of the leak within seven (7) days after detecting the leak;

(II) Remove, within the period of time specified in the permit, accumulated liquid, conduct an assessment of the leakage to determine the cause and extent of the leak, and, if necessary, initiate repairs or replace the leaking liner to prevent the migration of hazardous waste liquids through the liner; and

(III) Submit to the department the assessment and a certification from a registered professional engineer describing any repairs or replacement of the liner system within thirty (30) days of completion.

J. A landfill shall be designed, constructed, and operated to minimize erosion, landslides and sloughing.

K. Where necessary, features shall be provided around closed units or, when leachate is detected in the lower leachate collection system, features shall control horizontal migration of leachate from the disposal unit. These features may include, but are not limited to, recompacted trench walls, slurry trenches, and interceptor trenches.

L. There shall be a minimum of three hundred feet (300') of buffer between the property line of the disposal facility and the permitted area.

M. If the owner/operator accepts any odoriferous waste, the owner/operator shall apply cover or otherwise manage the landfill to control odor dispersal.

N. If gases are generated within the landfill, a gas collection and control system shall be installed to control the vertical and horizontal escape of gases from the landfill.

3. All hazardous wastes accepted for disposal shall be listed in the permit application in accordance with 40 CFR 270.13(j) as incorporated by reference in 10 CSR 25-7.270. In addition, departmental approval of individual waste streams may be required prior to allowing the disposal of the waste streams in the landfill.

4. Wastes having a true vapor pressure greater than seventy-eight millimeters of mercury (78 mm Hg) at twenty-five degrees Celsius (25 °C) are volatile wastes and shall not be landfilled.

(O) Incinerators. This subsection sets forth standards which modify or add to those requirements in 40 CFR part 264 subpart O.

1. Sampling methods to determine compliance with 40 CFR 264.343 incorporated in this rule will be specified by the department in the permit and shall consist of any of the following methods:

A. The methods described in the *Engineering Handbook for Hazardous Waste Incineration*, SW-889, by the United States EPA or equivalent; or

B. The methods specified in 40 CFR part 60 Appendix A (July 1, 1989). For facilities subject to paragraph (2)(O)2. of this rule, the methods referenced in this paragraph shall be used exclusively to determine compliance with the emission limitations required in this subsection.

2. The provisions of 40 CFR part 60 subpart E, July 1, 1989, shall apply and are incorporated by reference as part of this rule. An owner/operator of a hazardous waste incinerator which is regulated under the New Source Performance Standards in that subpart shall comply with the provisions in addition to complying with all other applicable provisions in this rule.

3. Where emission limitations found in both paragraph (2)(O)2. of this rule and in another provision of this rule are applicable to a hazardous waste incinerator, the more stringent shall control.

(P) Health Profiles.

1. An owner/operator shall submit a health profile, as required by section 260.395.7(5), RSMo, with the initial application for a hazardous waste treatment or land disposal facility. A health profile is not necessary for facilities that must obtain a permit for only post-closure care and/or corrective action activities. A health profile shall identify any potential serious illnesses, the rate of which exceeds the state average for the illnesses, which might be attributable to environmental contamination from any hazardous waste treatment or land disposal unit at the hazardous waste facility applying for the permit. The purpose of the information in the health profile is to document the potential for exposure from the applicable hazardous waste treatment or land disposal units and to determine whether additional permit controls are necessary for these units to ensure protection of human health beyond the facility property boundaries. One of the following for each applicable unit or combination of units as approved by the department may constitute a health profile for the purposes of this subsection:

A. For combustion units—

(I) The evaluation described in 40 CFR 270.10(l)(1) for hazardous waste combustion units;

(II) An evaluation of the potential risk to human health resulting from both direct and indirect exposure pathways. In selecting this option, the applicant shall submit a workplan to conduct the evaluation with the initial application; however, the permit shall not be issued until the evaluation is final; or

(III) A Health Evaluation by the Missouri Department of Health and Senior Services requested by the facility according to paragraph (2)(P)4;

B. For other treatment units—

(I) An evaluation of the potential risk to human health resulting from both direct and indirect exposure pathways. In selecting this option, the applicant shall submit a workplan to conduct the evaluation with the initial application; however, the permit shall not be issued until the evaluation is final; or

(II) A Health Evaluation by the Missouri Department of Health and Senior Services requested by the facility according to paragraph (2)(P)4.; and

C. For land disposal units—

(I) The information required by 40 CFR 270.10(j);

(II) An evaluation of the potential risk to human health resulting from both direct and indirect exposure pathways. In selecting this option, the applicant shall submit a workplan to conduct the evaluation with the initial application; however, the permit shall not be issued until the evaluation is final; or

(III) A Health Evaluation by the Missouri Department of Health and Senior Services requested by the facility according to paragraph (2)(P)4.

2. This paragraph sets forth requirements which shall be met subsequent to the initial permit application for hazardous waste treatment and/or land disposal activities.

A. If changes occur after permit issuance that may increase the potential for human exposure to hazardous waste or hazardous constituents from the treatment or land disposal unit, an updated health profile shall be part of a facility application for permit renewal or permit modifications that include addition or modification of a hazardous waste treatment or land disposal unit.

B. Appropriate documentation to be submitted as the updated health profile shall include one (1) of the options set out in subparagraphs (2)(P)1.A. through C., or an update of a previous submittal under those requirements.

3. Additional epidemiological investigations by the Missouri Department of Health and Senior Services may be required if the information provided pursuant to subparagraph (2)(P)2.B. indicates the presence of potentially unacceptable human health risks.

4. A Health Evaluation by the Missouri Department of Health and Senior Services will assess the potential for exposure and adverse health effects to the public from materials released by the applicable hazardous waste units. If the owner or operator chooses to request a Health Evaluation by the Missouri Department of Health and Senior Services to meet the requirements of this subsection, the request shall be submitted with the initial application; however, a permit shall not be issued until the evaluation is final.

(Q) *(Reserved)*

(R) *(Reserved)*

(S) Corrective Action for Solid Waste Management Units. *(Reserved)*

(T) *(Reserved)*

(U) *(Reserved)*

(V) *(Reserved)*

(W) Drip Pads. 40 CFR part 264 subpart W is not incorporated by reference.

(X) Miscellaneous Units. This subsection sets forth requirements in addition to 40 CFR part 264 subpart X incorporated in this rule.

1. A facility which continuously feeds hazardous waste into the treatment process shall be equipped with an automatic waste feed cutoff or a bypass system that is activated when a malfunction in the treatment process occurs. A bypass system shall return hazardous wastefeed to storage and shall not allow a discharge or release of hazardous waste.

2. Residuals of by-products from a treatment process (for example, sludges, spent resins) shall be analyzed during a trial period to determine the effectiveness of the treatment process.

(Y) *(Reserved)*

(Z) *(Reserved)*

(AA) Air Emission Standards for Process Vents. *(Reserved)*

(BB) Air Emis-sion Stand-ards for Equip-ment Leaks. *(Reserved)*

(CC) Air Emission Standards for Tanks, Surface Impoundments, and Containers. *(Reserved)*

(DD) Containment Buildings. *(Reserved)*

(EE) Hazardous Waste Munitions and Explosive Storage. *(Reserved)*

(3) The following requirements apply to hazardous waste TSD facilities that accept and/or ship hazardous waste via railroad tank car (railcar).

(A) The owner/operator shall submit a railcar management plan with the application for a hazardous waste treatment, storage, or disposal facility permit. Permitted facilities that currently accept and/or ship hazardous waste via railcars shall request a Class I permit modification that requires prior director approval for the railcar management plan according to the procedures defined in 10 CSR 25-7.270 within one hundred eighty (180) days of the effective date of this paragraph. Permitted facilities that fail to apply for a permit modification in compliance with this subsection shall cease all operations involved in the acceptance and/or shipment of hazardous waste via railcar. The permitted facility that has fully complied with this subsection has authorization to conduct the operations involved in the acceptance and/or shipment of hazardous waste via railcar, pending action by the director.

1. The railcar management plan shall describe steps to be taken by the facility in order to comply with the requirements of subsections (3)(B)–(3)(F).

2. The railcar management plan shall be maintained at the facility.

(B) Railcars shall not be used as container or tank storage units at a facility unless the owner/operator complies with the standards for container storage set forth in 40 CFR part 264 subpart I as incorporated in this rule and 40 CFR 270.15 as incorporated in 10 CSR 25-7.270. During the time allowed for loading and unloading as set forth in this section, the railcar shall not be considered to be in storage.

1. The owner/operator shall ship hazardous wastes loaded onto a railcar within seventy-two (72) hours after loading is initiated. For the purposes of this section, shipment occurs when—

A. The transporter signs and dates the manifest acknowledging acceptance of the hazardous waste;

B. The transporter returns a signed copy of the manifest to the facility; and

C. The railcar crosses the property boundary line of the TSD facility.

2. The owner/operator shall have a maximum of ten (10) days following receipt of a shipment to unload hazardous waste from incoming railcars. The amount of time allowed for unloading shall be specified in the approved railcar management plan for each facility as part of the permit. The department will review and approve each railcar management plan on a case-by-case basis and will base its decision regarding the time allowed for unloading on factors including, but not limited to, the size of the rail siding, surveillance and security standards, enclosure of the facility, type and amount of emergency response equipment, and the facility's capacity to handle incidents. Unless more time is allowed by an approved railcar management plan, the owner/operator shall unload hazardous waste from an incoming railcar within seventy-two (72) hours of receipt of the shipment. For the purposes of this section, receipt of the shipment occurs when—

A. The owner/operator signs the shipping paper; or

B. The owner/operator signs the manifest; or

C. The railcar crosses the property boundary line of the TSD facility.

3. The time limits in this subsection may be extended for up to an additional twenty-four (24) hours for Saturdays, Sundays, or public holidays as defined in section 9.010, RSMo 2000, that fall within the time period approved in the railcar management plan.

4. If the owner/operator finds that a railcar shipment must be rejected, the railcar shall be shipped within twenty-four (24) hours of that determination, or within the time period approved in the railcar management plan, whichever is later. The rejection and the reasons for the rejection shall be documented in the facility's operating record.

5. The owner/operator shall attempt to arrange for the rail carrier to provide the owner/operator a notification detailing when a railcar was picked up from the facility or when a railcar was delivered to the facility. If the rail carrier declines to enter into such arrangements, the owner/operator must document the refusal in the operating record. The time limitations set forth in this subsection must be documented by recording dates and times in the facility's operating record.

6. If the loading and unloading time frames specified in this section are exceeded, then the owner/operators utilizing railcars shall comply with the standards for container storage in 40 CFR part 264 subpart I, as incorporated in this rule, and with 40 CFR 270.15, as incorporated in 10 CSR 25-7.270.

(C) The owner/operator shall comply with 40 CFR 264.17, incorporated in this rule, during railcar loading and unloading. Additional specific precautions to be taken shall include facility design, construction, operation and maintenance standards as specified in "Loading and Unloading Operations: Tank Vehicles and Tank Cars" in section 5-4.4.1 of the 1993 Edition of the *National Fire Protection Association Flammable and Combustible Liquids Code* (NFPA 30).

(D) The owner/operator shall provide security for railcars at the facility by utilizing one of the alternatives specified in 40 CFR 264.14(b), as incorporated in this rule. If the owner/operator demonstrates that it is not practical to provide security for railcars at the facility as specified in 40 CFR 264.14(b), incorporated in this rule, railcars shall be secured by locking all fill and drain posts upon receipt of a loaded railcar or upon completion of the owner/operator's loading procedures. The locks must remain in place until the owner/operator begins unloading procedures or until the rail carrier picks up the loaded or rejected railcar for transport off-site.

(E) In accordance with 40 CFR 264.15, incorporated in this rule, the owner/operator shall inspect railcars and surrounding areas, at least daily, looking for leaks and for deterioration caused by corrosion or other factors.

(F) In accordance with 40 CFR part 264 subpart C and 40 CFR part 264 subpart D, as incorporated in this rule, the owner/operator shall develop preparedness and prevention procedures and a contingency plan for railcars. If the owner/operator has not prepared a Spill Prevention Control and Countermea-sures (SPCC) Plan for hazardous waste, then one must be developed that parallels requirements and guidelines as specified in 40 CFR part 112 for oil. At a minimum, the SPCC Plan must include adequate spill response equipment and preventative measures, such as dikes, curbing, and containment systems.

10 CSR 25-7.265 Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities

PURPOSE: This rule incorporates 40 CFR part 265 by reference and sets forth additional state standards.

(1) The regulations set forth in 40 CFR part 265, July 1, 2010, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) The owner/operator of a treatment, storage, or disposal (TSD) facility shall comply with the requirements noted in this section in addition to requirements set forth in 40 CFR part 265 incorporated in this rule. In the case of contradictory or conflicting requirements in 10 CSR 25, the more stringent shall control. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the additional requirements to be added to 40 CFR part 265 subpart A are found in subsection (2)(A) of this rule.)

(A) General. In addition to the requirements in 40 CFR part 265 subpart A, the following regulations also apply:

1. This rule does not apply to an owner/operator of an elementary neutralization unit or a wastewater treatment unit receiving only hazardous waste generated on-site or generated by its operator or only one (1) operator if the unit meets the standards set forth in 10 CSR 25-7.270(2)(A)3.;

2. This rule does not apply to an owner/operator for that portion of or process at the facility which is in compliance with 10 CSR 25-9.020 Hazardous Waste Resource Recovery Processes. (Note: Underground injection wells are prohibited in Missouri by section 577.155, RSMo.);

3. State interim status is authorization to operate a hazardous waste treatment, storage, or disposal facility pursuant to section 260.395.15, RSMo, 10 CSR 25-7.265, and 10 CSR 25-7.270 until the final administrative disposition of the permit application is made or until interim status is terminated pursuant to 10 CSR 25-7.270. The owner/operator of a facility or unit operating under state interim status shall comply with the requirements of this rule and 10 CSR 25-7.270. In addition to providing notification to the Environmental Protection Agency (EPA), the owner/operator is required to provide state notification in accordance with 10 CSR 25-7.270; and

4. Hazardous waste which must be managed in a permitted unit (e.g., waste generated on-site and stored beyond the time frames allowed without a permit pursuant to 10 CSR 25-5.262, waste received from off-site, certain hazardous waste fuels, etc.) shall not be stored or managed outside an area or unit which does not have a permit or interim status for that waste for a period which exceeds twenty-four (24) hours. This provision shall not apply to railcars held in areas for handling during the time period allowed by, and managed in accordance with, 10 CSR 25-7.264(3) of this regulation. (Comment: The purpose of this paragraph is to allow the necessary movement of hazardous waste into, out of, and through facilities, and not to evade permit requirements.).

(B) General Facility Standards. This subsection sets forth requirements that modify or add to the requirements in 40 CFR part 265 subpart B.

1. In addition to the requirements in 40 CFR 265.12(a) incorporated in this rule, an owner/operator shall submit to the department a separate analysis for each hazardous waste that s/he intends to import. Each analysis shall contain the following information: the foreign generator's name, site address, and telephone number; a list of applicable EPA waste codes and a percentage of each for each hazardous waste; the flash point determined in accordance with 40 CFR 261.21, incorporated by reference in 10 CSR 25-4; a list of reactive waste(s) as defined in 40 CFR 261.23, incorporated by reference in 10 CSR 25-4; and results of toxicity tests conducted in accordance with 40 CFR 261.24, incorporated by reference in 10 CSR 25-4.261, if applicable.

2. 40 CFR 265.15(b)(5) is not incorporated in this rule.

(C) Preparedness and Prevention. *(Reserved)*

(D) Contingency Plan and Emergency Procedures. *(Reserved)*

(E) Manifest System, Record Keeping, and Reporting. This subsection sets forth standards which modify or add to those requirements in 40 CFR part 265 subpart E.

1. All owners/operators shall comply with the reporting requirements in 10 CSR 25-5.262(2)(D) regardless of whether the owner/operator is required to register as a generator pursuant to 10 CSR 25-5.262(2)(A)1.

2. In addition to the requirements in 10 CSR 25-5.262(2)(D) for hazardous waste generated on-site and shipped off-site for treatment, storage, resource recovery, or disposal, the owner/operator shall meet the same requirements for the following:

A. All hazardous waste generated on-site during the reporting period that is managed on-site; and

B. All hazardous waste received from off-site during the reporting period, including hazardous waste generated by another generator and hazardous waste generated at other sites under the control of the owner/operator.

3. In addition to the information required in 10 CSR 25-5.262(2)(D), an owner/operator shall include the following information in the summary report:

A. A description and the quantity of each hazardous waste that was both generated and managed on-site during the reporting period;

B. For each hazardous waste that is received from off-site, a description and the quantity of each hazardous waste and the corresponding state and EPA identification numbers of each generator;

C. For imports, the name and address of the foreign generator;

D. The corresponding method of treatment, storage, resource recovery, disposal, or other approved management method used for each hazardous waste.

4. As outlined in section 260.380.2, RSMo, all owners/operators shall pay a fee to the department of two dollars ($2) per ton or portion thereof for any and all hazardous waste received from outside of Missouri. This fee shall be referred to as the Out-of-State Waste Fee and shall not be paid on hazardous waste received directly from other permitted treatment, storage, and disposal facilities located in Missouri.

A. For each owner/operator, this fee shall be paid on or before January 1 of each year and shall be based on the total tons of hazardous waste received in the aggregate by that owner/operator for the twelve (12)-month period ending the previous June 30. As outlined in section 260.380.4, RSMo, failure to pay this fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total original fee. Each twelve (12)-month period ending on June 30 shall be referred to as a reporting year.

B. Owners/operators may elect, but are not required, to pay this fee on a quarterly basis at the time they file the reporting required in subparagraphs (2)(E)3.B. and C. of this rule. If they do not choose to pay the fee quarterly, owners/operators may elect, but are not required, to pay the fee at the time they file their final quarterly report of each reporting year. However, the total fee for each reporting year must be paid on or before January 1 immediately following the end of each reporting year.

EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

Example 1. ABC Company reports receiving 250 tons of hazardous waste from outside of Missouri:
$2 × 250 tons = $500 fee

Example 2. ABC Company reports receiving 410.6 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 411.
$2 × 411 tons = $822 fee

Example 3. ABC Company reports receiving 52,149.3 tons of hazardous waste from outside of Missouri. The number of tons would be rounded to 52,150.
$2 × 52,150 tons = $104,300 fee

(F) Groundwater Monitoring. *(Reserved)*

(G) Closure and Post-Closure. This subsection sets forth additional requirements to 40 CFR part 265 subpart G, incorporated in this rule.

1. The incorporation by reference of 40 CFR 265.113(d) and (e) does not relieve the owner/operator of his/her responsibility to comply with 10 CSR 80 if a solid waste permit is required under those rules.

2. The owner/operator of a hazardous waste unit which is certifying closure with residues left in place, regardless of the level of treatment to render the residue nonhazardous, shall meet the requirements in 40 CFR 265.116 incorporated in this rule.

3. In addition to requirements in 40 CFR 265.116, when an owner/operator certifies a closure which did not result in removal of hazardous wastes to background levels, the owner/operator shall record, in accordance with state law, a notation on an instrument which is normally examined during title search that will notify, in perpetuity, a potential purchaser of the property that the land has been used to manage hazardous waste.

4. In addition to the requirements in 40 CFR 265.116 and 265.119 as incorporated in this rule, an owner/operator shall submit a notarized statement to the department certifying that the owner/operator has caused the notation(s) to be recorded. The notation(s) shall be recorded with the recorder(s) of deeds in all counties in which the facility or part of the facility is located.

(H) Financial Assurance Requirements. This subsection sets forth the requirements which modify or add to those requirements in 40 CFR part 265 subpart H.

1. For purposes of this subsection, commercial treatment, storage, or disposal (TSD) facility means any facility that would be considered a commercial hazardous waste treatment, storage, and disposal facility for purposes of 10 CSR 25-12.020, or any facility that is certified as an R2 resource recovery facility according to 10 CSR 25-9.020, or any facility that receives for remuneration polychlorinated biphenyls (PCB) material or PCB units as defined by 10 CSR 25-13.010.

2. In 40 CFR 265.143(a)(3), incorporated by reference in this rule, delete “the 20 years” and insert in its place “a period of five (5) years.”

3. In 40 CFR 265.145(a)(3), incorporated by reference in this rule, delete “the 20 years” and insert in its place “a period of five (5) years.”

4. This paragraph modifies the requirements for surety bonds guaranteeing payment into a closure trust fund or post-closure trust fund per 40 CFR 265.143(b) or 40 CFR 265.145(b), incorporated in this rule.

A. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-closure trust fund shall be authorized to do business in Missouri.

B. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-closure trust fund shall not cancel, terminate, or fail to renew a surety bond guaranteeing payment into a closure or post-closure trust fund and the surety bond shall remain in full force and effect in the event that on or before the date of cancellation—

(I) The director deems the facility abandoned; or

(II) Interim status is terminated or revoked; or

(III) Closure is ordered by the department or a court of competent jurisdiction; or

(IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under 11 U.S.C. section 1, et seq.; or

(V) The premium due is paid; or

(VI) An appeal of an order to close the facility as specified in part (2)(H)4.B.(III) of this subparagraph is pending.

C. Facilities that have a surety bond or bonds guaranteeing payment into a closure trust fund or a post-closure trust fund as of the effective date of this subparagraph shall modify their surety instruments to comply with this paragraph within twelve (12) months of the effective date of this subparagraph.

5. This paragraph modifies the requirements for letters of credit per 40 CFR 265.143(c), incorporated in this rule, 40 CFR 265.145(c), incorporated in this rule, and 40 CFR 265.147(h), incorporated in this rule. Letters of credit shall be issued by a state- or federally-chartered and regulated bank or trust association.

6. An owner/operator of a facility that is a commercial TSD facility may not satisfy financial assurance requirements for closure, post-closure, or liability coverage, or any combination of these, by the use of a financial test as specified in 40 CFR 265.143(e), incorporated in this rule, 40 CFR 265.145(e), incorporated in this rule, or 40 CFR 265.147(f), incorporated in this rule.

7. This paragraph modifies the requirements for closure insurance per 40 CFR 265.143(d), incorporated in this rule, post-closure insurance per 40 CFR 265.145(d), incorporated in this rule, liability coverage for sudden accidental occurrences per 40 CFR 265.147(a)(1), incorporated in this rule, and liability coverage for non-sudden accidental occurrences per 40 CFR 265.147(b)(1), incorporated in this rule. Each insurance policy shall be issued by an insurer which, at a minimum, is licensed to transact the business of insurance or is eligible to provide insurance as an excess or surplus lines insurer in Missouri.

8. In 40 CFR 265.143(e), incorporated in this rule, delete "or a firm with a 'substantial business relationship' with the owner or operator."

9. In 40 CFR 265.145(e), incorporated in this rule, delete "or a firm with a 'substantial business relationship' with the owner or operator."

10. In 40 CFR 265.147(g), incorporated in this rule, delete "or a firm with a 'substantial business relationship' with the owner or operator."

(I) Use and Management of Containers. This subsection sets forth additional standards for container storage areas.

1. Container storage areas shall have a containment system that is designed and operated in accordance with paragraph (2)(I)2. of this rule except as provided by paragraph (2)(I)4. of this rule.

2. A containment system shall be designed, maintained, and operated as follows:

A. A containment system shall have a base which is free of cracks or gaps and is sufficiently impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and removed;

B. The base shall be sloped or the containment system shall be otherwise designed and operated to drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or otherwise protected from contact with accumulated liquids;

C. The containment system shall have a capacity equal to ten percent (10%) of the containerized waste volume or the volume of the largest container, whichever is greater. Containers that do not contain free liquids need not be considered in this calculation;

D. Run-on into the containment system shall be prevented unless the collection system has sufficient excess capacity in addition to that required in subparagraph (2)(I)2.C. of this rule to contain any run-on which might enter the system; and

E. Spilled or leaked waste and accumulated precipitation shall be removed from the sump or collection area in as timely a
manner as is necessary to prevent overflow of the collection system.

3. The containment system shall also be inspected as part of the weekly inspections required by 40 CFR 265.174, incorporated in this rule.

4. Storage areas that store containers holding only wastes that do not contain free liquids or storage facilities that store less than one thousand kilograms (1,000 kg) of nonacute hazardous waste containing free liquids need not have a containment system described in paragraph (2)(I)2. of this rule provided that—

A. The storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from precipitation; or

B. The containers are elevated or are otherwise protected from contact with accumulated liquid.

5. Containers storing hazardous waste must be marked and labeled in accordance with 10 CSR 25-5.262(2)(C) during the entire storage period.

6. Container storage areas which close without removing all hazardous waste and/or hazardous waste constituents to below background levels may pursue either a risk-based closure if there is no evidence of groundwater or surface water contamination or, in the absence of such evidence, close in accordance with 10 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N, as incorporated in subsection (2)(N). The owner/operator shall also comply with the requirements of 10 CSR 25-7.265(2)(G).

7. Containers holding ignitable or reactive waste which are stored outdoors or in buildings not equipped with sprinkler systems shall be located at least fifty feet (50') from the facility's property line.

8. Containers holding ignitable or reactive waste which are stored indoors shall be located at least fifty feet (50') from the facility's property line, unless the following requirements are satisfied:

A. Exposing walls that are located more than ten feet (10') but less than fifty feet (50') from a boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least two (2) hours, with each opening protected by an automatically-closing listed one and one-half (1.5)-hour (B) fire door;

B. Exposing walls that are located less than ten feet (10') from a boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least four (4) hours, with each opening protected by an automatically-closing listed three (3)-hour (A) fire door (Comment: All fire doors, closure devices, and windows shall be installed in accordance with the National Fire Protection Association (NFPA) Code 80, *Standards for Fire Doors and Windows*, 1995 edition);

C. The construction design of exterior walls shall provide ready accessibility for fire-fighting operations through the provision of access openings, windows, or lightweight noncombustible wall panels;

D. Container storage areas shall be provided with automatic fire suppression systems designed and installed in accordance with NFPA 14 (1996 edition), NFPA 15 (1996 edition), NFPA 16 (1995 edition), NFPA 16A (1994 edition), NFPA 17 (1998 edition), NFPA 17A (1998 edition), NFPA 18 (1995 edition), NFPA 20 (1996 edition), NFPA 22 (1996 edition), and NFPA 24 (1995 edition) Standards. Final design of these systems shall be approved by a qualified, registered professional engineer in Missouri;

E. Each container storage area shall have preconnected hose lines capable of reaching the entire area. The fire hose shall be a one and one-half (1.5)-inch line or one-inch (1") hard rubber line. Where a one and one-half (1.5)-inch fire hose is used, it shall be installed in accordance with NFPA 14 (1996 edition). Hand-held fire extinguishers rated for the appropriate class of fire shall be available at each storage area;

F. Only containers meeting the requirements of, and containing products authorized by, Chapter I, Title 49 of the *Code of Federal Regulations* (DOT Regulations) or NFPA 386, *Standard for Portable Shipping Tanks* (1990 edition) shall be used;

G. All storage of ignitable or reactive materials shall be organized in a manner which will not physically obstruct a means of egress. Materials shall not be placed in a manner that a fire would preclude egress from the area. Evacuation plans shall recognize the locations of any automatically-closing fire doors;

H. All containers shall be arranged so that there is a minimum aisle space of four feet (4') between rows, allowing accessibility to each individual container. Double rows can be utilized. Containers shall not be stacked, placed, or both, closer than three feet (3') from ceilings or any roof members; and

I. Explosive gas levels in the facility shall be monitored continuously. If the facility is not manned twenty-four (24) hours per day, a telemetry system shall be provided to alarm designated response personnel.

(J) Tanks. This subsection modifies and adds to the incorporation of 40 CFR part 265 subpart J.

1. 40 CFR 264.190(c) is not incorporated by reference.

2. In 40 CFR 265.193(g)(1) incorporated in this rule, delete "or that in the event of a release that does migrate to ground water or surface water, no substantial present or potential hazard will be posed to human health or the environment." 40 CFR 265.193(g)(2) is not incorporated by reference in this rule. In 40 CFR 265.193(g)(4)(ii) incorporated in this rule, substitute "264.197(b)" for "265.197(b)." For purposes of 40 CFR 265.193(h) incorporated in this rule, "variance" means exception.

3. In 40 CFR 265.196(c) and (c)(2) incorporated in this rule, delete "visible" and "visual." Tank storage areas which close without removing all hazardous waste and/or hazardous waste constituents to below background levels may pursue either a risk-based closure if there is no evidence of groundwater or surface water contamination or in the absence of such evidence, close in accordance with 10 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The owner/operator shall also comply with the requirements of 10 CSR 25-7.265(2)(G).

(K) Surface Impoundments. In addition to the requirements in 40 CFR part 265 subpart K, those surface impoundments which are intended to be closed without removing the hazardous waste shall meet the requirements of 10 CSR 25-7.264(2)(N)1.A. and 40 CFR part 264 subpart N as incorporated in 10 CSR 25-7.264. If the site location for any such impoundment cannot meet these site specific location requirements and contamination exists beyond the liner of the surface impoundment, the owner/operator shall clean up contaminated residues and hazardous constituents to the greatest extent practical during closure. If the department determines, based on the potential impact on human health and the environment, that it is not necessary or not feasible to remove contaminated material down to background concentrations during closure, the owner/operator shall comply with 40 CFR 264.228(b) incorporated in 10 CSR 25-7.264 or shall submit a delisting petition and obtain approval from EPA for that delisting petition pursuant to 40 CFR 260.20 and 40 CFR 260.22 for the contaminated material not removed during closure.

(L) Waste Piles. *(Reserved)*

(M) Land Treatment. *(Reserved)*

(N) Landfills. *(Reserved)*

(O) Incinerators. *(Reserved)*

(P) Thermal Treatment. *(Reserved)*

(Q) Chemical, Physical, and Biological Treatment. *(Reserved)*

(R) Underground Injection. 40 CFR part 265 subpart R is not incorporated by reference.

(S) *(Reserved)*

(T) *(Reserved)*

(U) *(Reserved)*

(V) *(Reserved)*

(W) Drip Pads. 40 CFR part 265 subpart W is not incorporated by reference.

(X) *(Reserved)*

(Y) *(Reserved)*

(Z) *(Reserved)*

(AA) Air Emission Standards for Process Vents. *(Reserved)*

(BB) Air Emission Standards for Equipment Leaks. *(Reserved)*

(CC) Air Emission Standards for Tanks, Surface Impoundments, and Containers. *(Reserved)*

(DD) Containment Buildings. *(Reserved)*

(EE) Hazardous Waste Munitions and Explosives Storage. *(Reserved)*

(3) This section applies to TSD facilities that accept and/or ship hazardous waste via railroad tank cars (railcars). The owner/operator of a TSD facility shall comply with requirements set forth in 10 CSR 25-7.264(3) and shall submit a rail car management plan for inclusion in their part B permit application within one hundred eighty (180) days of the effective date of this section.

10 CSR 25-7.266 Standards for the Management of Specific Hazardous Wastes and Specific Types of Hazardous Waste Management Facilities

PURPOSE: This rule incorporates federal regulations in 40 CFR part 266 by reference and provides Missouri specific additions, deletions, or changes to the federal regulations. This rule provides limited standards for certain hazardous waste management practices, particularly in regard to recyclable materials and sets forth standards for recyclable materials used in a manner constituting disposal, hazardous waste burned in boilers and industrial furnaces recyclable materials utilized for precious metals recovery and spent lead-acid batteries being reclaimed.

(1) The regulations set forth in 40 CFR part 266, July 1, 2010, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) Persons subject to the regulations in 40 CFR part 266 shall comply with the requirements, changes, additions, or deletions noted in this section in addition to 40 CFR part 266 incorporated in this rule. (Comment: This section has been organized so that all Missouri additions or changes to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the changes to the management requirements for hazardous waste fuels, 40 CFR part 266 subpart D, are found in subsection (2)(D) of this rule.)

(A) *(Reserved)*

(B) *(Reserved)*

(C) Recyclable Materials Used in a Manner Constituting Disposal. In addition to the requirements in 40 CFR part 266 subpart C incorporated in this rule, a person who is marketing hazardous waste recyclable materials which would be used in a manner constituting disposal must obtain a hazardous waste resource recovery certification pursuant to 10 CSR 25-9.020.

(D) *(Reserved)*

(E) *(Reserved)*

(F) Recyclable Materials Used for Precious Metals Recovery. *(Reserved)*

(G) Spent Lead-Acid Batteries Being Reclaimed. In addition to the requirements in 40 CFR part 266 subpart G a person who reclaims materials from spent lead-acid batteries shall obtain a hazardous waste resource recovery certification pursuant to 10 CSR 25-9.020.

1. Owners or operators of facilities that store spent batteries before reclaiming them are subject to the following requirements:

A. Notification requirements under section 3010 of RCRA;

B. All applicable provisions in subparts A, B (but not 40 CFR 264.13 (waste analysis)), C, D, E (but not 264.71 or 264.72 (dealing with the use of the manifest and manifest discrepancies)), and F through L of 40 CFR part 264, as incorporated by reference in 10 CSR 25-7.264(1) and modified in 10 CSR 25-7.264(2)(A) through 10 CSR 25-7.264(2)(L);

C. All applicable provisions in subparts A, B (but not 40 CFR 265.13 (waste analysis)), C, D, E (but not 265.71 or 265.72 (dealing with the use of the manifest and manifest discrepancies)), and F through L of 40 CFR part 265, as incorporated by reference in 10 CSR 25-7.265(1) and modified in 10 CSR 25-7.265(2)(A) through 10 CSR 25-7.265(2)(L);

D. All applicable provisions in parts 270 and 124 of the CFR, as incorporated by reference in 10 CSR 25-7.270 and 10 CSR 25-8.124. (Note: The language printed at 10 CSR 25-7.266(2)(G)1.A.–D. above was originally incorporated by reference from 40 CFR 266.80(b), 1994 edition. The language is reprinted here because it was mistakenly omitted from subsequent editions of the *Code of Federal Regulations*.)

(H) Hazardous Waste Burned in Boilers and Industrial Furnaces. Additions, modifications, and deletions to 40 CFR part 266 subpart H "Hazardous Waste Burned in Boilers and Industrial Furnaces" are as follows:

1. 40 CFR 266.100(c)(1) is not incorporated by reference in this rule;

2. Add the following provision to 40 CFR 266.100(d) incorporated in this rule: "The owner/operator of facilities that process hazardous waste solely for metal recovery in accordance with 40 CFR 266.100(d) shall be certified for resource recovery pursuant to 10 CSR 25-9.020";

3. In 40 CFR 266.101(c)(2) incorporated in this rule, replace "paragraph (c)(1)" with "paragraphs (c)(1) and (d)(1)"; and

4. 40 CFR 266.101 is amended by adding a new subsection (d) to 266.101 incorporated in this rule as follows: (d)(1) Treatment facilities. Owners/operators of permitted facilities that thermally, chemically, physically (that is, shredding, grinding, etc.), or biologically treat hazardous waste prior to burning must comply with 10 CSR 25-7.264(2)(X), and owners/operators of interim status facilities that thermally, chemically, physically (that is, shredding, grinding, etc.), or biologically treat hazardous waste prior to burning shall comply with 10 CSR 25-7.265(2)(P) and (Q). Owners/operators of permitted facilities which blend hazardous waste in tanks or containers prior to burning must comply with 10 CSR 25-7.264(2)(J)6., and owners/operators of interim status facilities that blend hazardous waste in tanks or containers prior to burning shall comply with 10 CSR 25-7.265(2)(J).

(I) *Reserved*.

(J) *Reserved*.

(K) *Reserved*.

(L) *Reserved*.

(M) Military Munitions. Additions, modifications, and deletions to 40 CFR part 266 subpart M "Military Munitions" are:

1. Oral and written notifications re-quired by 40 CFR 266.203(a)(1) shall be submitted to the department's emergency response coordinator at (573) 634-2436 or (573) 634-CHEM, in lieu of the director; and

2. Oral and written notifications re-quired by 40 CFR 266.205(a)(1) shall be submitted to the department's emergency re-sponse coordinator at (573) 634-2436 or (573) 634-CHEM, in lieu of the director.

Editor's Note: Subsection (2)(H) becomes effective December 31, 1993.

AUTHORITY: section 260.370, RSMo Supp. 2010 and sections 260.390 and 260.395, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. Amended: Filed Feb. 3, 1987, effective Aug. 1, 1987. Amended: Filed Dec. 1, 1987, effective Aug. 12, 1988. Amended: Filed Feb. 16, 1990, effective Dec. 31, 1990. Amended: Filed Jan. 15, 1991, effective Aug. 1, 1991. Amended: Filed Feb. 14, 1992, effective Dec. 3, 1992. Amended: Filed Jan. 5, 1994, effective Aug. 28, 1994. Amended: Filed Aug. 16, 1995, effective April 30, 1996. Amended: Filed June 1, 1998, effective Jan. 30, 1999. Amended: Filed Feb. 1, 2001, effective Oct. 30, 2001. Amended: Filed March 31, 2006, effective Dec. 30, 2006. Amended: Filed Oct. 15, 2008, effective June 30, 2009. Amended: Filed April 15, 2011, effective Dec. 30, 2011.*

**Original authority: 260.370, RSMo 1977, amended 1980, 1988, 1993, 1995, 2004, 2010; 260.390, RSMo 1977, amended 1980, 1983, 1985, 1993; and 260.395, RSMo 1977, amended 1980, 1983, 1985, 1988, 2000.*

10 CSR 25-7.268 Land Disposal Restrictions

PURPOSE: This rule establishes standards and requirements that identify hazardous wastes that are restricted from land disposal.

PUBLISHER'S NOTE: The secretary of state has determined that the publication of the entire text of the material which is incorporated by reference as a portion of this rule would be unduly cumbersome or expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its headquarters and shall be made available to the public for inspection and copying at no more than the actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is printed here.

(1) The regulations set forth in 40 CFR part 268, July 1, 2010, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(2) Persons who generate or transport hazardous waste and owners/operators of hazardous waste treatment, storage, and disposal facilities shall comply with this section in addition to the regulations in 40 CFR part 268. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the changes to 40 CFR part 268 subpart A are found in subsection (2)(A) of this rule.)

(A) General. This subsection sets forth modifications to 40 CFR part 268 subpart A incorporated by reference in section (1) of this rule.

1. *(Reserved)*

2. The state cannot be delegated the authority from the United States Environmental Protection Agency (EPA) to approve extensions to effective dates of any applicable restrictions, as provided in 40 CFR 268.5 incorporated in this rule. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 268.5 as incorporated in this rule. This modification does not relieve the regulated person of his/her responsibility to comply with 40 CFR 268.5 of the federal hazardous waste management regulations.

3. The state cannot be delegated the authority from the EPA to approve exemptions from prohibitions for the disposal of a restricted hazardous waste in a particular unit(s) based upon a petition demonstrating, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit(s) for as long as the wastes remain hazardous as provided in 40 CFR 268.6 incorporated in this rule. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 268.6 as incorporated in this rule. This modification does not relieve the regulated person of his/her responsibility to comply with 40 CFR 268.6 of the federal hazardous waste management regulations.

(B) 40 CFR part 268 subpart B, Schedule for Land Disposal Prohibition and Establish-ment of Treatment Standards, is not incorporated in this rule.

(C) Prohibitions on Land Disposal. This subsection sets forth modifications to 40 CFR part 268 subpart C incorporated by reference in section (1) of this rule.

1. The waste specific prohibitions in 40 CFR 268.31 apply to the hazardous wastes identified by EPA hazardous waste numbers F020, F023, and F027 as amended in 10 CSR 25-4.261(2)(D)1.A.–C.

2. The waste specific prohibitions in 40 CFR 268.31 apply to the EPA hazardous waste numbers F020, F021, F022, F023, F026, and F027 as amended in 10 CSR 25-4.261(2)(D)2.

3. The hazardous waste identified by the Missouri hazardous waste number MH02 in 10 CSR 25-4.261(2)(D)3. may be disposed in a landfill or surface impoundment only if that unit is in compliance with the requirements specified in 40 CFR 268.5(h)(2) as incorporated in section (1) of this rule and all other applicable requirements of 10 CSR 25-7.264(1) incorporating by reference 40 CFR part 264 and 10 CSR 25-7.265(1) incorporating by reference 40 CFR part 265.

(D) Treatment Standards. This subsection sets forth modifications to 40 CFR part 268 subpart D incorporated by reference in section (1) of this rule.

1. The treatment standards in 40 CFR part 268 subpart D for the hazardous wastes identified by EPA hazardous waste numbers F020, F023, and F027 apply to F020, F023, and F027 hazardous wastes as amended in 10 CSR 25-4.261(2)(D)1.A.–C.

2. The treatment standard in 40 CFR part 268 subpart D for the hazardous wastes identified by EPA hazardous waste numbers F020, F021, F022, F023, F026, and F027 apply to these listed wastes as amended in 10 CSR 25-4.261(2)(D)2.

3. The state cannot be delegated the authority from the U.S. EPA to allow the use of alternative treatment methods as provided in 40 CFR 268.42(b) incorporated in this rule. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 268.42(b) as incorporated in this rule. This modification does not relieve the regulated person of his/her responsibility to comply with 40 CFR 268.42(b) of the federal hazardous waste management regulations.

4. The state cannot be delegated the authority from the U.S. EPA to approve variances from treatment standards as provided in 40 CFR 268.44 incorporated in this rule. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 268.44, as incorporated in this rule. This modification does not relieve the regulated person of his/her responsibility to comply with 40 CFR 268.44 of the federal hazardous waste management regulations.

(E) Prohibitions on Storage. *(Reserved)*

10 CSR 25-7.270 Missouri Administered Permit Programs: The Hazardous Waste Permit Program

PURPOSE: This rule incorporates the federal regulations in 40 CFR part 270 by reference and sets forth additional state requirements.

(1) The regulations set forth in 40 CFR part 270, July 1, 2010, except for the changes made at 70 FR 53453 September 8, 2005, and 73 FR 64667 to 73 FR 64788, October 30, 2008, as published by the Office of the Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

(A) Any federal agency, administrator, regulation, or statute that is referenced in 40 CFR part 270 shall be deleted and the comparable state department, director, rule, or statute as provided in 10 CSR 25-3.260(1)(A) shall be added in its place except as specified in paragraph (2)(A)6. of this rule. The additional substitutions or changes noted in this subsection shall also apply.

1. "Owner/operator" as defined by 10 CSR 25-3.260(2)(O)3. shall be substituted for any reference to "owner and operator" or "owner or operator" in 40 CFR part 270.

(2) The owner/operator of a permitted hazardous waste treatment, storage, or disposal (TSD) facility shall comply with the requirements noted in this rule along with 40 CFR part 270, incorporated in this rule. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this section. For example, the changes to 40 CFR part 270 subpart A are found in subsection (2)(A) of this rule.)

(A) General Information. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart A.

1. When a facility is owned by one (1) person but is operated by another person, both the owner and operator shall sign the permit application, and the permit shall be issued to both.

2. The owner/operator of a new hazardous waste management facility shall contact the department and obtain a United States Environmental Protection Agency (EPA) identification number before commencing treatment, storage, or disposal of hazardous waste.

3. A permit is not required under this rule for an elementary neutralization unit or a wastewater treatment unit receiving only hazardous waste that is generated on-site or generated by its operator or only one (1) generator if the owner/operator, upon request, can demonstrate to the satisfaction of the department the following:

A. There is sufficient evidence that the unit is not leaking;

B. The unit is structurally sound and there is no evidence that the unit will fail or collapse;

C. There are no incompatible wastes being placed in the unit;

D. The owner/operator has been and is in compliance with all present and prior permits and authorizations issued to the owner/operator; and

E. There is no evidence of any past releases from the unit.

4. In addition to the requirements in 40 CFR 270.1(b) incorporated in this rule, the owner/operator shall provide state notification to the department within sixty (60) days after the effective date of a state rule that first requires him/her to comply with 10 CSR 25 where that notification is required.

5. *(Reserved)*

6. In 40 CFR 270.2, substitute "Facility mailing list means the mailing list required of the permittee or applicant in accordance with 10 CSR 25-7.270(2)(B)10." for the definition of "Facility mailing list" given in the incorporated regulation.

7. In 40 CFR 270.3 "Considerations Under Federal Law," do not substitute any comparable Missouri statute or administrative rule for the federal acts and regulations. This does not relieve the owner/operator of his/her responsibility to comply with any applicable and comparable state law or rule in addition to complying with the federal acts and regulations.

(B) Permit Application. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart B.

1. Existing hazardous waste management facilities must submit a state Part A permit application to the department no later than sixty (60) days after the effective date of state rules which first require them to comply with the requirements set forth in 10 CSR 25-7.265 or 10 CSR 25-7.266. A facility which did not meet federal notification and Part A submittal requirements under the Hazardous and Solid Waste Amendments (HSWA) shall not qualify for state interim status. State interim status is granted to those facilities which either meet federal interim status requirements, are required to meet state interim status requirements because no federal interim status requirements affect the filing, or become subject to regulations under state rules which are not promulgated to meet the requirements of 40 CFR part 271.

2. Confidentiality may be requested for the information required in 40 CFR 270.13(a)–(m) incorporated in this rule. 10 CSR 25-3.260(1)(B) sets forth requirements for protection of confidential business information and the availability of information provided under 10 CSR 25. Therefore, 40 CFR 270.12 is not incorporated by reference in this rule.

3. The topographic map required in 40 CFR 270.13(l) incorporated in this rule shall also depict surrounding land uses such as residential, commercial, agricultural, and recreational.

4. Seismic evaluation requirements for hazardous waste management facility permit applicants. 40 CFR 270.14(b)(11)(i) and (ii) are not incorporated in this rule. An applicant for a hazardous waste management facility permit (excluding post-closure) shall design and construct the facility to withstand stresses due to earthquake loading or certify that the existing facility is able to withstand stresses due to earthquake loading. In the event that the regulated unit cannot withstand stresses, the facility shall certify that a release or situation which will endanger human health and/or the environment is not likely to occur. The applicant shall submit as part of the permit application a certification of the adequacy of the design or the ability of the existing facility to withstand stresses due to earthquake loading. The certification shall consider the location of the facility (e.g., the proximity of the facility to an active seismic zone) and must be completed by a qualified professional engineer registered in Missouri.

5. In addition to the topographic map required in 40 CFR 270.14(b)(19) incorporated in this rule, an applicant for a land-based hazardous waste management facility permit shall submit drawings which depict at a minimum—

A. Original contours;

B. Proposed final contours;

C. Original surface water drainage patterns;

D. Proposed final surface water drainage patterns;

E. Layout of the leachate collection system;

F. Layout of the monitoring system;

G. Access roads;

H. Location of soil borings and trenches;

I. Major rock outcrops and sinkholes within the map area;

J. Occupied permanent residential dwelling houses within one-fourth (1/4) mile of the disposal facility boundaries;

K. All available information on private and public wells, public water supply lines, and any aquifers, seeps, sinkholes, caves, or mining areas within one-fourth (1/4) mile of the facility; and

L. For landfills only, a coordinate system referenced to a benchmark and baseline that have been permanently established on the site and referenced to Government Land Office corners and the legal boundaries of the facility as described by a registered land surveyor licensed by Missouri.

6. All submitted engineering plans and reports shall be approved by a registered professional engineer licensed by Missouri. The engineering plans and reports shall specify the materials, equipment, construction methods, design standards, and specifications for hazardous waste management facilities, and processes that will be utilized in the construction and operation of the facility. The engineering plans and reports shall also include a diagram of any piping, instrumentation or process flows, and descriptions of any feed systems, safety cutoffs, bypass systems, and pressure controls (for example, vents).

7. The applicant for a hazardous waste facility permit to construct or operate a facility shall submit the application to the department in triplicate (quadruplicate, if application is made for a land-based management facility). If a permit is issued, the permittee shall submit two (2) copies of the entire approved application to the department.

8. The permit application fee set forth in 10 CSR 25-12.010 shall be submitted with the application.

9. The department will supervise any field work undertaken to collect geologic and engineering data which is to be submitted with the application. The applicant shall contact the department at least five (5) working days prior to conducting any field work that is undertaken to collect geologic and engineering data which is to be submitted with the application. A fee shall also be assessed pursuant to 10 CSR 25-12.010 for all costs incurred by the department in the observation of field work, engineering and geological review of the application, and all other review necessary by the department to verify that the application complies with section 260.395.7., RSMo.

10. The permit application shall include the following information for the purpose of notification:

A. Names and address of all persons listed on the facility mailing list as defined in 10 CSR 25-8.124(1)(A)10.C.(I)(c) shall be submitted in the form of an alphabetical list with five (5) sets of addressed, self-adhesive mailing labels also included; and

B. The name, address, and telephone number of the location where the permit application and supporting documents are to be placed, as described in 10 CSR 25-8.124(1)(B)3.B.(II)(c) and the name of the person at that location who may be contacted to schedule a review of the documents.

11. The applicant shall submit the information required by subsection (2)(H) of this rule in the form of a disclosure statement as part of the permit application.

12. An applicant may be required to submit other information as may be necessary to enable the department to carry out its duties.

13. In addition to the requirements in 40 CFR 270.15 incorporated in this rule, an owner/operator of a facility that treats hazardous waste in containers shall meet the requirements in 40 CFR 270.23 incorporated in this rule.

14. In addition to the requirements in 40 CFR 270.16 incorporated in this rule, an owner/operator of a facility that treats hazardous waste in a tank system shall meet the requirements in 40 CFR 270.23 incorporated in this rule.

15. 40 CFR 270.16(h)(2) is not incorporated in this rule.

16. An owner/operator who stores, treats, or disposes of hazardous waste in surface impoundments shall provide the following information in addition to the requirements of 40 CFR 270.17 incorporated in this rule: detailed plans and an engineering report explaining the location of the saturated zone in relation to the surface impoundment and the design of a double-liner system that incorporates a leak detection system between liners.

17. An owner/operator who disposes of hazardous waste in landfills shall provide the following information in addition to the requirements of 40 CFR 270.21 incorporated in this rule:

A. Engineering reports which describe the geology and hydrology of the site and demonstrate the site suitability as required in 10 CSR 25-7.264(2)(N)1.;

B. Detailed plans and an engineering report addressing the following items:

(I) Management of run off from the disposal facility or unit;

(II) Minimization of erosion, landslides, and sloughing;

(III) Control of horizontal migration of leachate where applicable;

(IV) Delineation of a three hundred foot (300') buffer between the property line of the disposal facility and area to be permitted;

(V) Control of wind dispersal of waste particulate matter where applicable;

(VI) Control of odor dispersal where applicable; and

(VII) Control of escape of gases where applicable.

C. Detailed plans and engineering report explaining the location of the saturated zone in relation to the landfill and the design of a double-liner system that incorporates a leachate collection and removal system above and between the liners; and

D. An explanation of how the volatile waste standards in 10 CSR 25-7.264(2)(N)4. are met.

18. An owner/operator of a hazardous waste treatment facility or operating disposal facility shall submit a health profile as set forth in 10 CSR 25-7.264(2)(P).

19. The person applying for a permit under sections 260.350–260.434, RSMo, shall notify the department in the permit application of any convictions for any acts occurring after July 9, 1990, which would have the effect of limiting competition. The applicant, after submission of the permit application and prior to permit issuance, shall notify the department in writing within thirty (30) days of any conviction for any act which would have the effect of limiting competition.

20. 40 CFR 270.26 is not incorporated in this rule.

21. The owner/operator of a TSD facility that accepts and/or ships hazardous waste via railroad tank car (railcar) shall submit a railcar management plan in accordance with the requirements set forth in 10 CSR 25-7.264(3).

22. The person applying for a permit under sections 260.350–260.434, RSMo, shall comply with the requirements of 10 CSR 25-8.124(1).

(C) Permit Conditions. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart C.

1. This paragraph sets forth the procedures for issuance of a hazardous waste facility permit, construction certification, and authorization to begin operation.

A. If, after public notice in accordance with 10 CSR 25-8.124 and review of the application, the department determines that the application conforms with the provisions of sections 260.350–260.434, RSMo, and all standards and rules corresponding, the department shall issue the hazardous waste facility permit to the applicant upon payment of a fee of one thousand dollars ($1000) for each facility for each year the permit is to be in effect beyond the first year. The department will issue an EPA identification number to the facility at the time.

B. The applicant may begin construction or alterations at the facility in accordance with the approved plans, reports, design specifications, and procedures after receiving the facility permit. When construction is completed as approved in the permit and the financial requirements of this chapter have been fulfilled, the owner/operator shall submit a written request as required in 40 CFR 270.30(l)(2) incorporated in this rule to the department for authorization to begin operation.

C. If the permit is for a facility operating under interim status, the department may deny authority to operate under the permit if the construction required under the permit is not completed in accordance with the approved plans within the time period specified in the permit or within the time period as extended by the department for cause due to circumstances beyond the permittee's control.

D. The appeal period for a permit or any condition of a permit shall begin on the date of issuance of the permit as required in subparagraph (2)(C)1.A. of this rule. However, for the purposes of termination of interim status pursuant to 40 CFR 270.73(a) incorporated in this rule, final administrative disposition of the permit application shall occur either—

(I) Thirty (30) days after issuance of a letter of authorization pursuant to subparagraph (2)(C)1.B. of this rule, unless a notice of appeal is filed with the commission within that time;

(II) Thirty (30) days after denial of authorization to operate pursuant to subparagraph (2)(C)1.C. of this rule, unless a notice of appeal is filed with the commission within that time; or

(III) Upon the issuance of a decision by the commission, after timely appeal of an action under subparagraph (2)(C)1.B. or C. of this rule.

2. The department may deny the permit application if—

A. The applicant fails to submit a complete application in accordance with, and within the time specified in, a notice of deficiency issued pursuant to 10 CSR 25-8.124(1)(A)3.;

B. The applicant has failed to fully disclose all relevant information in the application or during the permit issuance process or has misrepresented facts at any time;

C. The department determines that the application does not conform with the provisions of sections 260.350–260.434, RSMo, and all corresponding standards and rules, or that the facility cannot be effectively operated and maintained in full compliance with sections 260.350–260.434, RSMo, and all corresponding standards and rules, or that the facility is being operated or maintained in violation of a present permit, or that continued operation of the facility presents an unreasonable threat to human health or the environment or will create or allow for the continuance of a public nuisance;

D. The department determines that the applicant owner/operator is a habitual violator as defined in subsection (2)(H) of this rule;

E. The department determines that one (1) of the conditions specified in section 260.395.17., RSMo, is present; or

F. The applicant owner/operator fails to submit the permit fees required by subparagraph (2)(C)1.A. of this rule within thirty (30) days of receipt of notice from the department that the fees are due.

3. In 40 CFR 270.30(l)(2) introductory text incorporated in this rule, delete "except as provided in 270.42."

4. The owner/operator of a facility permitted under sections 260.350–260.434, RSMo, shall notify the department in writing of any conviction for any act occurring after July 9, 1990, which would have the effect of limiting competition. This written notification shall be provided within thirty (30) days of the conviction or plea and shall comply with the requirements at subsection (2)(I) of this rule.

(D) Changes to Permit. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart D.

1. In addition to the requirements of 40 CFR 270.40(b), the department shall determine, in accordance with subsection (2)(H) of this rule, whether the proposed owner or operator, including an officer or management employee of the proposed owner or operator, is a person described in section 260.395.16, RSMo, and whether any of the conditions specified in section 260.395.17, RSMo, would exist if the proposed transfer were to take place.

2. "Revocation and reissuance" of a permit, as that term is used in 40 CFR part 270 incorporated in this rule, shall mean the same as "total modification" as that term is used in 10 CSR 25-8.124.

3. The "termination" of a permit, as used in 40 CFR part 270 incorporated in this rule, shall mean the same as "revocation" of a permit as used in 10 CSR 25-8.124.

4. The director shall suspend, revoke, or not renew the permit of any person to treat, store, and dispose of hazardous waste if that person has had two (2) or more convictions in any court of the United States or of any state other than Missouri, or two (2) or more convictions within a Missouri court for crimes or criminal acts occurring after July 9, 1990, an element of which involves restraint of trade, price fixing, intimidation of the customers of any person, or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated under Chapter 260, RSMo, the Resource Conservation and Recovery Act, or similar laws of other states within any five (5)-year period. Convictions by entities which occurred prior to the purchase or acquisition by a permittee shall not be included. The permittee shall submit a written report to the department within thirty (30) days of the conviction or plea. The report shall include information explaining the charge(s) on which the permittee was convicted, the date(s) of the conviction(s), and the date(s) and charge(s) of previous convictions.

5. The owner/operator of a facility that has had his/her permit (issued under the provisions of sections 260.350–260.434, RSMo) revoked under section 260.379, RSMo, may apply to the department for reinstatement of his/her permit after five (5) years have elapsed from the date of the last conviction of crimes or criminal acts as described in section 260.379, RSMo. The application must be in writing and accompanied by a reapplication fee, updated permit application, and any other information the department deems necessary in order to reinstate the permit.

6. 40 CFR 270.42(j)(1) and 40 CFR 270.42(j)(2) are not incorporated in this rule.

7. 40 CFR 270.42(l) is not incorporated into this rule.

(E) Expiration and Continuation of Permits. The director will review all permits for operating disposal facilities every five (5) years after issuance for conformance with applicable current hazardous waste rules and laws. The permit will be modified as necessary to conform with the applicable rules and laws.

(F) Special Forms of Permits. *(Reserved)*

(G) Interim Status. This subsection sets forth requirements which modify or add to those requirements in 40 CFR part 270 subpart G.

1. An owner/operator who becomes regulated under 10 CSR 25-7 shall operate in compliance with interim status in accordance with paragraphs (2)(A)4. and (2)(B)1. of this rule.

2. In addition to the items in 40 CFR 270.73 incorporated in this rule, interim status terminates when the department issues an order or commences an action pursuant to paragraph (2)(G)4. of this rule requiring the owner/operator to cease operations and undertake closure actions at the facility or at a unit.

3. The owner/operator, at any time, voluntarily may submit a permit application pursuant to this rule.

4. Upon a determination by the department that the facility is not being operated or cannot be operated in full compliance with the requirements of 10 CSR 25-7.265, the department, in lieu of or in addition to requiring the submittal of a permit application pursuant to paragraph (2)(G)1. of this rule, may take an enforcement action pursuant to sections 260.410, 260.420, and 260.425, RSMo, as it deems appropriate under the circumstances in order to fully and effectively protect public health and the environment.

(H) Habitual Violators. This subsection describes how the department shall determine whether a hazardous waste management facility permit applicant is a habitual violator for purposes of implementing section 260.395.16, RSMo. This subsection applies to the issuance, reissuance, or total modification of hazardous waste management facility permits, excluding post-closure and corrective action only permits, and to hazardous waste resource recovery facilities for the activities subject to permit requirements in 10 CSR 25-7.264.

1. The department shall consider the applicant's prior operating history pursuant to section 260.395.16, RSMo, during the review of an application for a permit to operate a hazardous waste management or commercial polychlorinated biphenyl (PCB) facility. All documentation required by this subsection shall be submitted along with the information specified in 40 CFR part 270 subparts B and D incorporated by reference in section (1) of this rule and modified in subsection (2)(B) of this rule, paragraph (2)(D)1. of this rule, and 10 CSR 25-13.010(9)(B).

2. Definitions. The definitions in this paragraph apply to subsection (2)(H) of this rule.

A. Facility, for purposes of calculating violations as required in paragraph (2)(H)5. of this rule, means each permitted, licensed interim status, unpermitted or unlicensed hazardous waste management or commercial PCB facility, solid waste disposal area, solid waste processing facility, certified hazardous waste resource recovery facility, or solid or hazardous waste transporter or transfer station.

B. Person, in addition to the definition in section 260.360(17) RSMo, shall mean an officer or management employee of the applicant, any officer or management employee of any corporation or business which owns an interest in the applicant, any officer or management employee of any business in which an interest is owned by any person, corporation, or business which owns an interest in the applicant, or any officer or management employee of any corporation or business in which an interest is owned by the applicant.

C. Management employee means any individual, including a supervisor, who has the authority to serve as an agent for the employer in that the employee has the authority to perform or effectively recommend any one (1) or more of the following actions: hiring, firing, assigning, or directing other employees with respect to waste management operations.

D. Violation means any one (1) or more of the following actions or an equivalent action by this or another regulatory agency or competent authority in response to any violation of the Missouri solid or hazardous waste management law, the solid or hazardous waste management law of another state, or any federal law governing the management of solid waste, hazardous waste, PCB material, or PCB units:

(I) Final administrative order;

(II) Final permit revocation;

(III) Final permit suspension;

(IV) Civil judgment against the applicant;

(V) Criminal conviction; or

(VI) Settlement agreement in connection with a civil action which has been filed in court.

E. Interest, as used in "owning an interest in," means having control of at least seven and one-half percent (7.5%) of an applicant or person as defined in subparagraph (2)(H)2.B. of this rule. This is determined by multiplying the percentages of ownership at each successive level and comparing this result to a seven and one-half percent (7.5%) cutoff level. For city, county, state, federal, and military-owned facilities, interest, or owning an interest in, is defined as one (1) level above or below the facility applying for the permit. (For example, a military-owned facility shall consider one (1) command level above the base on which the facility will be operated as having an interest in the facility. Likewise, the "command" shall consider itself as having an interest in all facilities within the command).

F. Habitual violator means a person who has failed the habitual violator test set out in paragraph (2)(H)5. of this rule.

3. For the purpose of this subsection, any administrative action or order, judgment, or criminal conviction that has been ruled on appeal in favor of the applicant by a final decision of a competent authority will not be considered to be a violation. If the applicant has an appeal pending, the outcome of which will affect the issuance of a permit, the department shall delay issuance of the permit until a final decision is rendered.

4. The permit applicant shall submit the following information on the Habitual Violator Disclosure Statement form provided by the department, incorporated by reference in this rule, and published in the appendix to this rule as part of the permit application:

A. Names and addresses of all persons meeting any of the following criteria:

(I) Any person who owns an interest in the applicant;

(II) Any person in whom an interest is owned by any person who owns an interest in the applicant; and

(III) Any person in whom the applicant owns an interest;

B. A list of all solid waste management, infectious waste management, commercial PCB management and hazardous waste management permits (Part A and Part B), licenses, certifications, or equivalent documents held within the last ten (10) years by the applicant or any person(s) reported under subparagraph (2)(H)4.A. of this rule, for the operation or post-closure of a solid waste management, infectious waste management, commercial PCB or hazardous waste management facility, or a combination of these, as defined in subparagraph (2)(H)2.A. of this rule, in Missouri or in the United States and for each provide the following information:

(I) Permit or identification number;

(II) Type of permit, license, certification, or equivalent document and dates held;

(III) Name(s) of the person(s) to whom each permit, license, certification, or equivalent document was issued;

(IV) Address or location of each facility; and

(V) Issuing agency;

C. The structure of the applicant in relation to any person(s) reported in accordance with subparagraph (2)(H)4.A.;

D. Names and addresses of the officers and management employees of any person(s) reported in accordance with subparagraph (2)(H)4.A.;

E. A list of all violations, including the identification of any action for which an appeal or final judgment is pending, as defined in subparagraph (2)(H)2.D. of this rule cited within ten (10) years preceding the date of the permit application incurred by any persons required to be reported under subparagraph (2)(H)4.A. or (2)(H)4.D. of this rule. Each listing shall include the following information:

(I) Dates of violations;

(II) A brief description of each violation, including the type of regulatory action taken;

(III) Statutory or regulatory references, or both, to each specific statute or administrative rule that was violated;

(IV) Name and location of the facility cited; and

(V) Name and address of the issuing agency, and name and address of any competent authority with final jurisdiction regarding each violation;

F. A brief description of all incidents in which any person(s) reported under subparagraph (2)(H)4.A or (2)(H)4.D. of this rule have been adjudged in contempt of any court order enforcing the provisions of any state's solid or hazardous waste laws, or federal laws pertaining to hazardous waste;

G. A listing of all facilities as defined at (2)(H)2.A. owned or operated by any person required to be reported at (2)(H)4.A. or (2)(H)4.D. A brief justification as to why the facility has been included on the listing; and

H. All other information requested by the department necessary for the department to conduct an evaluation of the overall operating history of the applicant.

5. The habitual violator test.

A. A total of calculated violations shall be determined by the following formula:

Number of violations (as defined in subparagraph (2)(H)2.D. of this rule), occurring within the ten (10) years preceding the date of the permit application, incurred by any person required to be reporte [illegible] ded by the total number of facilities (as defined in subpar [illegible] e number of calculated violations.

$$\frac{\text{Number of violations}}{\text{Total Number of Facilities}} = \text{Calculated Violations}$$

B. If the total of calculated violations is two (2.0) or less, the applicant has passed the habitual violator test. If the total of calculated violations is greater than two (2.0), the department will notify the applicant of his/her score. Upon receipt of notification, the applicant shall have thirty (30) days to produce clear and convincing evidence to the department which demonstrates that the applicant is not a habitual violator. The department shall determine whether the evidence is clear and convincing for the purpose of the habitual violator determination. If the evidence produced by the applicant is not found to be clear and convincing, or if no evidence is produced, the department will determine the applicant to be a habitual violator, and the department will notify the applicant of permit denial. If the evidence produced by the applicant is found to be clear and convincing, the department may determine that the applicant has not failed the habitual violator test (if the department determines the applicant has failed, a notice of denial will be sent to the applicant by the department) only after the department has considered the following factors:

(I) The nature and severity of violations;

(II) Any substantial realignment of corporate structure or corporate philosophy, or both;

(III) Any significant pattern of improved environmental compliance;

(IV) The complexity of the facilities and the volume of waste handled; and

(V) Any other relevant factors presented as evidence.

6. The department shall deny a permit for failure of the applicant to provide the required information or for submission of false information.

7. The department may deny a permit for failure of the applicant to provide complete information when submission of the information is required by this rule.

8. The department shall deny a permit if the applicant has failed the habitual violator test specified in paragraph (2)(H)5. of this rule.

9. The department shall not issue a permit to an applicant or a person who has offered in person or through an agent any inducement, including any discussion of possible employment opportunities, to any department employee when that person has an application for a permit pending or a permit under review. Distribution of job announcements from an applicant to the department, which are made in the regular course of business and are intended for general dissemination, shall not be considered improper inducements.

10. The department shall deny a permit if any person(s) reported in accordance with subparagraph (2)(H)4.A. or (2)(H)4.D. of this rule has been adjudged in contempt of any court order enforcing the provisions of any state's solid or hazardous waste management laws, or federal laws pertaining to hazardous waste.

11. Any person aggrieved by a permit denial under this subsection may appeal the decision by filing a petition with the Missouri Hazardous Waste Management Commission within thirty (30) days of notice of denial. The appeal hearing shall be conducted in accordance with section 260.400, RSMo, and 10 CSR 25-8.124(2).

(I) Restraint of Trade.

1. Any person, as defined in section 260.379.1, RSMo, applying for a permit to operate a hazardous waste treatment, storage, or disposal facility shall notify the director of any conviction occurring after July 9, 1990, for any crimes or criminal acts specified in section 260.379, RSMo. The person shall include any crimes or criminal acts for which an appeal or about which a final judgment is pending. The applicant shall submit this information with the permit application. Any person with a permit application pending, or to whom a permit has been granted, shall notify the department within thirty (30) days of the conviction or plea. The information shall be submitted in the form of a disclosure statement worded as specified in paragraph (2)(I)4. and shall include the following information:

A. Date of conviction or plea;

B. The specific charge and statutory citation;

C. Statutory or regulatory references, or both, and citations to each specific statute or administrative rule that was violated;

D. Name and location of each facility or person cited;

E. Name and address of the court; and

F. Any other information requested by the department.

2. The department shall deny, suspend, revoke, or not renew a permit if the applicant or permittee fails to submit the required information, the information submitted is false, or the applicant or permittee exceeds the number of convictions allowed under section 260.379, RSMo.

3. Rehabilitation and reinstatement.

A. A person may apply to the department for reinstatement of a permit that has been revoked under the provisions of subsection (2)(I) of this rule and section 260.379, RSMo, no sooner than five (5) years after revocation. The person shall demonstrate to the department that s/he had no convictions or pleas for any crimes or criminal acts as specified in section 260.379, RSMo, in any court in any state, or any federal court, within five (5) years preceding the request for reinstatement. The person shall also prove that no litigation or appeal is pending against the person for any crimes or criminal acts specified in section 260.379, RSMo.

B. If the permit is reinstated, the permittee, for a period of five (5) years from the date of reinstatement, shall file semi-annual disclosure statements prepared in accordance with the requirements of this subsection (2)(I).

C. If any conviction or plea for the acts specified in section 260.379, RSMo, is entered in any court in any state during the five (5)-year period immediately following reinstatement, the reinstated permit shall be revoked for a period of at least five (5) years. Following this five (5)-year period, the person may reapply for reinstatement of the permit.

4. The disclosure statement specified in paragraph (2)(I)1. of this rule shall be worded as follows, except that instructions in parentheses are to be replaced with the relevant information, and the parentheses deleted:

(*Name of permit applicant*) (insert, "EPA Identification Number_____," if applicable) hereby certifies that the following list contains all instances in which any person, as defined by section 260.379.1, RSMo, has been convicted or pled to any crimes or criminal acts an element of which involves restraint of trade, price-fixing, intimidation of the customers of any person, or for engaging in any other acts which may have the effect of restraining or limiting competition concerning activities regulated under Chapter 260, RSMo, or similar laws of other states or the federal government; except that convictions for violations by entities purchased or acquired by an applicant or permittee which occurred prior to the purchase or acquisition, shall not be included. (For each conviction or plea required to be reported, provide a listing of the information required in 10 CSR 25-7.270(2)(I)1.A.–F. If no conviction or plea is required to be reported, so state.)

I hereby certify the following:

a) The above information is complete and truthful as of the date this statement was signed;

b) The wording of this disclosure statement is identical to the wording specified in 10 CSR 25-7.270(2)(I)4. on the date this statement was signed; and

c) In such matters, I, the undersigned, do have the authority to act as agent for the permit applicant.

(Signature)

(Name)

(Title)

(Date)

(Seal)

(Notary seal and signature)

AUTHORITY: section 260.370, RSMo Supp. 2010 and sections 260.390 and 260.395, RSMo 2000. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. Amended: Filed Feb. 3, 1987, effective Aug. 1, 1987. Amended: Filed Dec. 1, 1987, effective Aug. 12, 1988. Amended: Filed Feb. 16, 1990, effective Dec. 31, 1990. Amended: Filed Jan. 15, 1991, effective Aug. 1, 1991. Amended: Filed Feb. 14, 1992, effective Dec. 3, 1992. Amended: Filed Jan. 5, 1993, effective Aug. 9, 1993. Amended: Filed June 3, 1993, effective Jan. 31, 1994. Amended: Filed Jan. 5, 1994, effective Aug. 28, 1994. Amended: Filed April 4, 1994, effective Oct. 30, 1994. Amended: Filed Aug. 16, 1995, effective April 30, 1996. Amended: Filed June 1, 1998, effective Jan. 30, 1999. Amended: Filed Feb. 1, 2001, effective Oct. 30, 2001. Amended: Filed March 31, 2006, effective Dec. 30, 2006. Amended: Filed Oct. 15, 2008, effective June 30, 2009. Amended: Filed April 15, 2011, effective Dec. 30, 2011.*

**Original authority: 260.370, RSMo 1977, amended 1980, 1988, 1993, 1995, 2004, 2010; 260.390, RSMo 1977, amended 1980, 1983, 1985, 1993; and 260.395, RSMo 1977, amended 1980, 1983, 1985, 1988, 2000.*

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