



DRAFT – FOR DISCUSSION AND INFORMATIONAL PURPOSES ONLY.

24 10 CSR 25-3.260 Definitions, Modifications to Incorporations and Confidential Business Information

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

28 (1) The regulations set forth in 40 CFR part 260, July 1, **2013**, as published by the Office of the Federal  
29 Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA  
30 15250-7954, are incorporated by reference, except for the changes made at 70 FR 53453, September 8,  
31 2005, and 73 FR 64667 to 73 FR 64788, October 30, 2008, subject to the following additions, modifications,  
32 substitutions, or deletions. This rule does not incorporate any subsequent amendments or additions.

33 (A) Except where otherwise noted in sections (2) and (3) of this rule or elsewhere in 10 CSR 25, any  
34 federal agency, administrator, regulation, or statute that is referenced in 40 CFR parts 260–270, 273, and  
35 279, and incorporated by reference in 10 CSR 25, shall be deleted and in its place add the comparable state  
36 department, director, rule, or statute. Where conflicting rules exist in 10 CSR 25, the more stringent shall  
37 control.

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

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

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

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

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

50 6. “10 CSR 25-3.260” shall be substituted for any reference to 40 CFR part 260.

51 7. “10 CSR 25-4.261” shall be substituted for any reference to 40 CFR part 261.

52 8. “10 CSR 25-5.262” shall be substituted for any reference to 40 CFR part 262.

53 9. “10 CSR 25-6.263” shall be substituted for any reference to 40 CFR part 263.

54 10. “10 CSR 25-7.264” shall be substituted for any reference to 40 CFR part 264.

55 11. “10 CSR 25-7.265” shall be substituted for any reference to 40 CFR part 265.

56 12. “10 CSR 25-7.266” shall be substituted for any reference to 40 CFR part 266.

57 13. “10 CSR 25-7.268” shall be substituted for any reference to 40 CFR part 268.

58 14. “10 CSR 25-7.270” shall be substituted for any reference to 40 CFR part 270.

59 15. “10 CSR 25-8.124” shall be substituted for any reference to 40 CFR part 124.

60 16. “10 CSR 25-11.279” shall be substituted for any reference to 40 CFR part 279.

61 17. “10 CSR 25-16.273” shall be substituted for any reference to 40 CFR part 273.

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

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

65 20. “Section 260.420, RSMo” shall be substituted for “Section 7003 of RCRA.”

66 21. “Waste within the meaning of section 260.360(21), RSMo,” shall be substituted for “solid waste  
67 within the meaning of section 1004(27) of RCRA.” Residual materials specified as wastes under section  
68 260.360(21), RSMo, shall mean any spent materials, sludges, by-products, commercial chemical products,  
69 or scrap metal that are solid wastes under 40 CFR 261.2, as incorporated in 10 CSR 25-4.261.

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

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71 23. “Chapter 610, RSMo, sections 260.430 and 260.550, RSMo, 10 CSR 25-3.260(1)(B), and 10 CSR  
72 25-7.270(2)(B)” shall be substituted for any reference to the Federal Freedom of Information Act (5 U.S.C.  
73 552(a) and (b)), 40 CFR part 2, or Section 3007(b) of RCRA.

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

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

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

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

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

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

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

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

104 B. Any person who submits information to the department in accordance with 10 CSR 25 may assert a  
105 claim of business confidentiality covering a part or all of that information by including a letter with the  
106 information which requests protection of specific information from disclosure. Information covered by this  
107 claim will be disclosed by the department to the extent and by means of the procedures set forth in Chapter  
108 610, RSMo. However, if no claim accompanies the information when it is received by the department, the  
109 information may be made available to the public without further notice to the person submitting it. The  
110 department will respond to requests for protection of business information within twenty (20) business days;  
111 and

112 C. The department will respond to requests for information within three (3) business days except as  
113 provided in Chapter 610, RSMo, and except as allowed for reasonable cause in accordance with Chapter  
114 610, RSMo. When the period for document production must exceed three (3) business days for reasonable  
115 cause, the department will provide the document within no more than twenty (20) business days.

116 (B) Definitions. *(Reserved)*

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

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

122 (3) Missouri Specific Definitions. Definitions of terms used in 10 CSR 25. This section sets forth definitions  
123 which modify or add to those definitions in 40 CFR parts 60, 260–270, 273, and 279 and 49 CFR parts 40,  
124 171–180, 383, 387, and 390–397.

125 (A) Definitions beginning with the letter A.

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

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

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

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

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

137 (C) Definitions beginning with the letter C.

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

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

140 3. Commission means the Hazardous Waste Management Commission of Missouri created by section  
141 260.365, RSMo.

142 ~~4. Compliance procedure means any proceeding instituted under sections 260.350–260.434, RSMo,  
143 which seeks to require compliance with, or which is in the nature of an enforcement action or an action to  
144 cure a violation of, sections 260.350–~~

145 ~~260.434, RSMo, or rules adopted under those sections, or permits, licenses, or certifications issued under  
146 those sections. A compliance procedure includes, without limitation, an order issued pursuant to section  
147 260.410, RSMo, or any denial or revocation of or notice of intent to revoke a license, permit, or certification  
148 pursuant to, or any civil or criminal action filed in the courts of Missouri pursuant to, sections 260.350–  
149 260.434, RSMo. A compliance procedure is considered to be pending from the time an order, denial,  
150 revocation, or notice of intent to revoke is issued by the director or judicial proceedings begin, until the  
151 director notifies the person subject to the compliance procedure in writing that the violation has been  
152 corrected or that the procedure has been withdrawn or dismissed.~~

153 (D) Definitions beginning with the letter D.

154 1. Department means the Missouri Department of Natural Resources.

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

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

157 4. DOT means the United States Department of Transportation.

158 (E) Definitions beginning with the letter E.

159 ~~1. Extended reporting period means a declaration or endorsement in a liability insurance policy required  
160 by 10 CSR 25.7 which provides an extension of the coverage of the policy to claims otherwise covered by  
161 the policy and first made during a specified period immediately following the effective date of cancellation  
162 or nonrenewal of the policy. The specified period shall be of at least twelve (12) months duration.~~

163 (F) Definitions beginning with the letter F.

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

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

168 (G) Definitions beginning with the letter G.

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

170 (H) Definitions beginning with the letter H.

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

173 ~~2. Hazardous constituent means any chemical compound listed in 40 CFR part 261 Appendix VIII as~~  
174 ~~incorporated in 10 CSR 25-4.261. (This is different than the term hazardous waste constituent as defined in~~  
175 ~~40 CFR 260.10.)~~

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

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

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

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

189 (I) Definitions beginning with the letter I.

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

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

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

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

197 (L) Definitions beginning with the letter L.

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

200 (M) Definitions beginning with the letter M.

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

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

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

209 (O) Definitions beginning with the letter O.

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

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

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

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

223 (P) Definitions beginning with the letter P.

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

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

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

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

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

235 (R) Definitions beginning with the letter R.

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

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

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

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

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

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

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

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

264 (S) Definitions beginning with the letter S.

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

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

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

273 (T) Definitions beginning with the letter T.

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

277 2. Transporter; see hazardous waste transporter.

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

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

282 (U) Definitions beginning with the letter U.

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

285 2. Used oil.

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

289 (I) Lubrication/cutting oil;

290 (II) Heat transfer;

291 (III) Hydraulic power; or

292 (IV) Insulation in dielectric transformers.

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

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

300 ~~3. USGS means United States Geological Survey.~~

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

305 (V) Definitions beginning with the letter V.

306 ~~1. Vapor recovery system means a system capable of collecting vapors and discharged gases and a vapor~~  
307 ~~processing system capable of processing those vapors and gases so as to control emission of contaminants to~~  
308 ~~the atmosphere. Emission not retained by vapor recovery systems, except for emissions regulated in 10 CSR~~  
309 ~~25, are regulated by rules adopted by the Missouri Air Conservation Commission, 10 CSR 10.~~

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

311 (W) Definitions beginning with the letter W.

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

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

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

319 (Y) Definitions beginning with the letter Y.

320 (*Reserved*)

321 (Z) Definitions beginning with the letter Z.

322 (*Reserved*)

324 **10 CSR 25-4.261 Methods for Identifying Hazardous Waste**

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

329 (1) The regulations set forth in 40 CFR part 261, July 1, **2013**, as published by the Office of the Federal  
330 Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA  
331 15250-7954, are incorporated by reference, except for the changes made at 55 FR 50450, December 6, 1990,  
332 56 FR 27332, June 13, 1991, 60 FR 7366, February 7, 1995, 63 FR 33823, June 19, 1998, 70 FR 53453,  
333 September 8, 2005, 73 FR 64667 to 73 FR 64788, October 30, 2008, and 73 FR 77954, December 19, 2008.  
334 This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in  
335 this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to  
336 any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the  
337 more stringent shall control.

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

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

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

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

356 3. In Table 1 of 40 CFR 261.2, add an asterisk in column 3, row 6, Reclamation of Commercial  
357 Chemical Products listed in 40 CFR 261.33 and add the following additional footnotes: “Note 2.  
358 Commercial chemical products listed in 40 CFR 261.33 are not solid wastes when the original manufacturer  
359 uses, reuses, or legitimately recycles the material in his/her manufacturing process”; **“Note 3. Gasoline and**  
360 **diesel fuels are not solid wastes if they are legitimately used as fuels.”**

361 4. *(Reserved)*

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

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

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

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372 ~~8. 40 CFR 261.4(a)(11) is not incorporated in this rule;~~

373 9. 40 CFR 261.4(a)(16) is not incorporated in this rule (Note: The paragraph at 40 CFR 261.4(a)(16)  
374 added by 63 FR 33823, June 19, 1998, is the paragraph not incorporated by 10 CSR 25-4.261(2)(A)9.);

375 **10. 40 CFR 261.4(a)(20) and (21) are not incorporated in this rule.**

376 ~~10. Household hazardous waste which is segregated from the solid waste stream becomes a regulated  
377 hazardous waste upon acceptance by delivery at a commercial hazardous waste treatment, storage, or  
378 disposal facility. Any waste for which the commercial facility becomes the generator in this way shall not be  
379 subject to waste minimization requirements under 40 CFR 264.73(b)(9), as incorporated by 10 CSR 25-  
380 7.264(1), nor shall that facility be required to pay hazardous waste fees and taxes on that waste pursuant to  
381 10 CSR 25-12.010;~~

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

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

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

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

390 ~~C. A process, procedure, method, or technology is considered to be on-site treatment for the purposes  
391 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  
392 criteria:~~

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

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

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

399 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  
400 incorporated in this rule. The state may not assume authority from the Environmental Protection Agency  
401 (EPA) to receive notifications of intent to export or to transmit this information to other countries through  
402 the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does  
403 not relieve the regulated person of the responsibility to comply with the Resource Conservation and  
404 Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies;

405 ~~14. 40 CFR 261.6(a)(4) is amended by adding the following sentence: "Used oil that exhibits a  
406 hazardous characteristic and that is released into the environment is subject to the requirements of 10 CSR  
407 25-3, 4, 5, 6, 7, 8, 9, and 13.";~~

408 15. *(Reserved)*

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

412 17. The resource recovery of hazardous waste is regulated by 10 CSR 25-9.020. An **owner or operator**  
413 **owner/operator** of a facility that uses, reuses, or recycles hazardous waste shall be certified under 10 CSR  
414 25-9 or permitted under 10 CSR 25-7, unless otherwise excluded. Therefore, the parenthetical text in 40 CFR  
415 261.6(c)(1) is not incorporated in this rule; and

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

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

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

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

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

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

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

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

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

437 3. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) is an acutely hazardous waste and is designated the  
438 Missouri hazardous waste number MH02. Without regard to any quantity specified in 40 CFR 261.5, as  
439 incorporated and modified in paragraph (2)(A)10. of this rule, if a generator generates less than one gram (1  
440 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  
441 one time, that generator shall manage that hazardous waste in accordance with subsection 260.380.2, RSMo.  
442 When a generator generates one gram (1 g) of 2,3,7,8-TCDD in a calendar month or accumulates at least one  
443 gram (1 g) of 2,3,7,8-TCDD at any one time, that generator shall manage that hazardous waste in accordance  
444 with the provisions in 10 CSR 25;

445 4. 40 CFR 261.38 is not incorporated in this rule.

446 (E) Exclusions/Exemptions.

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

450  
451  
452  
453

454 **10 CSR 25-5.262 Standards Applicable to Generators of Hazardous Waste**

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

457 (1) The regulations set forth in 49 CFR part 172, **October 1, 2013**, ~~October 1, 1999~~, 40 CFR 302.4 and .5,  
458 **July 1, 2013**~~2006~~, and 40 CFR part 262, **July 1, 2013**, except Subpart H, as published by the Office of the  
459 Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh,  
460 PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments  
461 or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-  
462 3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule.  
463 Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

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

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

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

475 A. A person generating in one (1) month or accumulating at any one (1) time the quantities of  
476 hazardous waste specified in 10 CSR 25-4.261 and a transporter who is required to register as a generator  
477 under 10 CSR 25-6.263 shall register and is subject to applicable rules under 10 CSR 25-3.260–10 CSR 25-  
478 9.020 and 10 CSR 25-12.010; and

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

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

484 3. The following constitutes the procedure for registering:

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

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

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

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

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

507 4. The following constitutes the procedure for registration renewal:

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

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

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

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

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

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

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

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

531 (B) The Manifest. Additional manifest and reporting requirements are set forth in subsections (2)(D) and  
532 (E). This subsection is applicable to all Missouri generators and to all other generators who deposit  
533 hazardous waste in Missouri. (Note: This section is not applicable to an out-of-state or international  
534 generator who is shipping hazardous waste through, in less than ten (10) days, but not depositing hazardous  
535 waste in Missouri. This subsection does not prevent a transporter from voluntarily carrying information in  
536 addition to the manifest. Any reference to the United States Environmental Protection Agency (EPA) form  
537 8700-22 means the form as revised by EPA and approved by the federal Office of Management and Budget  
538 (OMB)).

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

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

543 ~~3. Generators must list the Missouri waste code D098 if the hazardous waste is a used oil as described in~~  
544 ~~10 CSR 25-11.279(2)(I)1.B.~~

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

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

552 (C) Pretransport, Containerization, and Labeling Requirements.

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

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

560 ~~A. Notwithstanding any other provisions of this rule to the contrary, a person who generates one~~  
561 ~~hundred kilograms (100 kg) or more, but fewer than one thousand kilograms (1000 kg) of nonacute~~  
562 ~~hazardous waste in a calendar month may store these hazardous wastes in quantities, according to time~~  
563 ~~frames and under the conditions specified in 40 CFR 262.34(d) as incorporated in this rule. However, upon~~  
564 ~~accumulating one thousand kilograms (1000 kg) of nonacute hazardous waste, the generator must also~~  
565 ~~comply with 40 CFR 262.34(a)(1) incorporated in this rule rather than 40 CFR 262.34(d)(3) incorporated in~~  
566 ~~this rule, 40 CFR part 265 subpart D as incorporated in 10 CSR 25 7.265(1) and modified in 10 CSR 25~~  
567 ~~7.265(2)(D) rather than 40 CFR 262.34(d)(5) incorporated in this rule, and 40 CFR 265.16 as incorporated~~  
568 ~~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~~  
569 ~~262.34(d) incorporated in this rule.~~

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

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

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

581 ~~(II) The frequency of inspection may vary for the items that require inspection. However, it should~~  
582 ~~be based on the rate of possible deterioration of the equipment and the probability of an environmental or~~  
583 ~~human health incident if the deterioration, malfunction, or any operator error goes undetected between~~  
584 ~~inspections. Areas subject to spills, such as loading and unloading areas, shall be inspected daily when in~~  
585 ~~use. At a minimum, the inspection schedule shall include the terms and frequencies set forth in the~~  
586 ~~applicable regulations in 40 CFR 265.174 and 40 CFR 265.195, incorporated in 10 CSR 25 7.265; and~~

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

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

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

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

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

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

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

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

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

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

615 ~~(IV) The containment system must also be inspected as part of the weekly inspections required by~~  
616 ~~40 CFR 265.174 as incorporated in 10 CSR 25 7.265.~~

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

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

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

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

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

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

640 ~~4. 40 CFR 262.34(a)(1)(iii) is not incorporated in this rule.~~

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

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644 ~~6. All generators shall meet the special requirements for ignitable or reactive waste set forth in 40 CFR~~  
645 ~~265.176 incorporated in 10 CSR 25-7.265 and, therefore, the following language in 40 CFR 262.34(d)(2) is~~  
646 ~~not incorporated in this rule: “except the generator need not comply with subsection 265.176.”~~ **Generators**  
647 **who accumulate more than 6000 kilograms of ignitable or reactive hazardous waste may elect to**  
648 **comply with 10 CSR 25-7.264(2)(I) in lieu of 40 CFR 265.176 in regard to locating such containers at**  
649 **least fifty feet from the facility’s property line.**

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

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

659 1. This paragraph establishes requirements for quarterly Generator’s Hazardous Waste Summary  
660 Reports.

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

665 B. Persons who do not ship any hazardous wastes or who make only one (1) shipment of hazardous  
666 waste during the entire reporting year, July 1 through June 30, or are defined as a small quantity generator  
667 for the entire reporting year, **or are defined as a large quantity generator and filing their report**  
668 **electronically in a manner prescribed by the department,** may file an annual report by August 14  
669 following the reporting year period. However, persons who are defined as a large quantity generator and  
670 have more than one (1) shipment of hazardous waste during the reporting years, **and do not file their**  
671 **report using the electronic method prescribed by the department,** shall file quarterly. **Large**  
672 **quantity generators may submit an annual report electronically beginning with the reporting period**  
673 **of July 1, 2015-June 30, 2016, or sooner if the system for electronic reporting is in place prior to that**  
674 **reporting period.**

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

678 D. The Generator’s Hazardous Waste Summary Report shall be signed and certified by an authorized  
679 representative as defined in 40 CFR 260.10 incorporated by reference in 10 CSR 25-3. The certification  
680 statement shall read as follows: “CERTIFICATION: I certify under penalty of law that I personally  
681 examined and am familiar with the information submitted on this form and all attached documents and,  
682 based on my inquiry of those individuals immediately responsible for obtaining the information, I believe  
683 that the submitted information is true, accurate and complete. I am aware that there are significant penalties  
684 for submitting false information, including the possibility of fine and imprisonment.” The handwritten  
685 signature of the authorized representatives shall follow this certification.

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

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

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

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

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

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

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

712 ~~D. The exception report may be completed on the exception report form provided by the department~~  
713 ~~or in a format which shall include the following: the generator’s EPA identification number (if applicable),~~  
714 ~~the Missouri generator identification number and the generator’s name, address, and telephone number; the~~  
715 ~~name, address, phone number, EPA identification number (if applicable), and Missouri transporter license~~  
716 ~~number for each transporter; the EPA identification number of the facility (if applicable), the Missouri~~  
717 ~~facility identification number, the facility telephone number, and the designated facility’s name and address;~~  
718 ~~the Missouri and EPA hazardous waste manifest document numbers followed by the date of shipment; the~~  
719 ~~waste description and EPA waste code identification number as listed in 10 CSR 25 4 for each hazardous~~  
720 ~~waste appearing on the manifest; the total quantity of each hazardous waste and the appropriate abbreviation~~  
721 ~~for units of measure as follows: G—gallons (liquids only); P—pounds; T—tons (2,000 lbs.); Y—cubic~~  
722 ~~yards; L—liters (liquids only); K—kilograms; M—metric tons (1,000 kg); N—cubic meters; the following~~  
723 ~~certification statement, signed and dated by an authorized representative of the generator: “I have personally~~  
724 ~~examined and am familiar with the information submitted on this form. I hereby certify that the information~~  
725 ~~is true, accurate and complete. I am aware that there are significant penalties for submitting false~~  
726 ~~information which include fine and imprisonment”; a legible copy of the manifest document originated by~~  
727 ~~the generator and signed by the initial transporter which was retained by the generator and for which the~~  
728 ~~generator does not have confirmation of delivery; and a cover letter signed by the generator or his/her~~  
729 ~~authorized representative explaining the efforts taken to locate the hazardous waste and the results of those~~  
730 ~~efforts. The director may require a generator to furnish additional reports concerning the quantities and~~  
731 ~~disposition of wastes identified or listed in 10 CSR 25 4.261 as the director deems necessary under section~~  
732 ~~260.375(7), RSMo.~~

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

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734 (E) Exports of Hazardous Waste. This subsection modifies the incorporation of 40 CFR part 262 subpart  
735 E. The state cannot assume authority from the EPA to receive notifications of intent to export or to transmit  
736 this information to other countries through the Department of State or to transmit acknowledgements of  
737 consent to the exporter. In addition, the annual reports and exception reports required in 40 CFR 262.55 and  
738 262.56, incorporated in this rule, shall be filed with the EPA administrator and copies shall be provided to  
739 the department. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 262.51,  
740 262.52, 262.53, 262.54, 262.55, 262.56, and 262.57, as incorporated in this rule. This modification does not  
741 relieve the regulated person of his/her responsibility to comply with the Resource Conservation and  
742 Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies (for  
743 example, the federal Department of Transportation and the Bureau of the Census of the Department of  
744 Commerce).

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

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

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

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

757 B. Quantity of waste from each imported source; and

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

760 (G) Farmers. (*Reserved*)

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

763 ~~(I) Emergency Procedures. In the event of a spill of hazardous waste at the generator's site, where there is  
764 clear and imminent danger to humans or the environment, the generator shall take reasonable action to  
765 eliminate the danger. In the event of a spill of a reportable quantity of material under 40 CFR 302.4 and  
766 302.5 (Note: this includes table 302.4), a generator shall notify the department in accordance with the  
767 notification procedure set forth in 10 CSR 24 3.010.~~

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

773  
774

775 **10 CSR 25-7.264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and**  
776 **Disposal Facilities**

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

779 (1) The regulations set forth in 40 CFR part 264, July 1, **2013**, as published by the Office of the Federal  
780 Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA  
781 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or  
782 additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-  
783 3.260(1)(A) shall apply in this rule in addition to any other modification set forth in section (2) of this rule.  
784 Where conflicting rules exist in 10 CSR 25, the more stringent shall control. **“Owner/operator,” as defined in**  
785 **10 CSR 25 3.260(2)(O)3., shall be substituted for any reference to “owner and operator” or “owner or**  
786 **operator” in 40 CFR part 264 incorporated in this rule.**

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

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

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

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

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

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

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

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

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823 ~~3. 40 CFR 264.15(b)(5) is not incorporated in this rule.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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899 EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

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

902  $\$2 \times 250 \text{ tons} = \$500 \text{ fee}$

903 Example 2. ABC Company reports receiving 410.6 tons of hazardous waste from outside of Missouri.

904 The number of tons would be rounded to 411:

905  $\$2 \times 411 \text{ tons} = \$822 \text{ fee}$

906 Example 3. ABC Company reports receiving 52,149.3 tons of hazardous waste from outside of Missouri.

907 The number of tons would be rounded to 52,150:

908  $\$2 \times 52,150 \text{ tons} = \$104,300 \text{ fee}$

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

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

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

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

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

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- 925 ~~A. The owner/operator is exempt from regulations under this paragraph if—~~  
926 ~~(I) S/he is exempted under this subsection and 40 CFR part 264 subpart F, incorporated in this rule;~~  
927 ~~or~~  
928 ~~(II) The department finds based upon a demonstration by the owner/operator, that there is low~~  
929 ~~potential for migration of liquid from the facility or unit to surface water bodies throughout the post closure~~  
930 ~~care period. This demonstration shall be certified by a registered geologist or professional engineer~~  
931 ~~registered in Missouri; or~~  
932 ~~(III) The surface water runoff from the regulated unit(s) is being monitored in accordance with the~~  
933 ~~facility's National Pollutant Discharges Elimination System (NPDES) or state operating stormwater~~  
934 ~~discharge permit and the NPDES or state operating permit is substantially equivalent to that which would~~  
935 ~~otherwise be required under this section.~~  
936 ~~B. An owner/operator shall establish a surface water monitoring program, except as provided~~  
937 ~~otherwise in subparagraph (2)(F)4.A. of this rule. This program shall be designed to protect human health~~  
938 ~~and the environment. The owner/operator, at a minimum, shall fulfill the following requirements:~~  
939 ~~(I) The surface water monitoring system shall consist of a sufficient number of points at appropriate~~  
940 ~~locations to yield surface water samples that—~~  
941 ~~(a) Represent the quality of background surface water that has not been affected by any~~  
942 ~~contamination from the facility (for example, upgradient); and~~  
943 ~~(b) Represent the quality of surface water hydrologically downgradient of the facility or regulated~~  
944 ~~units;~~  
945 ~~(II) The surface water monitoring program must include consistent sampling and analysis~~  
946 ~~procedures that are designed to ensure monitoring results which provide a reliable indication of surface~~  
947 ~~water quality at the facility and changes in the water quality due to the impact of the facility or regulated~~  
948 ~~units;~~  
949 ~~(III) The owner/operator shall report to the department the surface water analysis by including it in~~  
950 ~~the routine reports required by part (2)(E)3.C.(VI) of this rule; and~~  
951 ~~(IV) If the department determines, based upon the findings in the reports submitted under part III of~~  
952 ~~this subparagraph, that there is a substantial threat to human health or the environment, it will direct the~~  
953 ~~owner/operator, through modification of the facility permit, to take corrective and preventative measures.~~  
954 ~~5. The department may require additional monitoring to protect human health and the environment.~~  
955 ~~(G) Closure and Post-Closure. This subsection sets forth requirements which modify or add to those~~  
956 ~~requirements in 40 CFR part 264 subpart G.~~  
957 ~~1. The incorporation by reference of 40 CFR 264.113(d) and (e) does not relieve the owner/operator of~~  
958 ~~his/her responsibility to comply with 10 CSR 80.~~  
959 ~~2. The owner/operator of a hazardous waste unit which is certifying closure with residues left in place,~~  
960 ~~regardless of the level of treatment to render the residue nonhazardous, shall meet the requirements in 40~~  
961 ~~CFR 264.116 incorporated in this rule.~~  
962 ~~3. In addition to requirements in 40 CFR 264.116, when an owner/operator certifies a closure which did~~  
963 ~~not result in the removal of wastes to background levels, the owner/operator shall record, in accordance with~~  
964 ~~state law, a notation on an instrument which is normally examined during title search that in perpetuity will~~  
965 ~~notify any potential purchaser of the property that the land has been used to manage hazardous waste.~~  
966 ~~4. In addition to requirements in 40 CFR 264.116 and 264.119 as incorporated in this rule, an~~  
967 ~~owner/operator shall submit a notarized statement to the department certifying that the owner/operator has~~  
968 ~~caused the notation(s) to be recorded. The notation shall be recorded with the recorder(s) of deeds in all~~  
969 ~~counties in which the facility is located.~~  
970 ~~(H) Financial Assurance Requirements. This subsection sets forth the requirements which modify or add~~  
971 ~~to those requirements in 40 CFR part 264 subpart H.~~

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972 ~~1. For purposes of this subsection, commercial treatment, storage, or disposal (TSD) facility means any~~  
973 ~~facility that would be considered a commercial hazardous waste TSD facility for the purposes of 10 CSR 25-~~  
974 ~~12.020, or any facility that is certified as an R2 resource recovery facility according to 10 CSR 25 9.020, or~~  
975 ~~any facility that receives for remuneration polychlorinated biphenyls (PCB) material or PCB units as defined~~  
976 ~~by 10 CSR 25 13.010.~~

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

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

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

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

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

989 ~~(I) The director deems the facility abandoned; or~~

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

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

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

994 ~~(V) The premium due is paid; or~~

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

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

1000 ~~5. This paragraph modifies the requirements for surety bonds guaranteeing performance of closure or~~  
1001 ~~performance of post closure care per 40 CFR 264.143(c) or 40 CFR 264.145(c), incorporated in this rule.~~

1002 ~~A. A surety company issuing a surety bond for closure or post closure performance shall be authorized~~  
1003 ~~to do business in Missouri.~~

1004 ~~B. Any surety company issuing a surety bond for closure or post closure performance shall not cancel,~~  
1005 ~~terminate, or fail to renew a surety bond guaranteeing performance of closure or post closure care and the~~  
1006 ~~surety bond shall remain in full force and effect in the event that on or before the date of cancellation:~~

1007 ~~(I) The director deems the facility abandoned; or~~

1008 ~~(II) The permit is terminated or revoked, or a new permit is denied; or~~

1009 ~~(III) Closure is ordered by the department or a court of competent jurisdiction; or~~

1010 ~~(IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under Title~~  
1011 ~~11 (Bankruptcy), United States Code; or~~

1012 ~~(V) The premium due is paid; or~~

1013 ~~(VI) An appeal of an order to close the facility as specified in part (4)(H)5.B.(III) of this~~  
1014 ~~subparagraph is pending.~~

1015 ~~C. Facilities that have a surety bond or bonds guaranteeing performance of closure or performance of~~  
1016 ~~post closure care as of the effective date of this subparagraph shall modify their surety instruments to~~  
1017 ~~comply with this paragraph within twelve (12) months of the effective date of this subparagraph.~~

1018 ~~6. This paragraph modifies the requirements for letters of credit per 40 CFR 264.143(d), 40 CFR~~  
1019 ~~264.145(d), and 40 CFR 264.147(h), incorporated in this rule. Letters of credit shall be issued by a state or~~  
1020 ~~federally chartered and regulated bank or trust association.~~

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1021 ~~7. An owner/operator of a facility that is a commercial TSD facility may not satisfy financial assurance~~  
1022 ~~requirements for closure, post closure, or liability coverage, or any combination of these, by the use of a~~  
1023 ~~financial test as specified in 40 CFR 264.143(f), 40 CFR 264.145(f), or 264.147(f), incorporated in this rule.~~

1024 ~~8. This paragraph modifies the requirements for closure insurance per 40 CFR 264.143(e), incorporated~~  
1025 ~~in this rule, post closure insurance per 40 CFR 264.145(e), incorporated in this rule, liability coverage for~~  
1026 ~~sudden accidental occurrences per 40 CFR 264.147(a)(1), incorporated in this rule, and liability coverage for~~  
1027 ~~non-sudden accidental occurrences per 40 CFR 264.147(b)(1), incorporated in this rule. Each insurance~~  
1028 ~~policy shall be issued by an insurer who, at a minimum, is licensed to transact the business of insurance or is~~  
1029 ~~eligible to provide insurance as an excess or surplus lines insurer in Missouri.~~

1030 ~~9. In 40 CFR 264.143(f), incorporated in this rule, delete “or a firm with a ‘substantial business~~  
1031 ~~relationship’ with the owner or operator.”~~

1032 ~~10. In 40 CFR 264.145(f), incorporated in this rule, delete “or a firm with ‘a substantial business~~  
1033 ~~relationship’ with the owner or operator.”~~

1034 ~~11. In 40 CFR 264.147(g), incorporated in this rule, delete “or a firm with a ‘substantial business~~  
1035 ~~relationship’ with the owner or operator.”~~

1036 (I) Containers. This subsection sets forth requirements in addition to 40 CFR part 264 subpart I  
1037 incorporated in this rule.

1038 ~~1. An owner/operator of a facility which treats hazardous waste in containers shall meet the~~  
1039 ~~requirements of 40 CFR 264.601–264.603 incorporated in this rule and subsection (2)(X) of this rule.~~

1040 2. Containers storing hazardous waste must be **marked and** labeled in accordance with 10 CSR 25-  
1041 5.262(2)(C) during the entire storage period.

1042 ~~3. Container storage areas which close without removing all hazardous waste and/or hazardous waste~~  
1043 ~~constituents to below background levels may pursue either a risk-based closure if there is no evidence of~~  
1044 ~~groundwater or surface water contamination or, in the absence of such evidence, close in accordance with 10~~  
1045 ~~CSR 25 7.264(2)(N) and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The~~  
1046 ~~owner/operator shall also comply with the requirements of 10 CSR 25 7.264(2)(G).~~

1047 4. Containers holding ignitable or reactive waste that are stored outdoors or in buildings not equipped  
1048 with sprinkler systems shall be located at least fifty feet (50') from the facility's property line.

1049 5. Containers holding ignitable or reactive waste that are stored indoors shall be located at least fifty feet  
1050 (50') from the facility's property line unless the following requirements are satisfied:

1051 A. Exposing walls that are located more than ten feet (10') but less than fifty feet (50') from a  
1052 boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least two  
1053 (2) hours, with each opening protected by an automatically-closing listed one and one-half (1.5) hour (B)  
1054 fire door;

1055 B. Exposing walls that are located less than ten feet (10') from a boundary line of adjoining property,  
1056 that can be built upon, shall have a fire-resistance rating of at least four (4) hours, with each opening  
1057 protected by an automatically-closing listed three (3)-hour (A) fire door (Comment: All fire doors, closure  
1058 devices, and windows shall be installed in accordance with the National Fire Protection Agency (NFPA)  
1059 Code 80, *Standards for Fire Doors and Windows*, 1995 edition);

1060 C. The construction design of exterior walls shall provide ready accessibility for fire-fighting  
1061 operations through the provision of access openings, windows, or lightweight noncombustible wall panels;

1062 D. Container storage areas shall be provided with automatic fire suppression systems designed and  
1063 installed in accordance with the NFPA 14 (1996 edition), NFPA 15 (1996 edition), NFPA 16 (1995 edition),  
1064 NFPA 16A (1994 edition), NFPA 17 (1998 edition), NFPA 17A (1998 edition), NFPA 18 (1995 edition),  
1065 NFPA 20 (1996 edition), NFPA 22 (1996 edition), and NFPA 24 (1995 edition) standards. Final design of  
1066 these systems shall be approved by a qualified, registered professional engineer in Missouri;

1067 E. Each container storage area shall have preconnected hose lines capable of reaching the entire area.  
1068 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  
1069 one and one-half (1.5)-inch fire hose is used, it shall be installed in accordance with NFPA 14 (1996  
1070 edition). Hand-held fire extinguishers rated for the appropriate class of fire shall be available at each storage  
1071 area;

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1072 F. Only containers meeting the requirements of, and containing products authorized by, Chapter I,  
1073 Title 49 of the *Code of Federal Regulations* (DOT Regulations) or NFPA 386, *Standard for Portable*  
1074 *Shipping Tanks* shall be used;

1075 G. All storage of ignitable or reactive materials shall be organized in a manner which will not  
1076 physically obstruct a means of egress. Materials shall not be placed in a manner that a fire would preclude  
1077 egress from the area. Evacuation plans shall recognize the locations of any automatically-closing fire doors;

1078 H. All containers shall be arranged so there is a minimum aisle space of four feet (4') between rows,  
1079 allowing accessibility to each individual container. Double rows can be utilized. Containers shall not be  
1080 stacked or placed closer than three feet (3') from ceilings or any roof members, or both; and

1081 I. Explosive gas levels in the facility shall be monitored continuously. If the facility is not manned  
1082 twenty-four (24) hours per day, a telemetry system shall be provided to alarm designated response  
1083 personnel.

1084 (J) Tanks. ~~This subsection sets forth requirements which modify or add to those requirements in 40 CFR~~  
1085 ~~part 264 subpart J.~~

1086 ~~1. Hazardous waste that has a true vapor pressure of greater than seventy eight millimeters of mercury~~  
1087 ~~(78 mm Hg) at twenty five degrees Celsius (25 °C) is considered to be volatile and shall not be placed in an~~  
1088 ~~open tank.~~

1089 ~~2. 40 CFR 264.190(c) is not incorporated by reference.~~

1090 ~~3. In 40 CFR 264.193(g) incorporated in this rule, delete “or that in the event of a release that does~~  
1091 ~~migrate to ground water or surface water, no substantial present or potential hazard will be posed to human~~  
1092 ~~health or the environment.” 40 CFR 264.193(g)(2) and its subdivisions are not incorporated in this rule.~~

1093 ~~4. For purposes of 40 CFR 264.193(h) incorporated in this rule, “variance” means exception.~~

1094 ~~5. In 40 CFR 264.196(c) and 40 CFR 264.196(e)(1) incorporated in this rule, delete “visible” and~~  
1095 ~~“visual.” Tank storage areas which close without removing all hazardous waste and/or hazardous waste~~  
1096 ~~constituents to below background levels may pursue either a risk based closure if there is no evidence of~~  
1097 ~~groundwater or surface water contamination or in the absence of such evidence, close in accordance with 10~~  
1098 ~~CSR 25 7.264(2)(N) and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The~~  
1099 ~~owner/operator shall also comply with the requirements of 10 CSR 25 7.264(2)(G).~~

1100 ~~6. An owner/operator of a facility which treats hazardous waste in a tank system shall meet the~~  
1101 ~~requirements of 40 CFR 264.601 40 CFR 264.603 incorporated in this rule and subsection (2)(X) of this~~  
1102 ~~rule.~~

1103 (K) Surface Impoundments. ~~This subsection sets forth standards and requirements which modify or add to~~  
1104 ~~those requirements in 40 CFR part 264 subpart K.~~

1105 ~~1. Design and operating requirements are as follows:~~

1106 ~~A. Any existing surface impoundment or existing portion of a surface impoundment shall be replaced~~  
1107 ~~with a new surface impoundment in compliance with 40 CFR part 264 subpart K, incorporated in this rule,~~  
1108 ~~and this subsection prior to permit issuance;~~

1109 ~~B. Each new surface impoundment shall be constructed with a double liner as required in 40 CFR~~  
1110 ~~264.221(e), incorporated in this rule, and subparagraphs (2)(K)1.C. and D. of this rule;~~

1111 ~~C. The lower component of the composite liner required by 40 CFR 264.221(e) shall, at a minimum,~~  
1112 ~~consist of at least three feet (3') of clay, recompact to ninety five percent (95%) of Standard Proctor~~  
1113 ~~Density with the moisture content between two percent (2%) below and four percent (4%) above the~~  
1114 ~~optimum moisture content. The soils used for this purpose shall meet the following minimum specifications:~~

1115 ~~(I) Be classified under the United Soil Classification Systems as CL, CH, or SC (American Society~~  
1116 ~~for Testing and Materials (ASTM) Standard D2487-93, current edition approved September 15, 1993,~~  
1117 ~~published November 1993);~~

1118 ~~(II) Allow more than thirty percent (30%) passable through a No. 200 sieve (ASTM Test D1140-54~~  
1119 ~~(reapproved 1971), current edition approved September 15, 1954);~~

1120 ~~(III) Have a liquid limit equal to or greater than thirty (30) (ASTM Test D4318-95a, current edition~~  
1121 ~~approved December 10, 1995, published April 1996);~~

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1122 ~~(IV) Have a plasticity index equal to or greater than fifteen (15) (ASTM Test D4318-95a, as~~  
1123 ~~previously referenced in this rule); and~~

1124 ~~(V) Have a coefficient of permeability equal to or less than  $1 \times 10^{-8}$  cm/sec when compacted to~~  
1125 ~~ninety five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%)~~  
1126 ~~below and four percent (4%) above the optimum moisture content, and when tested by using the indirect~~  
1127 ~~calculation from the one (1) dimensional consolidation test for clay rich soils (ASTM D2435-96, current~~  
1128 ~~edition approved June 10, 1996, published August 1996) or other procedures approved by the department;~~

1129 ~~D. The leak detection system required by 40 CFR 264.221(c)(2) shall cover the entire sides and~~  
1130 ~~bottom of the surface impoundment;~~

1131 ~~E. When liquids are detected in the leak detection system installed to comply with subparagraph~~  
1132 ~~(2)(K)1.D. of this rule and 40 CFR 264.221(c)(2), the owner/operator shall—~~

1133 ~~(I) Notify the department in writing within thirty (30) days of the event;~~

1134 ~~(II) Continue to operate and maintain the leak detection system so that the liquids are removed as~~  
1135 ~~they accumulate or with sufficient frequency to prevent backwater within the system; and~~

1136 ~~(III) Implement leachate monitoring in accordance with paragraph (2)(K)1.F. of this rule and the~~  
1137 ~~facility permit;~~

1138 ~~F. This paragraph sets forth requirements for leachate monitoring at surface impoundments. An~~  
1139 ~~owner/operator that is required under subparagraph (2)(K)1.E. of this rule to initiate leachate monitoring~~  
1140 ~~shall comply with parts (2)(K)1.F.(I)–(IV) of this rule.~~

1141 ~~(I) The owner/operator shall remove any accumulated leachate in the leak detection system~~  
1142 ~~collection sumps at least weekly during the active life and closure period. After the final cover is installed,~~  
1143 ~~accumulated leachate shall be removed at least as often as the owner/operator is required by 40 CFR~~  
1144 ~~264.226(d)(2) to record the amount of liquids removed from the system.~~

1145 ~~(II) The owner/operator shall analyze the leachate at least annually. At a minimum, the annual~~  
1146 ~~leachate analyses shall be conducted for indicator parameters (that is pH, specific conductance, dissolved~~  
1147 ~~organic carbon, and total organic halogen) and selected hazardous waste constituents. The hazardous waste~~  
1148 ~~constituents selected must provide a reliable indication of the presence of hazardous constituents that are~~  
1149 ~~reasonably expected to be in or derived from wastes contained in each unit.~~

1150 ~~(III) The owner/operator shall calculate the average daily flow rate for each sump as required by 40~~  
1151 ~~CFR 264.222(b). If the department determines that the leachate generation rate is greater than reasonably~~  
1152 ~~expected for any unit, the department may require the owner/operator to provide additional information to~~  
1153 ~~evaluate the existing conditions.~~

1154 ~~(IV) In accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in~~  
1155 ~~this rule, the owner/operator shall submit to the department all information required to comply with parts~~  
1156 ~~(2)(K)1.F.(I)–(III) of this rule.~~

1157 ~~(V) The department may require more frequent leachate collection and analysis than that outlined in~~  
1158 ~~parts (2)(K)1.F.(I)–(III) of this rule if determined necessary. The frequency of leachate collection and~~  
1159 ~~analysis will be specified in the facility permit.~~

1160 ~~(VI) Indicator parameters and constituents to be monitored as required by part (2)(K)1.F.(II) of this~~  
1161 ~~rule will be specified by the department in the facility permit. If the department determines that results of the~~  
1162 ~~chemical analyses are outside of the range that is reasonably expected for any unit, the department may~~  
1163 ~~require the owner/operator to provide additional information to evaluate the existing conditions;~~

1164 ~~G. The owner/operator shall measure daily precipitation at the facility until final closure is certified.~~  
1165 ~~During the post-closure care period of the facility, the owner/operator shall also record and report regional~~  
1166 ~~precipitation from the nearest weather recording station in accordance with the schedule established for the~~  
1167 ~~maintenance of the facility. The information required under this paragraph shall be submitted to the~~  
1168 ~~department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in~~  
1169 ~~this rule; and~~

1170 ~~H. If the leachate monitoring (implemented in accordance with subparagraph (2)(K)1.F. of this rule)~~  
1171 ~~detects hazardous waste(s) constituents in the leak detection system, a leak in the surface impoundment liner~~  
1172 ~~is indicated and the owner/operator shall—~~

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1173 ~~(I) Within seven (7) days after detecting the leak, notify the department in writing of the leak;~~

1174 ~~(II) Remove, within the period of time specified in the permit, accumulated liquid, repair or replace~~  
1175 ~~the leaking liner to prevent the migration of hazardous waste liquids through the liner and obtain a~~  
1176 ~~certification from a registered professional engineer that, to the best of his/her knowledge and opinion, the~~  
1177 ~~leak has been stopped; and~~

1178 ~~(III) Obtain, after performing the necessary repairs, written approval from the department prior to~~  
1179 ~~placing the surface impoundment in service again.~~

1180 ~~2. Those surface impoundments which are intended to be closed without removing the hazardous waste~~  
1181 ~~shall meet the requirements of subparagraph (2)(N)1.A. and 40 CFR part 264 subpart N, incorporated in this~~  
1182 ~~rule. If the site cannot meet these requirements and contamination exists beyond the liner of the surface~~  
1183 ~~impoundment, the owner/operator shall clean up contaminated residues and hazardous constituents to the~~  
1184 ~~greatest extent practical during closure. If the department determines, based on the potential impact on~~  
1185 ~~human health and the environment, that it is not necessary or feasible to remove contaminated material down~~  
1186 ~~to background concentrations during closure, the owner/operator shall —~~

1187 ~~A. Comply with subsection 40 CFR 264.228(b) incorporated in this rule; or~~

1188 ~~B. Submit and obtain approval for a delisting petition pursuant to 40 CFR 260.20 and 40 CFR 260.22~~  
1189 ~~for the contaminated material not removed during closure.~~

1190 ~~3. An owner/operator of a facility which treats hazardous waste in a surface impoundment shall meet the~~  
1191 ~~requirements of 40 CFR 264.601–40 CFR 264.603 incorporated in this rule and subsection (2)(X) of this~~  
1192 ~~rule.~~

1193 ~~(L) Waste Piles. This subsection sets forth standards which modify or add to those requirements in 40~~  
1194 ~~CFR part 264 subpart L.~~

1195 ~~1. In addition to the requirements in 40 CFR part 264.250(c) incorporated in this rule, the waste pile~~  
1196 ~~must be at least ten feet (10') above the historical high groundwater table to be exempt from the regulatory~~  
1197 ~~requirements in 40 CFR 264.251 incorporated in this rule, 40 CFR part 264 subpart F incorporated in this~~  
1198 ~~rule, and subsection (2)(F) of this rule.~~

1199 ~~2. Design and operating requirements are as follows:~~

1200 ~~A. Any existing waste pile or existing portion of a waste pile shall be replaced with a new waste pile~~  
1201 ~~in compliance with 40 CFR 264 subpart L, incorporated in this rule, and this subsection prior to permit~~  
1202 ~~issuance;~~

1203 ~~B. Each new waste pile shall be constructed with a double liner as required in 40 CFR 264.251(e),~~  
1204 ~~incorporated in this rule, and subparagraphs (2)(L)2.C. and D. of this rule;~~

1205 ~~C. The lower component of the composite liner required by 40 CFR 264.251(e), at a minimum, shall~~  
1206 ~~consist of at least three feet (3') of clay, recompact to ninety five percent (95%) of Standard Proctor~~  
1207 ~~Density with the moisture content between two percent (2%) below and four percent (4%) above the~~  
1208 ~~optimum moisture content. The soils used for this purpose shall meet the following minimum specifications:~~

1209 ~~(I) Be classified under the United Soil Classification Systems as CL, CH, or SC (ASTM Standard~~  
1210 ~~D2487-93, as previously referenced in this rule);~~

1211 ~~(II) Allow more than thirty percent (30%) passable through a No. 200 sieve (ASTM Test D1140, as~~  
1212 ~~previously referenced in this rule);~~

1213 ~~(III) Have a liquid limit equal to or greater than thirty (30) (ASTM Test D4318-95a, as previously~~  
1214 ~~referenced in this rule);~~

1215 ~~(IV) Have a plasticity index equal to or greater than fifteen (15) (ASTM Test D4318-95a, as~~  
1216 ~~previously referenced in this rule); and~~

1217 ~~(V) Have a coefficient of permeability equal to or less than  $1 \times 10^{-8}$  cm/sec when compacted to~~  
1218 ~~ninety five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%)~~  
1219 ~~below and four percent (4%) above the optimum moisture content, and when tested by using the indirect~~  
1220 ~~calculation from the one (1) dimensional consolidation test for clay rich soils (ASTM D2435-96, as~~  
1221 ~~previously referenced in this rule) or other procedures approved by the department;~~

1222 ~~D. The leak detection system required by 40 CFR 264.251(e)(3) shall be capable of detecting leaks~~  
1223 ~~from the entire area of the waste pile;~~

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1224 ~~E. When liquids are detected in the leachate collection/removal system installed to comply with 40~~  
1225 ~~CFR 264.251(e)(2), the owner/operator shall—~~

1226 ~~(I) Notify the department in writing within thirty (30) days of the event;~~

1227 ~~(II) Continue to operate and maintain the leachate collection/removal and leak detection systems so~~  
1228 ~~that the liquids are removed as they accumulate or with sufficient frequency to prevent backwater within the~~  
1229 ~~system; and~~

1230 ~~(III) Implement leachate monitoring in accordance with subparagraph (2)(L)2.F. of this rule and the~~  
1231 ~~facility permit;~~

1232 ~~F. This paragraph sets forth requirements for leachate monitoring at waste piles. An owner/operator~~  
1233 ~~that is required under subparagraph (2)(L)2.E. to initiate leachate monitoring shall comply with parts~~  
1234 ~~(2)(L)2.F.(I)–(IV) of this rule.~~

1235 ~~(I) The owner/operator shall remove any accumulated leachate in the leachate collection/removal~~  
1236 ~~and leak detection system collection sumps at least weekly during the active life and closure period. After~~  
1237 ~~the final cover is installed, accumulated leachate shall be removed at least as often as the owner/operator is~~  
1238 ~~required by subparagraph (2)(L)3.A. of this rule to record the amount of liquids removed from the system.~~

1239 ~~(II) The owner/operator shall analyze leachate from the leak detection system at least annually. If~~  
1240 ~~leachate has not yet been discovered in the leak detection system, the annual analysis shall be completed on~~  
1241 ~~leachate collected from the leachate collection/removal system. At a minimum, the annual leachate analyses~~  
1242 ~~shall be conducted for indicator parameters (that is pH, specific conductance, dissolved organic carbon, and~~  
1243 ~~total organic halogen) and selected hazardous waste constituents. The hazardous waste constituents selected~~  
1244 ~~must provide a reliable indication of the presence of hazardous constituents that are reasonably expected to~~  
1245 ~~be in or derived from wastes contained in each unit.~~

1246 ~~—————(III) The owner/operator shall calculate the average daily flow rate for each sump in the leak~~  
1247 ~~detection system as required by 40 CFR 264.252(b), in addition the average daily flow rate for each sump~~  
1248 ~~calculated in a similar manner. If the unit is closed in accordance with 40 CFR 264.258(b), the average daily~~  
1249 ~~flow rates shall be calculated at the same frequency as the recording of leachate removal as required by~~  
1250 ~~subparagraph (2)(L)3.B. of this rule. If the department determines that the leachate generation rate is greater~~  
1251 ~~than reasonably expected for any unit, the department may require the owner/operator to provide additional~~  
1252 ~~information to evaluate the existing conditions.~~

1253 ~~(IV) The owner/operator shall submit all information required to comply with parts (2)(L)2.F.(I)–~~  
1254 ~~(III) of this rule to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264~~  
1255 ~~subpart E incorporated in this rule.~~

1256 ~~(V) The department may require more frequent leachate collection and analysis than that outlined in~~  
1257 ~~parts (2)(L)2.F.(I)–(III) of this rule if determined necessary. The frequency of leachate collection and~~  
1258 ~~analysis will be specified in the facility permit.~~

1259 ~~(VI) Indicator parameters and constituents to be monitored, as required by part (2)(L)2.F.(II) of this~~  
1260 ~~rule, will be specified by the department in the facility permit. If the department determines that results of~~  
1261 ~~the chemical analyses are outside of the range that is reasonably expected for any unit, the department may~~  
1262 ~~require the owner/operator to provide additional information to evaluate the existing conditions;~~

1263 ~~G. The owner/operator shall measure daily precipitation at the facility until final closure is certified.~~  
1264 ~~During the post closure care period of the facility, the owner/operator shall also record and report regional~~  
1265 ~~precipitation from the nearest weather recording station in accordance with the schedule established for the~~  
1266 ~~maintenance of the facility. The information required under this paragraph shall be submitted to the~~  
1267 ~~department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in~~  
1268 ~~this rule; and~~

1269 ~~H. If the leachate monitoring (implemented in accordance with subparagraph (2)(L)2.F. of this rule)~~  
1270 ~~detects hazardous waste constituents in the leak detection system, a leak in the waste pile liner is indicated,~~  
1271 ~~and the owner/operator shall—~~

1272 ~~(I) Notify the department in writing of the leak within seven (7) days after detecting the leak;~~

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1273 ~~(H) Remove, within the period of time specified in the permits, accumulated liquid, repair or replace~~  
1274 ~~the leaking liner to prevent the migration of hazardous waste liquids through the liner and obtain a~~  
1275 ~~certification from a registered professional engineer that, to the best of his/her knowledge and opinion, the~~  
1276 ~~leak has been stopped; and~~

1277 ~~(III) Obtain, after performing the necessary repairs, written approval from the department prior to~~  
1278 ~~placing the waste pile in service again.~~

1279 ~~3. This paragraph sets forth standards which modify or add to those requirements in 40 CFR 264.254(e)~~  
1280 ~~for monitoring and inspection.~~

1281 ~~A. In addition to recording the amount of liquids removed from each leak detection system sump at~~  
1282 ~~least once per week during the active live and closure period, the owner/operator shall record the amount of~~  
1283 ~~liquids removed from each leachate collection/removal system sump at the same frequency.~~

1284 ~~B. If the waste pile is closed in accordance with 40 CFR 264.258(b), following closure the amount of~~  
1285 ~~liquids removed from each leachate collection/removal and leak detection system sump shall be recorded at~~  
1286 ~~least monthly. If the liquid level in the sump stays below the pump operating level for two (2) consecutive~~  
1287 ~~months, the amount of liquids in the sump must be recorded at least quarterly. If the liquid level in the sump~~  
1288 ~~stays below the pump operating level for two (2) consecutive quarters, the amount of liquids in the sump~~  
1289 ~~shall be recorded at least semiannually. If at any time during the post-closure care period the pump operating~~  
1290 ~~level is exceeded at units on quarterly or semiannual recording schedules, the owner/operator must return to~~  
1291 ~~monthly recording of amounts of liquids removed from each sump until the liquid level again stays below~~  
1292 ~~the pump operating level for two (2) consecutive months.~~

1293 ~~(M) Land Treatment. (Reserved)~~

1294 ~~(N) Landfills. This subsection sets forth standards which modify or add to those requirements in 40 CFR~~  
1295 ~~part 264 subpart N.~~

1296 ~~1. This paragraph sets forth standards for a site suitability demonstration.~~

1297 ~~A. Location standards.~~

1298 ~~(I) A landfill shall be located so as to minimize discharges and the potential for harm to human~~  
1299 ~~health and the environment.~~

1300 ~~(II) A landfill shall be located so that a total of no less than thirty feet (30') of soil or other material,~~  
1301 ~~which has a coefficient of permeability of less than  $1 \times 10^{-7}$  cm/sec, when tested according to subpart~~  
1302 ~~(2)(N)1.B.(II)(d) of this rule, lies between the bottom of the lowest artificial liner or lowest engineered soil~~  
1303 ~~liner and the uppermost regional aquifer.~~

1304 ~~(III) The requirements of part (2)(N)1.A.(II) of this rule do not apply to a landfill which meets the~~  
1305 ~~following criteria:~~

1306 ~~(a) Demonstrates to the satisfaction of the department by a combination of laboratory tests, field~~  
1307 ~~test and development of models that naturally occurring materials between the lowest artificial liner or~~  
1308 ~~lowest engineered soil liner and the uppermost regional aquifer would retard the migration of hazardous~~  
1309 ~~constituents contained in the waste to at least the same degree that thirty feet (30') of material having a~~  
1310 ~~coefficient of permeability of  $1 \times 10^{-7}$  cm/sec when tested according to subpart (2)(N)1.B.(II)(d) would~~  
1311 ~~retard the migration of water, but in no case shall the thickness of the naturally occurring material be less~~  
1312 ~~than twenty feet (20');~~

1313 ~~(b) Receives only wastes generated by its operator(s); and~~

1314 ~~(c) Meeting the criteria in subparts (2)(N)1.A.(III)(a) and (b) shall not waive compliance with any~~  
1315 ~~regulations except those set forth in part (2)(N)1.A.(II) of this rule.~~

1316 ~~(IV) No landfill shall be located in the following areas:~~

1317 ~~(a) In a wetland;~~

1318 ~~(b) Within two hundred feet (200') of a fault which has had surface displacement in Holocene~~  
1319 ~~time;~~

1320 ~~(c) In a one hundred (100)-year flood plain;~~

1321 ~~(d) In an area of unstable soil deposits or area(s) containing landslides; or~~

1322 ~~(e) In an area subject to catastrophic collapse as evaluated by the Division of Geology and Land~~  
1323 ~~Survey.~~

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- 1324 B. The permit application shall include the following engineering reports:  
1325 (I) ~~A geologic description of the region in which the site is located, which description shall be~~  
1326 ~~prepared by a qualified geologist familiar with the region;~~  
1327 (II) ~~A description of the natural soils and bedrock underlying the site including a representative~~  
1328 ~~number of borings that indicate the type, depth and thickness of soils, bedrock, and other materials~~  
1329 ~~underlying the site and test results that indicate the following parameters for soils or other materials~~  
1330 ~~underlying the site. The following test methods shall be utilized unless other procedures have been evaluated~~  
1331 ~~and approved by the department:~~  
1332 (a) ~~Atterberg limits (ASTM D4318-95a, as previously referenced in this rule);~~  
1333 (b) ~~pH (*Methods of Soil Analysis Part II, Chemical and Microbiological Properties*, A.L. Page,~~  
1334 ~~Ed. American Society of Agronomy, 2nd Ed., 1982, pp. 200-209);~~  
1335 ~~———— (c) Maximum dry density at optimum moisture content (ASTM D1557-91, current edition~~  
1336 ~~approved November 18, 1991, published January 1992);~~  
1337 (d) ~~Coefficient of permeability, which is the indirect calculation from the one (1) dimensional~~  
1338 ~~consolidation test for clay rich soils (ASTM D2435-96, as previously referenced in this rule) or other~~  
1339 ~~laboratory procedures found in the professional literature and approved by the department;~~  
1340 (e) ~~Grain size distribution, Unified Soil Classification System designation (ASTM Standards~~  
1341 ~~D2487-93, as previously referenced in this rule and D422-63 (reapproved 1990) current edition approved~~  
1342 ~~November 21, 1963); and~~  
1343 (f) ~~Cation exchange capacity (*Methods of Soil Analysis Part II, Chemical and Microbiological*~~  
1344 ~~*Properties*, A.L. Page, Ed., American Society of Agronomy, 2nd Ed., 1982, pp. 149-157);~~  
1345 (III) ~~A hydrogeologic study conducted at the site to determine the potential for transport of~~  
1346 ~~groundwater and contaminants. This study shall include:~~  
1347 (a) ~~Piezometric contours of groundwater;~~  
1348 (b) ~~Potential direction(s) of groundwater movement and estimated rate(s);~~  
1349 (c) ~~Identification and description of the aquifer(s);~~  
1350 (d) ~~Background water quality data; and~~  
1351 (e) ~~Field permeability tests as found in the professional literature and approved by the department;~~  
1352 (IV) ~~A present water balance which shall be determined as outlined in *Use of the Water Balance*~~  
1353 ~~*Method for Predicting Leachate Generation from Solid Waste Disposal Sites*, EPA/530/SW-168 or an~~  
1354 ~~equivalent method approved by the department;~~  
1355 (V) ~~Engineering and geologic drawings that delineate —~~  
1356 (a) ~~Typical disposal cells for each hazardous waste type;~~  
1357 (b) ~~Structures for surface water control;~~  
1358 (c) ~~Locations of borings and monitoring systems;~~  
1359 (d) ~~Leachate collection systems, bottom elevations, and cover elevations for each disposal area;~~  
1360 and  
1361 (e) ~~Stratigraphic cross sections of the geologic setting showing, at a minimum, boring locations~~  
1362 ~~and depths, trench design and depths, and piezometric surfaces and water tables where present; and~~  
1363 (VI) ~~Any other applicable details.~~  
1364 2. This paragraph sets forth additional design and operating requirements.  
1365 A. Any existing landfill or existing portion of a landfill shall be replaced with a new landfill in  
1366 compliance with 40 CFR part 264 subpart N, incorporated in this rule, and this subsection prior to permit  
1367 issuance;  
1368 B. Each new landfill shall be constructed with a double liner as required in 40 CFR 264.301(c),  
1369 incorporated in this rule, and subparagraphs (2)(N)2.C. of this rule;  
1370 C. The lower component of the composite liner required by 40 CFR 264.301(c), at a minimum, shall  
1371 consist of at least three feet (3') of clay, recompacted to ninety five percent (95%) of Standard Proctor  
1372 Density with the moisture content between two percent (2%) below and four percent (4%) above the  
1373 optimum moisture content. The soils used for this purpose shall meet the following minimum specifications:

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- 1374 ~~(I) Be classified under the United Soil Classification Systems as CL, CH, or SC (ASTM Standard~~  
1375 ~~D2487-93, as previously referenced in this rule);~~  
1376 ~~(II) Allow more than thirty percent (30%) passable through a No. 200 sieve (ASTM Test D1140, as~~  
1377 ~~previously referenced in this rule);~~  
1378 ~~(III) Have a liquid limit equal to or greater than thirty (30) (ASTM Test D4318-95a, as previously~~  
1379 ~~referenced in this rule);~~  
1380 ~~(IV) Have a plasticity index equal to or greater than fifteen (15) (ASTM Test D4318-95a, as~~  
1381 ~~previously referenced by this rule); and~~  
1382 ~~(V) Have a coefficient of permeability equal to or less than  $1 \times 10^{-8}$  cm/sec when compacted to~~  
1383 ~~ninety five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%)~~  
1384 ~~below and four percent (4%) above the optimum moisture content, and when tested by using the indirect~~  
1385 ~~calculation from the one (1) dimensional consolidation test for clay rich soils (ASTM D2435-96, as~~  
1386 ~~previously referenced by this rule) or other procedures approved by the department;~~  
1387 ~~D. Each detection or collection and removal system shall meet the requirements of 40 CFR~~  
1388 ~~264.301(e)(3)(I)-(V), incorporated in this rule.~~  
1389 ~~E. The leak detection system required by 40 CFR 264.301(e)(3) shall be capable of detecting leaks~~  
1390 ~~from the entire sides and bottom of each cell.~~  
1391 ~~F. When liquids are detected in the leachate collection/removal system installed to comply with 40~~  
1392 ~~CFR 264.301(e)(2), the owner/operator shall—~~  
1393 ~~(I) Notify the department in writing within thirty (30) days of the event;~~  
1394 ~~(II) Continue to operate and maintain the leachate collection/removal and leak detection systems so~~  
1395 ~~that the liquids are removed as they accumulate or with sufficient frequency to prevent backwater within the~~  
1396 ~~system; and~~  
1397 ~~(III) Implement leachate monitoring in accordance with subparagraph (2)(N)2.G. of this rule and the~~  
1398 ~~facility permit;~~  
1399 ~~G. This paragraph sets forth requirements for leachate monitoring at landfills. An owner/operator that~~  
1400 ~~is required under subparagraph (2)(N)2.F. to initiate leachate monitoring shall comply with parts~~  
1401 ~~(2)(N)2.G.(I)-(V) of this rule.~~  
1402 ~~(I) The owner/operator shall remove any accumulated leachate in the leachate collection/removal~~  
1403 ~~and leak detection system collection sumps at least weekly during the active life and closure period. After~~  
1404 ~~the final cover is installed, accumulated leachate shall be removed at least as often as the owner/operator is~~  
1405 ~~required by 40 CFR 264.303(e)(2) to record the amount of liquids removed from the systems.~~  
1406 ~~(II) The owner/operator shall analyze leachate from the leak detection system at least annually. If~~  
1407 ~~leachate has not yet been discovered in the leak detection system, the annual analysis shall be completed on~~  
1408 ~~leachate collected from the leachate collection/removal system. At a minimum, the annual leachate analyses~~  
1409 ~~shall be conducted for indicator parameters (that is pH, specific conductance, dissolved organic carbon, and~~  
1410 ~~total organic halogen) and selected hazardous waste constituents. The hazardous waste constituents selected~~  
1411 ~~must provide a reliable indication of the presence of hazardous constituents that are reasonably expected to~~  
1412 ~~be in or derived from wastes contained in each unit.~~  
1413 ~~(III) At the first occurrence of leachate in the leak detection system, the owner/operator shall~~  
1414 ~~analyze leachate from that system for the complete list of parameters identified in 40 CFR part 264~~  
1415 ~~Appendix IX.~~  
1416 ~~(IV) The owner/operator shall calculate the average daily flow rate for each sump in the leak~~  
1417 ~~detection system as required by 40 CFR 264.302(b). In addition, the average daily flow rate for each sump in~~  
1418 ~~each of the leachate collection/removal systems shall also be calculated in a similar manner. Following~~  
1419 ~~closure, the average daily flow rates shall be calculated at the same frequency as the recording of leachate~~  
1420 ~~removal as required by 40 CFR 264.303(e)(2). If the department determines that the leachate generation rate~~  
1421 ~~is greater than reasonably expected for any unit, the department may require the owner/operator to provide~~  
1422 ~~additional information to evaluate the existing conditions.~~

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1423 ~~(V) The owner/operator shall submit all information required to comply with parts (2)(N)2.G.(I)–~~  
1424 ~~(IV) of this rule to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264~~  
1425 ~~subpart E incorporated in this rule.~~

1426 ~~(VI) The department may require more frequent leachate collection and analysis than that outlined~~  
1427 ~~in parts (2)(N)2.G.(I)–(IV) of this rule if determined necessary. The frequency of leachate collection and~~  
1428 ~~analysis will be specified in the facility permit.~~

1429 ~~(VII) Indicator parameters and constituents to be monitored as required by part (2)(N)2.G.(II) of this~~  
1430 ~~rule will be specified by the department in the facility permit. If the department determines that results of the~~  
1431 ~~chemical analyses are outside of the range that is reasonably expected for any unit, the department may~~  
1432 ~~require the owner/operator to provide additional information to evaluate the existing conditions.~~

1433 ~~H. The owner/operator shall measure daily precipitation at the facility until final closure is certified.~~  
1434 ~~During the post closure care period of the facility, the owner/operator shall also record and report regional~~  
1435 ~~precipitation from the nearest weather recording station in accordance with the schedule established for the~~  
1436 ~~maintenance of the facility. The information required under this paragraph shall be submitted to the~~  
1437 ~~department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in~~  
1438 ~~this rule.~~

1439 ~~I. If the volume or rate of flow of leachate contained in the leak detection system (implemented in~~  
1440 ~~accordance with subparagraph (2)(N)2.G. of this rule) exceeds ten percent (10%) of the action leakage rate~~  
1441 ~~as defined in 40 CFR 264.302, incorporated in this rule, then the owner/operator shall analyze the leachate~~  
1442 ~~for the indicator parameters and constituents outlined in the facility permit. If the analyzed leachate exceeds~~  
1443 ~~the detection limits outlined in the facility permit, the owner/operator shall—~~

1444 ~~(I) Notify the department in writing of the leak within seven (7) days after detecting the leak;~~

1445 ~~(II) Remove, within the period of time specified in the permit, accumulated liquid, conduct an~~  
1446 ~~assessment of the leakage to determine the cause and extent of the leak, and, if necessary, initiate repairs or~~  
1447 ~~replace the leaking liner to prevent the migration of hazardous waste liquids through the liner; and~~

1448 ~~(III) Submit to the department the assessment and a certification from a registered professional~~  
1449 ~~engineer describing any repairs or replacement of the liner system within thirty (30) days of completion.~~

1450 ~~J. A landfill shall be designed, constructed, and operated to minimize erosion, landslides and~~  
1451 ~~sloughing.~~

1452 ~~K. Where necessary, features shall be provided around closed units or, when leachate is detected in the~~  
1453 ~~lower leachate collection system, features shall control horizontal migration of leachate from the disposal~~  
1454 ~~unit. These features may include, but are not limited to, recompacted trench walls, slurry trenches, and~~  
1455 ~~intereceptor trenches.~~

1456 ~~L. There shall be a minimum of three hundred feet (300') of buffer between the property line of the~~  
1457 ~~disposal facility and the permitted area.~~

1458 ~~M. If the owner/operator accepts any odoriferous waste, the owner/operator shall apply cover or~~  
1459 ~~otherwise manage the landfill to control odor dispersal.~~

1460 ~~N. If gases are generated within the landfill, a gas collection and control system shall be installed to~~  
1461 ~~control the vertical and horizontal escape of gases from the landfill.~~

1462 ~~3. All hazardous wastes accepted for disposal shall be listed in the permit application in accordance with~~  
1463 ~~40 CFR 270.13(j) as incorporated by reference in 10 CSR 25-7.270. In addition, departmental approval of~~  
1464 ~~individual waste streams may be required prior to allowing the disposal of the waste streams in the landfill.~~

1465 ~~4. Wastes having a true vapor pressure greater than seventy eight millimeters of mercury (78 mm Hg) at~~  
1466 ~~twenty five degrees Celsius (25 °C) are volatile wastes and shall not be landfilled.~~

1467 ~~(O) Incinerators. This subsection sets forth standards which modify or add to those requirements in 40~~  
1468 ~~CFR part 264 subpart O.~~

1469 ~~1. Sampling methods to determine compliance with 40 CFR 264.343 incorporated in this rule will be~~  
1470 ~~specified by the department in the permit and shall consist of any of the following methods:~~

1471 ~~A. The methods described in the *Engineering Handbook for Hazardous Waste Incineration*, SW-889,~~  
1472 ~~by the United States EPA or equivalent; or~~

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1473 ~~B. The methods specified in 40 CFR part 60 Appendix A (July 1, 1989). For facilities subject to~~  
1474 ~~paragraph (2)(O)2. of this rule, the methods referenced in this paragraph shall be used exclusively to~~  
1475 ~~determine compliance with the emission limitations required in this subsection.~~

1476 ~~2. The provisions of 40 CFR part 60 subpart E, July 1, 1989, shall apply and are incorporated by~~  
1477 ~~reference as part of this rule. An owner/operator of a hazardous waste incinerator which is regulated under~~  
1478 ~~the New Source Performance Standards in that subpart shall comply with the provisions in addition to~~  
1479 ~~complying with all other applicable provisions in this rule.~~

1480 ~~3. Where emission limitations found in both paragraph (2)(O)2. of this rule and in another provision of~~  
1481 ~~this rule are applicable to a hazardous waste incinerator, the more stringent shall control.~~

1482 ~~(P) Health Profiles.~~

1483 ~~1. An owner/operator shall submit a health profile, as required by section 260.395.7(5), RSMo, with the~~  
1484 ~~initial application for a hazardous waste treatment or land disposal facility. A health profile is not necessary~~  
1485 ~~for facilities that must obtain a permit for only post-closure care and/or corrective action activities. A health~~  
1486 ~~profile shall identify any potential serious illnesses, the rate of which exceeds the state average for the~~  
1487 ~~illnesses, which might be attributable to environmental contamination from any hazardous waste treatment~~  
1488 ~~or land disposal unit at the hazardous waste facility applying for the permit. The purpose of the information~~  
1489 ~~in the health profile is to document the potential for exposure from the applicable hazardous waste treatment~~  
1490 ~~or land disposal units and to determine whether additional permit controls are necessary for these units to~~  
1491 ~~ensure protection of human health beyond the facility property boundaries. One of the following for each~~  
1492 ~~applicable unit or combination of units as approved by the department may constitute a health profile for the~~  
1493 ~~purposes of this subsection:~~

1494 ~~A. For combustion units —~~

1495 ~~(I) The evaluation described in 40 CFR 270.10(i)(1) for hazardous waste combustion units;~~

1496 ~~(II) An evaluation of the potential risk to human health resulting from both direct and indirect~~  
1497 ~~exposure pathways. In selecting this option, the applicant shall submit a workplan to conduct the evaluation~~  
1498 ~~with the initial application; however, the permit shall not be issued until the evaluation is final; or~~

1499 ~~(III) A Health Evaluation by the Missouri Department of Health and Senior Services requested by~~  
1500 ~~the facility according to paragraph (2)(P)4;~~

1501 ~~B. For other treatment units —~~

1502 ~~(I) An evaluation of the potential risk to human health resulting from both direct and indirect~~  
1503 ~~exposure pathways. In selecting this option, the applicant shall submit a workplan to conduct the evaluation~~  
1504 ~~with the initial application; however, the permit shall not be issued until the evaluation is final; or~~

1505 ~~(II) A Health Evaluation by the Missouri Department of Health and Senior Services requested by the~~  
1506 ~~facility according to paragraph (2)(P)4.; and~~

1507 ~~C. For land disposal units —~~

1508 ~~(I) The information required by 40 CFR 270.10(j);~~

1509 ~~(II) An evaluation of the potential risk to human health resulting from both direct and indirect~~  
1510 ~~exposure pathways. In selecting this option, the applicant shall submit a workplan to conduct the evaluation~~  
1511 ~~with the initial application; however, the permit shall not be issued until the evaluation is final; or~~

1512 ~~(III) A Health Evaluation by the Missouri Department of Health and Senior Services requested by~~  
1513 ~~the facility according to paragraph (2)(P)4.~~

1514 ~~2. This paragraph sets forth requirements which shall be met subsequent to the initial permit application~~  
1515 ~~for hazardous waste treatment and/or land disposal activities.~~

1516 ~~A. If changes occur after permit issuance that may increase the potential for human exposure to~~  
1517 ~~hazardous waste or hazardous constituents from the treatment or land disposal unit, an updated health profile~~  
1518 ~~shall be part of a facility application for permit renewal or permit modifications that include addition or~~  
1519 ~~modification of a hazardous waste treatment or land disposal unit.~~

1520 ~~B. Appropriate documentation to be submitted as the updated health profile shall include one (1) of~~  
1521 ~~the options set out in subparagraphs (2)(P)1.A. through C., or an update of a previous submittal under those~~  
1522 ~~requirements.~~

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1523 ~~3. Additional epidemiological investigations by the Missouri Department of Health and Senior Services~~  
1524 ~~may be required if the information provided pursuant to subparagraph (2)(P)2.B. indicates the presence of~~  
1525 ~~potentially unacceptable human health risks.~~

1526 ~~4. A Health Evaluation by the Missouri Department of Health and Senior Services will assess the~~  
1527 ~~potential for exposure and adverse health effects to the public from materials released by the applicable~~  
1528 ~~hazardous waste units. If the owner or operator chooses to request a Health Evaluation by the Missouri~~  
1529 ~~Department of Health and Senior Services to meet the requirements of this subsection, the request shall be~~  
1530 ~~submitted with the initial application; however, a permit shall not be issued until the evaluation is final.~~

1531 (Q) *(Reserved)*

1532 (R) *(Reserved)*

1533 (S) Corrective Action for Solid Waste Management Units. *(Reserved)*

1534 (T) *(Reserved)*

1535 (U) *(Reserved)*

1536 (V) *(Reserved)*

1537 (W) Drip Pads. 40 CFR part 264 subpart W is not incorporated by reference.

1538 (X) Miscellaneous Units. ~~This subsection sets forth requirements in addition to 40 CFR part 264 subpart X~~  
1539 ~~incorporated in this rule.~~

1540 ~~1. A facility which continuously feeds hazardous waste into the treatment process shall be equipped with~~  
1541 ~~an automatic waste feed cutoff or a bypass system that is activated when a malfunction in the treatment~~  
1542 ~~process occurs. A bypass system shall return hazardous waste feed to storage and shall not allow a discharge~~  
1543 ~~or release of hazardous waste.~~

1544 ~~2. Residuals of by products from a treatment process (for example, sludges, spent resins) shall be~~  
1545 ~~analyzed during a trial period to determine the effectiveness of the treatment process.~~

1546 (Y) *(Reserved)*

1547 (Z) *(Reserved)*

1548 (AA) Air Emission Standards for Process Vents. *(Reserved)*

1549 (BB) Air Emission Standards for Equipment Leaks. *(Reserved)*

1550 (CC) Air Emission Standards for Tanks, Surface Impoundments, and Containers. *(Reserved)*

1551 (DD) Containment Buildings. *(Reserved)*

1552 (EE) Hazardous Waste Munitions and Explosive Storage. *(Reserved)*

1553 (3) ~~The following requirements apply to~~ **Permitted** hazardous waste TSD facilities that accept and/or ship  
1554 hazardous waste via railroad tank car (railcar) **shall comply with the requirements for container storage**  
1555 **in 40 CFR Part 264 Subpart I, as incorporated by reference in 10 CSR 25-7.264(1), or the following**  
1556 **requirements for railcar management.**

1557 (A) ~~The owner or operator~~ **owner/operator** shall submit a railcar management plan with the application  
1558 for a hazardous waste treatment, storage, or disposal facility permit. Permitted facilities that currently accept  
1559 and/or ship hazardous waste via railcars shall request a Class I permit modification that requires prior  
1560 director approval for the railcar management plan according to the procedures defined in **40 CFR 270.42 as**  
1561 **incorporated in 10 CSR 25-7.270(1).** ~~within one hundred eighty (180) days of the effective date of this~~  
1562 ~~paragraph. Permitted facilities that fail to apply for a permit modification in compliance with this subsection~~  
1563 ~~shall cease all operations involved in the acceptance and/or shipment of hazardous waste via railcar. The~~  
1564 ~~permitted facility that has fully complied with this subsection has authorization to conduct the operations~~  
1565 ~~involved in the acceptance and/or shipment of hazardous waste via railcar, pending action by the director.~~

1566 1. The railcar management plan shall describe steps to be taken by the facility in order to comply with  
1567 the requirements of subsections (3)(B)–(3)(F).

1568 2. The railcar management plan shall be maintained at the facility.

1569 (B) Railcars shall not be used as container or tank storage units at a facility unless the **owner or operator**  
1570 ~~owner/operator~~ complies with the standards for container storage set forth in 40 CFR part 264 subpart I as  
1571 incorporated in this rule and 40 CFR 270.15 as incorporated in 10 CSR 25-7.270. During the time allowed  
1572 for loading and unloading as set forth in this section, the railcar shall not be considered to be in storage.

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- 1573 1. The **owner or operator** ~~owner/operator~~ shall ship hazardous wastes loaded onto a railcar within  
1574 seventy-two (72) hours after loading is initiated. For the purposes of this section, shipment occurs when—  
1575 A. The transporter signs and dates the manifest acknowledging acceptance of the hazardous waste;  
1576 B. The transporter returns a signed copy of the manifest to the facility; and  
1577 C. The railcar crosses the property boundary line of the TSD facility.
- 1578 2. The **owner or operator** ~~owner/operator~~ shall have a maximum of ten (10) days following receipt of a  
1579 shipment to unload hazardous waste from incoming railcars. The amount of time allowed for unloading  
1580 shall be specified in the approved railcar management plan for each facility as part of the permit. The  
1581 department will review and approve each railcar management plan on a case-by-case basis and will base its  
1582 decision regarding the time allowed for unloading on factors including, but not limited to, the size of the rail  
1583 siding, surveillance and security standards, enclosure of the facility, type and amount of emergency response  
1584 equipment, and the facility's capacity to handle incidents. Unless more time is allowed by an approved  
1585 railcar management plan, the **owner or operator** ~~owner/operator~~ shall unload hazardous waste from an  
1586 incoming railcar within seventy-two (72) hours of receipt of the shipment. For the purposes of this section,  
1587 receipt of the shipment occurs when—  
1588 A. The **owner or operator** ~~owner/operator~~ signs the shipping paper; or  
1589 B. The **owner or operator** ~~owner/operator~~ signs the manifest; or  
1590 C. The railcar crosses the property boundary line of the TSD facility.
- 1591 3. The time limits in this subsection may be extended for up to an additional twenty-four (24) hours  
1592 for Saturdays, Sundays, or public holidays as defined in section 9.010, RSMo 2000, that fall within the time  
1593 period approved in the railcar management plan.
- 1594 4. If the **owner or operator** ~~owner/operator~~ finds that a railcar shipment must be rejected, the railcar  
1595 shall be shipped within twenty-four (24) hours of that determination, or within the time period approved in  
1596 the railcar management plan, whichever is later. The rejection and the reasons for the rejection shall be  
1597 documented in the facility's operating record.
- 1598 5. The **owner or operator** ~~owner/operator~~ shall attempt to arrange for the rail carrier to provide the  
1599 **owner or operator** ~~owner/operator~~ a notification detailing when a railcar was picked up from the facility or  
1600 when a railcar was delivered to the facility. If the rail carrier declines to enter into such arrangements, the  
1601 **owner or operator** ~~owner/operator~~ must document the refusal in the operating record. The time limitations  
1602 set forth in this subsection must be documented by recording dates and times in the facility's operating  
1603 record.
- 1604 6. If the loading and unloading time frames specified in this section are exceeded, then the **owner or**  
1605 **operator** ~~owner/operator~~ utilizing railcars shall comply with the standards for container storage in 40 CFR  
1606 part 264 subpart I, as incorporated in this rule, and with 40 CFR 270.15, as incorporated in 10 CSR 25-  
1607 7.270.
- 1608 (C) The **owner or operator** ~~owner/operator~~ shall comply with 40 CFR 264.17, incorporated in this rule,  
1609 during railcar loading and unloading. Additional specific precautions to be taken shall include facility  
1610 design, construction, operation and maintenance standards as specified in "Loading and Unloading  
1611 Operations: Tank Vehicles and Tank Cars" in section 5-4.4.1 of the 1993 Edition of the *National Fire*  
1612 *Protection Association Flammable and Combustible Liquids Code* (NFPA 30).
- 1613 (D) The **owner or operator** ~~owner/operator~~ shall provide security for railcars at the facility by utilizing  
1614 one of the alternatives specified in 40 CFR 264.14(b), as incorporated in this rule. If the **owner or operator**  
1615 ~~owner/operator~~ demonstrates that it is not practical to provide security for railcars at the facility as specified  
1616 in 40 CFR 264.14(b), incorporated in this rule, railcars shall be secured by locking all fill and drain posts  
1617 upon receipt of a loaded railcar or upon completion of the **owner or operator's** ~~owner/operator~~ loading  
1618 procedures. The locks must remain in place until the **owner or operator** ~~owner/operator~~ begins unloading  
1619 procedures or until the rail carrier picks up the loaded or rejected railcar for transport off-site.
- 1620 (E) In accordance with 40 CFR 264.15, incorporated in this rule, the **owner or operator** ~~owner/operator~~  
1621 shall inspect railcars and surrounding areas, at least daily, looking for leaks and for deterioration caused by  
1622 corrosion or other factors.

1623 (F) In accordance with 40 CFR part 264 subpart C and 40 CFR part 264 subpart D, as incorporated in this  
1624 rule, the **owner or operator** owner/operator shall develop preparedness and prevention procedures and a  
1625 contingency plan for railcars. If the **owner or operator** owner/operator has not prepared a Spill Prevention  
1626 Control and Countermeasures (SPCC) Plan for hazardous waste, then one must be developed that parallels  
1627 requirements and guidelines as specified in 40 CFR part 112 for oil. At a minimum, the SPCC Plan must  
1628 include adequate spill response equipment and preventative measures, such as dikes, curbing, and  
1629 containment systems.

1630  
1631

1632 **10 CSR 25-7.265 Interim Status Standards for Owners and Operators of Hazardous Waste**  
1633 **Treatment, Storage, and Disposal Facilities**

1634 *PURPOSE: This rule incorporates 40 CFR part 265 by reference and sets forth additional state standards.*

1635 (1) The regulations set forth in 40 CFR part 265, July 1, **2013**, as published by the Office of the Federal  
1636 Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA  
1637 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or  
1638 additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-  
1639 3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule.  
1640 Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

1641 (2) The **owner or operator** owner/operator of a treatment, storage, or disposal (TSD) facility shall comply  
1642 with the requirements noted in this section in addition to requirements set forth in 40 CFR part 265  
1643 incorporated in this rule. In the case of contradictory or conflicting requirements in 10 CSR 25, the more  
1644 stringent shall control. (Comment: This section has been organized so that all Missouri additions, changes,  
1645 or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this  
1646 section. For example, the additional requirements to be added to 40 CFR part 265 subpart A are found in  
1647 subsection (2)(A) of this rule.)

1648 (A) General. In addition to the requirements in 40 CFR part 265 subpart A, the following regulations also  
1649 apply:

1650 ~~1. This rule does not apply to an owner/operator of an elementary neutralization unit or a wastewater~~  
1651 ~~treatment unit receiving only hazardous waste generated on-site or generated by its operator or only one (1)~~  
1652 ~~operator if the unit meets the standards set forth in 10 CSR 25-7.270(2)(A)3.;~~

1653 2. This rule does not apply to an **owner or operator** owner/operator for that portion of or process at the  
1654 facility which is in compliance with 10 CSR 25-9.020 Hazardous Waste Resource Recovery Processes.  
1655 (Note: Underground injection wells are prohibited in Missouri by section 577.155, RSMo.);

1656 3. State interim status is authorization to operate a hazardous waste treatment, storage, or disposal  
1657 facility pursuant to section 260.395.15, RSMo, 10 CSR 25-7.265, and 10 CSR 25-7.270 until the final  
1658 administrative disposition of the permit application is made or until interim status is terminated pursuant to  
1659 10 CSR 25-7.270. The **owner or operator** owner/operator of a facility or unit operating under state interim  
1660 status shall comply with the requirements of this rule and 10 CSR 25-7.270. In addition to providing  
1661 notification to the Environmental Protection Agency (EPA), the **owner or operator** owner/operator is  
1662 required to provide state notification in accordance with 10 CSR 25-7.270; and

1663 ~~4. Hazardous waste which must be managed in a permitted unit (e.g., waste generated on-site and stored~~  
1664 ~~beyond the time frames allowed without a permit pursuant to 10 CSR 25-5.262, waste received from off-site,~~  
1665 ~~certain hazardous waste fuels, etc.) shall not be stored or managed outside an area or unit which does not~~  
1666 ~~have a permit or interim status for that waste for a period which exceeds twenty-four (24) hours. This~~  
1667 ~~provision shall not apply to railcars held in areas for handling during the time period allowed by, and~~  
1668 ~~managed in accordance with, 10 CSR 25-7.264(3) of this regulation. (Comment: The purpose of this~~  
1669 ~~paragraph is to allow the necessary movement of hazardous waste into, out of, and through facilities, and not~~  
1670 ~~to evade permit requirements.)~~

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1671 (B) General Facility Standards. ~~This subsection sets forth requirements that modify or add to the~~  
1672 ~~requirements in 40 CFR part 265 subpart B.~~

1673 ~~1. In addition to the requirements in 40 CFR 265.12(a) incorporated in this rule, an owner/operator shall~~  
1674 ~~submit to the department a separate analysis for each hazardous waste that s/he intends to import. Each~~  
1675 ~~analysis shall contain the following information: the foreign generator's name, site address, and telephone~~  
1676 ~~number; a list of applicable EPA waste codes and a percentage of each for each hazardous waste; the flash~~  
1677 ~~point determined in accordance with 40 CFR 261.21, incorporated by reference in 10 CSR 25-4; a list of~~  
1678 ~~reactive waste(s) as defined in 40 CFR 261.23, incorporated by reference in 10 CSR 25-4; and results of~~  
1679 ~~toxicity tests conducted in accordance with 40 CFR 261.24, incorporated by reference in 10 CSR 25-4.261,~~  
1680 ~~if applicable.~~

1681 ~~2. 40 CFR 265.15(b)(5) is not incorporated in this rule.~~

1682 (C) Preparedness and Prevention. (*Reserved*)

1683 (D) Contingency Plan and Emergency Procedures. (*Reserved*)

1684 (E) Manifest System, Record Keeping, and Reporting. This subsection sets forth standards which modify  
1685 or add to those requirements in 40 CFR part 265 subpart E.

1686 1. All **owners or operators** ~~owners/operators~~ shall comply with the reporting requirements in 10 CSR  
1687 25-5.262(2)(D) regardless of whether the **owner or operator** ~~owner/operator~~ is required to register as a  
1688 generator pursuant to 10 CSR 25-5.262(2)(A)1.

1689 2. In addition to the requirements in 10 CSR 25-5.262(2)(D) for hazardous waste generated on-site and  
1690 shipped off-site for treatment, storage, resource recovery, or disposal, the **owner or operator**  
1691 ~~owner/operator~~ shall meet the same requirements for the following:

1692 A. All hazardous waste generated on-site during the reporting period that is managed on-site; and

1693 B. All hazardous waste received from off-site during the reporting period, including hazardous waste  
1694 generated by another generator and hazardous waste generated at other sites under the control of the **owner**  
1695 ~~or operator~~ ~~owner/operator~~.

1696 3. In addition to the information required in 10 CSR 25-5.262(2)(D), an **owner or operator**  
1697 ~~owner/operator~~ shall include the following information in the summary report:

1698 A. A description and the quantity of each hazardous waste that was both generated and managed on-  
1699 site during the reporting period;

1700 B. For each hazardous waste that is received from off-site, a description and the quantity of each  
1701 hazardous waste and the corresponding state and EPA identification numbers of each generator;

1702 C. For imports, the name and address of the foreign generator;

1703 D. The corresponding method of treatment, storage, resource recovery, disposal, or other approved  
1704 management method used for each hazardous waste.

1705 4. As outlined in section 260.380.2, RSMo, all **owners or operators** ~~owners/operators~~ shall pay a fee to  
1706 the department of two dollars (\$2) per ton or portion thereof for any and all hazardous waste received from  
1707 outside of Missouri. This fee shall be referred to as the Out-of-State Waste Fee and shall not be paid on  
1708 hazardous waste received directly from other permitted treatment, storage, and disposal facilities located in  
1709 Missouri.

1710 A. For each **owner or operator** ~~owner/operator~~, this fee shall be paid on or before January 1 of each  
1711 year and shall be based on the total tons of hazardous waste received in the aggregate by that **owner or**  
1712 ~~operator~~ ~~owner/operator~~ for the twelve (12)-month period ending the previous June 30. As outlined in  
1713 section 260.380.4, RSMo, failure to pay this fee in full by the due date shall result in imposition of a late fee  
1714 equal to fifteen percent (15%) of the total original fee. Each twelve (12)-month period ending on June 30  
1715 shall be referred to as a reporting year.

1716 B. **Owners or operators** ~~owners/operators~~ may elect, but are not required, to pay this fee on a  
1717 quarterly basis at the time they file the reporting required in subparagraphs (2)(E)3.B. and C. of this rule. If  
1718 they do not choose to pay the fee quarterly, **owners or operators** ~~owners/operators~~ may elect, but are not  
1719 required, to pay the fee at the time they file their final quarterly **or annual** report of each reporting year.  
1720 However, the total fee for each reporting year must be paid on or before January 1 immediately following  
1721 the end of each reporting year.

1722  
1723

1724 EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

1725

1726 Example 1. ABC Company reports receiving 250 tons of hazardous waste from outside of Missouri:

1727  $\$2 \times 250 \text{ tons} = \$500 \text{ fee}$

1728 Example 2. ABC Company reports receiving 410.6 tons of hazardous waste from outside of Missouri.

1729 The number of tons would be rounded to 411.

1730  $\$2 \times 411 \text{ tons} = \$822 \text{ fee}$

1731 Example 3. ABC Company reports receiving 52,149.3 tons of hazardous waste from outside of Missouri.

1732 The number of tons would be rounded to 52,150.

1733  $\$2 \times 52,150 \text{ tons} = \$104,300 \text{ fee}$

1734

1735 (F) Groundwater Monitoring. *(Reserved)*

1736 (G) Closure and Post-Closure. ~~This subsection sets forth additional requirements to 40 CFR part 265~~  
1737 ~~subpart G, incorporated in this rule.~~

1738 1. ~~The incorporation by reference of 40 CFR 265.113(d) and (e) does not relieve the owner/operator of~~  
1739 ~~his/her responsibility to comply with 10 CSR 80 if a solid waste permit is required under those rules.~~

1740 2. ~~The owner/operator of a hazardous waste unit which is certifying closure with residues left in place,~~  
1741 ~~regardless of the level of treatment to render the residue nonhazardous, shall meet the requirements in 40~~  
1742 ~~CFR 265.116 incorporated in this rule.~~

1743 3. ~~In addition to requirements in 40 CFR 265.116, when an owner/operator certifies a closure which did~~  
1744 ~~not result in removal of hazardous wastes to background levels, the owner/operator shall record, in~~  
1745 ~~accordance with state law, a notation on an instrument which is normally examined during title search that~~  
1746 ~~will notify, in perpetuity, a potential purchaser of the property that the land has been used to manage~~  
1747 ~~hazardous waste.~~

1748 4. ~~In addition to the requirements in 40 CFR 265.116 and 265.119 as incorporated in this rule, an~~  
1749 ~~owner/operator shall submit a notarized statement to the department certifying that the owner/operator has~~  
1750 ~~caused the notation(s) to be recorded. The notation(s) shall be recorded with the recorder(s) of deeds in all~~  
1751 ~~counties in which the facility or part of the facility is located.~~

1752 (H) Financial Assurance Requirements. ~~This subsection sets forth the requirements which modify or add~~  
1753 ~~to those requirements in 40 CFR part 265 subpart H.~~

1754 1. ~~For purposes of this subsection, commercial treatment, storage, or disposal (TSD) facility means any~~  
1755 ~~facility that would be considered a commercial hazardous waste treatment, storage, and disposal facility for~~  
1756 ~~purposes of 10 CSR 25-12.020, or any facility that is certified as an R2 resource recovery facility according~~  
1757 ~~to 10 CSR 25-9.020, or any facility that receives for remuneration polychlorinated biphenyls (PCB) material~~  
1758 ~~or PCB units as defined by 10 CSR 25-13.010.~~

1759 2. ~~In 40 CFR 265.143(a)(3), incorporated by reference in this rule, delete “the 20 years” and insert in its~~  
1760 ~~place “a period of five (5) years.”~~

1761 3. ~~In 40 CFR 265.145(a)(3), incorporated by reference in this rule, delete “the 20 years” and insert in its~~  
1762 ~~place “a period of five (5) years.”~~

1763 4. ~~This paragraph modifies the requirements for surety bonds guaranteeing payment into a closure trust~~  
1764 ~~fund or post-closure trust fund per 40 CFR 265.143(b) or 40 CFR 265.145(b), incorporated in this rule.~~

1765 A. ~~Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-~~  
1766 ~~closure trust fund shall be authorized to do business in Missouri.~~

1767 B. ~~Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-~~  
1768 ~~closure trust fund shall not cancel, terminate, or fail to renew a surety bond guaranteeing payment into a~~  
1769 ~~closure or post-closure trust fund and the surety bond shall remain in full force and effect in the event that on~~  
1770 ~~or before the date of cancellation—~~

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- 1771 ~~(I) The director deems the facility abandoned; or~~  
1772 ~~(II) Interim status is terminated or revoked; or~~  
1773 ~~(III) Closure is ordered by the department or a court of competent jurisdiction; or~~  
1774 ~~(IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under 11~~  
1775 ~~U.S.C. section 1, et seq.; or~~  
1776 ~~(V) The premium due is paid; or~~  
1777 ~~(VI) An appeal of an order to close the facility as specified in part (2)(H)4.B.(III) of this~~  
1778 ~~subparagraph is pending.~~  
1779 ~~C. Facilities that have a surety bond or bonds guaranteeing payment into a closure trust fund or a post-~~  
1780 ~~closure trust fund as of the effective date of this subparagraph shall modify their surety instruments to~~  
1781 ~~comply with this paragraph within twelve (12) months of the effective date of this subparagraph.~~  
1782 ~~5. This paragraph modifies the requirements for letters of credit per 40 CFR 265.143(e), incorporated in~~  
1783 ~~this rule, 40 CFR 265.145(e), incorporated in this rule, and 40 CFR 265.147(h), incorporated in this rule.~~  
1784 ~~Letters of credit shall be issued by a state or federally chartered and regulated bank or trust association.~~  
1785 ~~6. An owner/operator of a facility that is a commercial TSD facility may not satisfy financial assurance~~  
1786 ~~requirements for closure, post closure, or liability coverage, or any combination of these, by the use of a~~  
1787 ~~financial test as specified in 40 CFR 265.143(e), incorporated in this rule, 40 CFR 265.145(e), incorporated~~  
1788 ~~in this rule, or 40 CFR 265.147(f), incorporated in this rule.~~  
1789 ~~7. This paragraph modifies the requirements for closure insurance per 40 CFR 265.143(d), incorporated~~  
1790 ~~in this rule, post closure insurance per 40 CFR 265.145(d), incorporated in this rule, liability coverage for~~  
1791 ~~sudden accidental occurrences per 40 CFR 265.147(a)(1), incorporated in this rule, and liability coverage for~~  
1792 ~~non-sudden accidental occurrences per 40 CFR 265.147(b)(1), incorporated in this rule. Each insurance~~  
1793 ~~policy shall be issued by an insurer which, at a minimum, is licensed to transact the business of insurance or~~  
1794 ~~is eligible to provide insurance as an excess or surplus lines insurer in Missouri.~~  
1795 ~~8. In 40 CFR 265.143(e), incorporated in this rule, delete “or a firm with a ‘substantial business~~  
1796 ~~relationship’ with the owner or operator.”~~  
1797 ~~9. In 40 CFR 265.145(e), incorporated in this rule, delete “or a firm with a ‘substantial business~~  
1798 ~~relationship’ with the owner or operator.”~~  
1799 ~~10. In 40 CFR 265.147(g), incorporated in this rule, delete “or a firm with a ‘substantial business~~  
1800 ~~relationship’ with the owner or operator.”~~  
1801 (I) Use and Management of Containers. This subsection sets forth additional standards for container  
1802 storage areas.  
1803 1. Container storage areas shall have a containment system that is designed and operated in accordance  
1804 with paragraph (2)(I)2. of this rule except as provided by paragraph (2)(I)4. of this rule.  
1805 2. A containment system shall be designed, maintained, and operated as follows:  
1806 A. A containment system shall have a base which is free of cracks or gaps and is sufficiently  
1807 impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and  
1808 removed;  
1809 B. The base shall be sloped or the containment system shall be otherwise designed and operated to  
1810 drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or  
1811 otherwise protected from contact with accumulated liquids;  
1812 C. The containment system shall have a capacity equal to ten percent (10%) of the containerized waste  
1813 volume or the volume of the largest container, whichever is greater. Containers that do not contain free  
1814 liquids need not be considered in this calculation;  
1815 D. Run-on into the containment system shall be prevented unless the collection system has sufficient  
1816 excess capacity in addition to that required in subparagraph (2)(I)2.C. of this rule to contain any run-on  
1817 which might enter the system; and  
1818 E. Spilled or leaked waste and accumulated precipitation shall be removed from the sump or collection  
1819 area in as timely a  
1820 manner as is necessary to prevent overflow of the collection system.

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1821 ~~3. The containment system shall also be inspected as part of the weekly inspections required by 40 CFR~~  
1822 ~~265.174, incorporated in this rule.~~

1823 ~~4. Storage areas that store containers holding only wastes that do not contain free liquids or storage~~  
1824 ~~facilities that store less than one thousand kilograms (1,000 kg) of nonacute hazardous waste containing free~~  
1825 ~~liquids need not have a containment system described in paragraph (2)(1)2. of this rule provided that—~~

1826 ~~A. The storage area is sloped or is otherwise designed and operated to drain and remove liquid~~  
1827 ~~resulting from precipitation; or~~

1828 ~~B. The containers are elevated or are otherwise protected from contact with accumulated liquid.~~

1829 ~~5. Containers storing hazardous waste must be marked and labeled in accordance with 10 CSR 25-~~  
1830 ~~5.262(2)(C) during the entire storage period.~~

1831 ~~6. Container storage areas which close without removing all hazardous waste and/or hazardous waste~~  
1832 ~~constituents to below background levels may pursue either a risk based closure if there is no evidence of~~  
1833 ~~groundwater or surface water contamination or, in the absence of such evidence, close in accordance with 10~~  
1834 ~~CSR 25 7.264(2)(N) and 40 CFR part 264 subpart N, as incorporated in subsection (2)(N). The~~  
1835 ~~owner/operator shall also comply with the requirements of 10 CSR 25 7.265(2)(G).~~

1836 7. Containers holding ignitable or reactive waste which are stored outdoors or in buildings not equipped  
1837 with sprinkler systems shall be located at least fifty feet (50') from the facility's property line.

1838 8. Containers holding ignitable or reactive waste which are stored indoors shall be located at least fifty  
1839 feet (50') from the facility's property line, unless the following requirements are satisfied:

1840 A. Exposing walls that are located more than ten feet (10') but less than fifty feet (50') from a  
1841 boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least two  
1842 (2) hours, with each opening protected by an automatically-closing listed one and one-half (1.5)-hour (B)  
1843 fire door;

1844 B. Exposing walls that are located less than ten feet (10') from a boundary line of adjoining property  
1845 that can be built upon shall have a fire-resistance rating of at least four (4) hours, with each opening  
1846 protected by an automatically-closing listed three (3)-hour (A) fire door (Comment: All fire doors, closure  
1847 devices, and windows shall be installed in accordance with the National Fire Protection Association (NFPA)  
1848 Code 80, *Standards for Fire Doors and Windows*, 1995 edition);

1849 C. The construction design of exterior walls shall provide ready accessibility for fire-fighting  
1850 operations through the provision of access openings, windows, or lightweight noncombustible wall panels;

1851 D. Container storage areas shall be provided with automatic fire suppression systems designed and  
1852 installed in accordance with NFPA 14 (1996 edition), NFPA 15 (1996 edition), NFPA 16 (1995 edition),  
1853 NFPA 16A (1994 edition), NFPA 17 (1998 edition), NFPA 17A (1998 edition), NFPA 18 (1995 edition),  
1854 NFPA 20 (1996 edition), NFPA 22 (1996 edition), and NFPA 24 (1995 edition) Standards. Final design of  
1855 these systems shall be approved by a qualified, registered professional engineer in Missouri;

1856 E. Each container storage area shall have preconnected hose lines capable of reaching the entire area.  
1857 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  
1858 one-half (1.5)-inch fire hose is used, it shall be installed in accordance with NFPA 14 (1996 edition). Hand-  
1859 held fire extinguishers rated for the appropriate class of fire shall be available at each storage area;

1860 F. Only containers meeting the requirements of, and containing products authorized by, Chapter I,  
1861 Title 49 of the *Code of Federal Regulations* (DOT Regulations) or NFPA 386, *Standard for Portable*  
1862 *Shipping Tanks* (1990 edition) shall be used;

1863 G. All storage of ignitable or reactive materials shall be organized in a manner which will not  
1864 physically obstruct a means of egress. Materials shall not be placed in a manner that a fire would preclude  
1865 egress from the area. Evacuation plans shall recognize the locations of any automatically-closing fire doors;

1866 H. All containers shall be arranged so that there is a minimum aisle space of four feet (4') between  
1867 rows, allowing accessibility to each individual container. Double rows can be utilized. Containers shall not  
1868 be stacked, placed, or both, closer than three feet (3') from ceilings or any roof members; and

1869 I. Explosive gas levels in the facility shall be monitored continuously. If the facility is not manned  
1870 twenty-four (24) hours per day, a telemetry system shall be provided to alarm designated response  
1871 personnel.

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- 1872 (J) Tanks. ~~This subsection modifies and adds to the incorporation of 40 CFR part 265 subpart J.~~  
1873 ~~1. 40 CFR 264.190(e) is not incorporated by reference.~~  
1874 ~~2. In 40 CFR 265.193(g)(1) incorporated in this rule, delete “or that in the event of a release that does~~  
1875 ~~migrate to ground water or surface water, no substantial present or potential hazard will be posed to human~~  
1876 ~~health or the environment.” 40 CFR 265.193(g)(2) is not incorporated by reference in this rule. In 40 CFR~~  
1877 ~~265.193(g)(4)(ii) incorporated in this rule, substitute “264.197(b)” for “265.197(b).” For purposes of 40~~  
1878 ~~CFR 265.193(h) incorporated in this rule, “variance” means exception.~~  
1879 ~~3. In 40 CFR 265.196(e) and (e)(2) incorporated in this rule, delete “visible” and “visual.” Tank storage~~  
1880 ~~areas which close without removing all hazardous waste and/or hazardous waste constituents to below~~  
1881 ~~background levels may pursue either a risk based closure if there is no evidence of groundwater or surface~~  
1882 ~~water contamination or in the absence of such evidence, close in accordance with 10 CSR 25 7.264(2)(N)~~  
1883 ~~and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The owner/operator shall also comply~~  
1884 ~~with the requirements of 10 CSR 25 7.265(2)(G).~~  
1885 (K) Surface Impoundments. ~~In addition to the requirements in 40 CFR part 265 subpart K, those surface~~  
1886 ~~impoundments which are intended to be closed without removing the hazardous waste shall meet the~~  
1887 ~~requirements of 10 CSR 25 7.264(2)(N)1.A. and 40 CFR part 264 subpart N as incorporated in 10 CSR 25-~~  
1888 ~~7.264. If the site location for any such impoundment cannot meet these site specific location requirements~~  
1889 ~~and contamination exists beyond the liner of the surface impoundment, the owner/operator shall clean up~~  
1890 ~~contaminated residues and hazardous constituents to the greatest extent practical during closure. If the~~  
1891 ~~department determines, based on the potential impact on human health and the environment, that it is not~~  
1892 ~~necessary or not feasible to remove contaminated material down to background concentrations during~~  
1893 ~~closure, the owner/operator shall comply with 40 CFR 264.228(b) incorporated in 10 CSR 25 7.264 or shall~~  
1894 ~~submit a delisting petition and obtain approval from EPA for that delisting petition pursuant to 40 CFR~~  
1895 ~~260.20 and 40 CFR 260.22 for the contaminated material not removed during closure.~~  
1896 (L) Waste Piles. *(Reserved)*  
1897 (M) Land Treatment. *(Reserved)*  
1898 (N) Landfills. *(Reserved)*  
1899 (O) Incinerators. *(Reserved)*  
1900 (P) Thermal Treatment. *(Reserved)*  
1901 (Q) Chemical, Physical, and Biological Treatment. *(Reserved)*  
1902 (R) Underground Injection. 40 CFR part 265 subpart R is not incorporated by reference.  
1903 (S) *(Reserved)*  
1904 (T) *(Reserved)*  
1905 (U) *(Reserved)*  
1906 (V) *(Reserved)*  
1907 (W) Drip Pads. 40 CFR part 265 subpart W is not incorporated by reference.  
1908 (X) *(Reserved)*  
1909 (Y) *(Reserved)*  
1910 (Z) *(Reserved)*  
1911 (AA) Air Emission Standards for Process Vents. *(Reserved)*  
1912 (BB) Air Emission Standards for Equipment Leaks. *(Reserved)*  
1913 (CC) Air Emission Standards for Tanks, Surface Impoundments, and Containers. *(Reserved)*  
1914 (DD) Containment Buildings. *(Reserved)*  
1915 (EE) Hazardous Waste Munitions and Explosives Storage. *(Reserved)*

1916 (3) This section applies to TSD facilities that accept and/or ship hazardous waste via railroad tank cars  
1917 (railcars). The ~~owner or operator~~ ~~owner/operator~~ of a TSD facility shall comply with requirements set forth  
1918 in 10 CSR 25 7.264(3) and shall submit a rail car management plan for inclusion in their part B permit  
1919 application within one hundred eighty (180) days of the effective date of this section.  
1920

1921 (3) Interim status hazardous waste TSD facilities that accept and/or ship hazardous waste via railroad  
1922 tank car (railcar) shall comply with the requirements for container storage in 40 CFR Part 265  
1923 Subpart I, as incorporated by reference in 10 CSR 25-7.265(1), or the following requirements for  
1924 railcar management.

1925 (A) The owner/operator shall submit a railcar management plan with the application for a hazardous  
1926 waste treatment, storage, or disposal facility permit. Interim status facilities that currently accept  
1927 and/or ship hazardous waste via railcars shall request a change in interim status that requires director  
1928 approval for the railcar management plan according to the procedures defined in 40 CFR 270.72 as  
1929 incorporated in 10 CSR 25-7.270(1).

1930 1. The railcar management plan shall describe steps to be taken by the facility in order to comply with  
1931 the requirements of subsections (3)(B)–(3)(F).

1932 2. The railcar management plan shall be maintained at the facility.

1933 (B) Railcars shall not be used as container or tank storage units at a facility unless the owner/operator  
1934 complies with the standards for container storage set forth in 40 CFR Part 265 Subpart I as  
1935 incorporated in this rule and 40 CFR 270.15 as incorporated in 10 CSR 25-7.270(1). During the time  
1936 allowed for loading and unloading as set forth in this section, the railcar shall not be considered to be  
1937 in storage.

1938 1. The owner/operator shall ship hazardous wastes loaded onto a railcar within seventy-two (72) hours  
1939 after loading is initiated. For the purposes of this section, shipment occurs when—

1940 A. The transporter signs and dates the manifest acknowledging acceptance of the hazardous waste;

1941 B. The transporter returns a signed copy of the manifest to the facility; and

1942 C. The railcar crosses the property boundary line of the TSD facility.

1943 2. The owner/operator shall have a maximum of ten (10) days following receipt of a shipment to  
1944 unload hazardous waste from incoming railcars. The amount of time allowed for unloading shall be  
1945 specified in the approved railcar management plan for each facility as part of the permit. The  
1946 department will review and approve each railcar management plan on a case-by-case basis and will  
1947 base its decision regarding the time allowed for unloading on factors including, but not limited to, the  
1948 size of the rail siding, surveillance and security standards, enclosure of the facility, type and amount of  
1949 emergency response equipment, and the facility's capacity to handle incidents. Unless more time is  
1950 allowed by an approved railcar management plan, the owner/operator shall unload hazardous waste  
1951 from an incoming railcar within seventy-two (72) hours of receipt of the shipment. For the purposes of  
1952 this section, receipt of the shipment occurs when—

1953 A. The owner/operator signs the shipping paper; or

1954 B. The owner/operator signs the manifest; or

1955 C. The railcar crosses the property boundary line of the TSD facility.

1956 3. The time limits in this subsection may be extended for up to an additional twenty-four (24) hours  
1957 for Saturdays, Sundays, or public holidays as defined in section 9.010, RSMo 2000, that fall within the  
1958 time period approved in the railcar management plan.

1959 4. If the owner/operator finds that a railcar shipment must be rejected, the railcar shall be shipped  
1960 within twenty-four (24) hours of that determination, or within the time period approved in the railcar  
1961 management plan, whichever is later. The rejection and the reasons for the rejection shall be  
1962 documented in the facility's operating record.

1963 5. The owner/operator shall attempt to arrange for the rail carrier to provide the owner/operator a  
1964 notification detailing when a railcar was picked up from the facility or when a railcar was delivered to  
1965 the facility. If the rail carrier declines to enter into such arrangements, the owner/operator must  
1966 document the refusal in the operating record. The time limitations set forth in this subsection must be  
1967 documented by recording dates and times in the facility's operating record.

1968 6. If the loading and unloading time frames specified in this section are exceeded, then the  
1969 owner/operators utilizing railcars shall comply with the standards for container storage in 40 CFR  
1970 Part 265 Subpart I, as incorporated in this rule, and with 40 CFR 270.15, as incorporated in 10 CSR  
1971 25-7.270.

1972 (C) The owner/operator shall comply with 40 CFR 265.17, incorporated in this rule, during railcar  
1973 loading and unloading. Additional specific precautions to be taken shall include facility design,  
1974 construction, operation and maintenance standards as specified in “Loading and Unloading  
1975 Operations: Tank Vehicles and Tank Cars” in section 5-4.4.1 of the 1993 Edition of the National Fire  
1976 Protection Association Flammable and Combustible Liquids Code (NFPA 30).

1977 (D) The owner/operator shall provide security for railcars at the facility by utilizing one of the  
1978 alternatives specified in 40 CFR 265.14(b), as incorporated in this rule. If the owner/operator  
1979 demonstrates that it is not practical to provide security for railcars at the facility as specified in 40  
1980 CFR 265.14(b), incorporated in this rule, railcars shall be secured by locking all fill and drain posts  
1981 upon receipt of a loaded railcar or upon completion of the owner/operator’s loading procedures. The  
1982 locks must remain in place until the owner/operator begins unloading procedures or until the rail  
1983 carrier picks up the loaded or rejected railcar for transport off-site.

1984 (E) In accordance with 40 CFR 265.15, incorporated in this rule, the owner/operator shall inspect  
1985 railcars and surrounding areas at least daily looking for leaks and for deterioration caused by  
1986 corrosion or other factors.

1987 (F) In accordance with 40 CFR Part 265 Subpart C and 40 CFR Part 265 Subpart D, as incorporated  
1988 in this rule, the owner/operator shall develop preparedness and prevention procedures and a  
1989 contingency plan for railcars. If the owner/operator has not prepared a Spill Prevention Control and  
1990 Countermeasures (SPCC) Plan for hazardous waste, then one must be developed that parallels  
1991 requirements and guidelines as specified in 40 CFR Part 112 for oil. At a minimum, the SPCC Plan  
1992 must include adequate spill response equipment and preventative measures, such as dikes, curbing,  
1993 and containment systems.

1994  
1995  
1996  
1997 **10 CSR 25-7.266 Standards for the Management of Specific Hazardous Wastes and Specific Types of**  
1998 **Hazardous Waste Management Facilities**

1999 *PURPOSE: This rule incorporates federal regulations in 40 CFR part 266 by reference and provides*  
2000 *Missouri specific additions, deletions, or changes to the federal regulations. This rule provides limited*  
2001 *standards for certain hazardous waste management practices, particularly in regard to recyclable materials*  
2002 *and sets forth standards for recyclable materials used in a manner constituting disposal, hazardous waste*  
2003 *burned in boilers and industrial furnaces recyclable materials utilized for precious metals recovery and*  
2004 *spent lead-acid batteries being reclaimed.*

2005 (1) The regulations set forth in 40 CFR part 266, July 1, 2013, as published by the Office of the Federal  
2006 Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA  
2007 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or  
2008 additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-  
2009 3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule.  
2010 Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

2011 (2) Persons subject to the regulations in 40 CFR part 266 shall comply with the requirements, changes,  
2012 additions, or deletions noted in this section in addition to 40 CFR part 266 incorporated in this rule.  
2013 (Comment: This section has been organized so that all Missouri additions or changes to any subpart of the  
2014 federal regulations are noted within the corresponding subsection of this section. For example, the changes  
2015 to the management requirements for hazardous waste fuels, 40 CFR part 266 subpart D, are found in  
2016 subsection (2)(D) of this rule.)

2017 (A) (Reserved)

2018 (B) (Reserved)

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2019 (C) Recyclable Materials Used in a Manner Constituting Disposal. In addition to the requirements in 40  
2020 CFR part 266 subpart C incorporated in this rule, a person who is marketing hazardous waste recyclable  
2021 materials which would be used in a manner constituting disposal must obtain a hazardous waste resource  
2022 recovery certification pursuant to 10 CSR 25-9.020.

2023 (D) *Reserved*

2024 (E) *Reserved*

2025 (F) Recyclable Materials Used for Precious Metals Recovery. *Reserved*

2026 (G) Spent Lead-Acid Batteries Being Reclaimed. In addition to the requirements in 40 CFR part 266  
2027 subpart G a person who reclaims materials from spent lead-acid batteries shall obtain a hazardous waste  
2028 resource recovery certification pursuant to 10 CSR 25-9.020.

2029 1. ~~Owners or operators of facilities that store spent batteries before reclaiming them are subject to the~~  
2030 ~~following requirements:~~

2031 ~~A. Notification requirements under section 3010 of RCRA;~~

2032 ~~B. All applicable provisions in subparts A, B (but not 40 CFR 264.13 (waste analysis)), C, D, E (but~~  
2033 ~~not 264.71 or 264.72 (dealing with the use of the manifest and manifest discrepancies)), and F through L of~~  
2034 ~~40 CFR part 264, as incorporated by reference in 10 CSR 25 7.264(1) and modified in 10 CSR 25-~~  
2035 ~~7.264(2)(A) through 10 CSR 25 7.264(2)(L);~~

2036 ~~C. All applicable provisions in subparts A, B (but not 40 CFR 265.13 (waste analysis)), C, D, E (but~~  
2037 ~~not 265.71 or 265.72 (dealing with the use of the manifest and manifest discrepancies)), and F through L of~~  
2038 ~~40 CFR part 265, as incorporated by reference in 10 CSR 25 7.265(1) and modified in 10 CSR 25-~~  
2039 ~~7.265(2)(A) through 10 CSR 25 7.265(2)(L);~~

2040 ~~D. All applicable provisions in parts 270 and 124 of the CFR, as incorporated by reference in 10 CSR~~  
2041 ~~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~~  
2042 ~~originally incorporated by reference from 40 CFR 266.80(b), 1994 edition. The language is reprinted here~~  
2043 ~~because it was mistakenly omitted from subsequent editions of the Code of Federal Regulations.)~~

2044 (H) Hazardous Waste Burned in Boilers and Industrial Furnaces. Additions, modifications, and deletions  
2045 to 40 CFR part 266 subpart H “Hazardous Waste Burned in Boilers and Industrial Furnaces” are as follows:

2046 1. ~~40 CFR 266.100(e)(1) is not incorporated by reference in this rule;~~

2047 2. Add the following provision to 40 CFR 266.100(d) incorporated in this rule: “The **owner or**  
2048 **operator** ~~owner/operator~~ of facilities that process hazardous waste solely for metal recovery in accordance  
2049 with 40 CFR 266.100(d) shall be certified for resource recovery pursuant to 10 CSR 25-9.020”;

2050 3. ~~In 40 CFR 266.101(e)(2) incorporated in this rule, replace “paragraph (e)(1)” with “paragraphs (e)(1)~~  
2051 ~~and (d)(1)”;~~ and

2052 4. ~~40 CFR 266.101 is amended by adding a new subsection (d) to 266.101 incorporated in this rule as~~  
2053 ~~follows: (d)(1) Treatment facilities. Owners/operators of permitted facilities that thermally, chemically,~~  
2054 ~~physically (that is, shredding, grinding, etc.), or biologically treat hazardous waste prior to burning must~~  
2055 ~~comply with 10 CSR 25 7.264(2)(X), and owners/operators of interim status facilities that thermally,~~  
2056 ~~chemically, physically (that is, shredding, grinding, etc.), or biologically treat hazardous waste prior to~~  
2057 ~~burning shall comply with 10 CSR 25 7.265(2)(P) and (Q). Owners/operators of permitted facilities which~~  
2058 ~~blend hazardous waste in tanks or containers prior to burning must comply with 10 CSR 25 7.264(2)(J)6.,~~  
2059 ~~and owners/operators of interim status facilities that blend hazardous waste in tanks or containers prior to~~  
2060 ~~burning shall comply with 10 CSR 25 7.265(2)(J).~~

2061 (I) *Reserved*.

2062 (J) *Reserved*.

2063 (K) *Reserved*.

2064 (L) *Reserved*.

2065 (M) Military Munitions. Additions, modifications, and deletions to 40 CFR part 266 subpart M “Military  
2066 Munitions” are:

2067 1. Oral and written notifications required by 40 CFR 266.203(a)(1) shall be submitted to the  
2068 department’s emergency response coordinator at (573) 634-2436 or (573) 634-CHEM, in lieu of the director;  
2069 and

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2070 2. Oral and written notifications required by 40 CFR 266.205(a)(1) shall be submitted to the  
2071 department's emergency response coordinator at (573) 634-2436 or (573) 634-CHEM, in lieu of the director.

2072 *AUTHORITY: section 260.370, RSMo Supp. 2010 and sections 260.390 and 260.395, RSMo 2000*

2073

2074 **10 CSR 25-7.268 Land Disposal Restrictions**

2075 *PURPOSE: This rule establishes standards and requirements that identify hazardous wastes that are*  
2076 *restricted from land disposal.*

2077 (1) The regulations set forth in 40 CFR part 268, July 1, **2013**, as published by the Office of the Federal  
2078 Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA  
2079 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or  
2080 additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-  
2081 3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule.  
2082 Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

2083 (2) Persons who generate or transport hazardous waste and **owners or operators** ~~owners/operators~~ of  
2084 hazardous waste treatment, storage, and disposal facilities shall comply with this section in addition to the  
2085 regulations in 40 CFR part 268. (Comment: This section has been organized so that all Missouri additions,  
2086 changes, or deletions to any subpart of the federal regulations are noted within the corresponding subsection  
2087 of this section. For example, the changes to 40 CFR part 268 subpart A are found in subsection (2)(A) of this  
2088 rule.)

2089 (A) General. This subsection sets forth modifications to 40 CFR part 268 subpart A incorporated by  
2090 reference in section (1) of this rule.

2091 1. *(Reserved)*

2092 2. The state cannot be delegated the authority from the United States Environmental Protection Agency  
2093 (EPA) to approve extensions to effective dates of any applicable restrictions, as provided in 40 CFR 268.5  
2094 incorporated in this rule. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR  
2095 268.5 as incorporated in this rule. This modification does not relieve the regulated person of his/her  
2096 responsibility to comply with 40 CFR 268.5 of the federal hazardous waste management regulations.

2097 3. The state cannot be delegated the authority from the EPA to approve exemptions from prohibitions  
2098 for the disposal of a restricted hazardous waste in a particular unit(s) based upon a petition demonstrating, to  
2099 a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal  
2100 unit(s) for as long as the wastes remain hazardous as provided in 40 CFR 268.6 incorporated in this rule. The  
2101 substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 268.6 as incorporated in this rule.  
2102 This modification does not relieve the regulated person of his/her responsibility to comply with 40 CFR  
2103 268.6 of the federal hazardous waste management regulations.

2104 (B) 40 CFR part 268 subpart B, Schedule for Land Disposal Prohibition and Establishment of Treatment  
2105 Standards ~~(Reserved)~~, ~~is not incorporated in this rule.~~

2106 (C) Prohibitions on Land Disposal. ~~(Reserved) This subsection sets forth modifications to 40 CFR part~~  
2107 ~~268 subpart C incorporated by reference in section (1) of this rule.~~

2108 ~~1. The waste specific prohibitions in 40 CFR 268.31 apply to the hazardous wastes identified by EPA~~  
2109 ~~hazardous waste numbers F020, F023, and F027 as amended in 10 CSR 25-4.261(2)(D)1.A. C.~~

2110 ~~2. The waste specific prohibitions in 40 CFR 268.31 apply to the EPA hazardous waste numbers F020,~~  
2111 ~~F021, F022, F023, F026, and F027 as amended in 10 CSR 25-4.261(2)(D)2.~~

2112 ~~3. The hazardous waste identified by the Missouri hazardous waste number MH02 in 10 CSR 25-~~  
2113 ~~4.261(2)(D)3. may be disposed in a landfill or surface impoundment only if that unit is in compliance with~~  
2114 ~~the requirements specified in 40 CFR 268.5(h)(2) as incorporated in section (1) of this rule and all other~~  
2115 ~~applicable requirements of 10 CSR 25-7.264(1) incorporating by reference 40 CFR part 264 and 10 CSR 25-~~  
2116 ~~7.265(1) incorporating by reference 40 CFR part 265.~~

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2117 (D) Treatment Standards. This subsection sets forth modifications to 40 CFR part 268 subpart D  
2118 incorporated by reference in section (1) of this rule.

2119 ~~1. The treatment standards in 40 CFR part 268 subpart D for the hazardous wastes identified by EPA~~  
2120 ~~hazardous waste numbers F020, F023, and F027 apply to F020, F023, and F027 hazardous wastes as~~  
2121 ~~amended in 10 CSR 25-4.261(2)(D)1.A. C.~~

2122 ~~2. The treatment standard in 40 CFR part 268 subpart D for the hazardous wastes identified by EPA~~  
2123 ~~hazardous waste numbers F020, F021, F022, F023, F026, and F027 apply to these listed wastes as amended~~  
2124 ~~in 10 CSR 25-4.261(2)(D)2.~~

2125 3. The state cannot be delegated the authority from the U.S. EPA to allow the use of alternative  
2126 treatment methods as provided in 40 CFR 268.42(b) incorporated in this rule. The substitution of terms in 10  
2127 CSR 25-3.260(1)(A) does not apply in 40 CFR 268.42(b) as incorporated in this rule. This modification does  
2128 not relieve the regulated person of his/her responsibility to comply with 40 CFR 268.42(b) of the federal  
2129 hazardous waste management regulations.

2130 4. The state cannot be delegated the authority from the U.S. EPA to approve variances from treatment  
2131 standards as provided in 40 CFR 268.44 incorporated in this rule. The substitution of terms in 10 CSR 25-  
2132 3.260(1)(A) does not apply in 40 CFR 268.44, as incorporated in this rule. This modification does not  
2133 relieve the regulated person of his/her responsibility to comply with 40 CFR 268.44 of the federal hazardous  
2134 waste management regulations.

2135 (E) Prohibitions on Storage. (*Reserved*)

2136

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2137 **10 CSR 25-7.270 Missouri Administered Permit Programs: The Hazardous Waste Permit Program**

2138 *PURPOSE: This rule incorporates the federal regulations in 40 CFR part 270 by reference and sets forth*  
2139 *additional state requirements.*

2140 (1) The regulations set forth in 40 CFR part 270, July 1, **2013**, except for the changes made at 70 FR 53453  
2141 September 8, 2005, and 73 FR 64667 to 73 FR 64788, October 30, 2008, as published by the Office of the  
2142 Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh,  
2143 PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments  
2144 or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-  
2145 3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule.  
2146 Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

2147 (A) Any federal agency, administrator, regulation, or statute that is referenced in 40 CFR part 270 shall be  
2148 deleted and the comparable state department, director, rule, or statute as provided in 10 CSR 25-3.260(1)(A)  
2149 shall be added in its place except as specified in paragraph (2)(A)6. of this rule. The additional substitutions  
2150 or changes noted in this subsection shall also apply.

2151 ~~1. “Owner/operator” as defined by 10 CSR 25 3.260(2)(O)3. shall be substituted for any reference to~~  
2152 ~~“owner and operator” or “owner or operator” in 40 CFR part 270.~~

2153 (2) The ~~owner or operator~~ ~~owner/operator~~ of a permitted hazardous waste treatment, storage, or disposal  
2154 (TSD) facility shall comply with the requirements noted in this rule along with 40 CFR part 270,  
2155 incorporated in this rule. (Comment: This section has been organized so that all Missouri additions, changes,  
2156 or deletions to any subpart of the federal regulations are noted within the corresponding subsection of this  
2157 section. For example, the changes to 40 CFR part 270 subpart A are found in subsection (2)(A) of this rule.)

2158 (A) General Information. This subsection sets forth requirements which modify or add to those  
2159 requirements in 40 CFR part 270 subpart A.

2160 1. When a facility is owned by one (1) person but is operated by another person, both the owner and  
2161 operator shall sign the permit application, and the permit shall be issued to both.

2162 2. The ~~owner or operator~~ ~~owner/operator~~ of a new hazardous waste management facility shall contact  
2163 the department and obtain a United States Environmental Protection Agency (EPA) identification number  
2164 before commencing treatment, storage, or disposal of hazardous waste.

2165 ~~3. A permit is not required under this rule for an elementary neutralization unit or a wastewater~~  
2166 ~~treatment unit receiving only hazardous waste that is generated on site or generated by its operator or only~~  
2167 ~~one (1) generator if the owner/operator, upon request, can demonstrate to the satisfaction of the department~~  
2168 ~~the following:~~

2169 ~~A. There is sufficient evidence that the unit is not leaking;~~

2170 ~~B. The unit is structurally sound and there is no evidence that the unit will fail or collapse;~~

2171 ~~C. There are no incompatible wastes being placed in the unit;~~

2172 ~~D. The owner/operator has been and is in compliance with all present and prior permits and~~  
2173 ~~authorizations issued to the owner/operator; and~~

2174 ~~E. There is no evidence of any past releases from the unit.~~

2175 ~~4. In addition to the requirements in 40 CFR 270.1(b) incorporated in this rule, the owner/operator shall~~  
2176 ~~provide state notification to the department within sixty (60) days after the effective date of a state rule that~~  
2177 ~~first requires him/her to comply with 10 CSR 25 where that notification is required.~~

2178 5. (Reserved)

2179 ~~6. In 40 CFR 270.2, substitute “Facility mailing list means the mailing list required of the permittee or~~  
2180 ~~applicant in accordance with 10 CSR 25 7.270(2)(B)10.” for the definition of “Facility mailing list” given in~~  
2181 ~~the incorporated regulation.~~

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2182 7. In 40 CFR 270.3 “Considerations Under Federal Law,” do not substitute any comparable Missouri  
2183 statute or administrative rule for the federal acts and regulations. This does not relieve the **owner or**  
2184 **operator** ~~owner/operator~~ of his/her responsibility to comply with any applicable and comparable state law  
2185 or rule in addition to complying with the federal acts and regulations.

2186 (B) Permit Application. This subsection sets forth requirements which modify or add to those  
2187 requirements in 40 CFR part 270 subpart B.

2188 1. Existing hazardous waste management facilities must submit a ~~state~~ Part A permit application to the  
2189 department no later than sixty (60) days after the effective date of state rules which first require them to  
2190 comply with the requirements set forth in 10 CSR 25-7.265 or 10 CSR 25-7.266. A facility which did not  
2191 meet federal notification and Part A submittal requirements under the Hazardous and Solid Waste  
2192 Amendments (HSWA) shall not qualify for state interim status. State interim status is granted to those  
2193 facilities which either meet federal interim status requirements, are required to meet state interim status  
2194 requirements because no federal interim status requirements affect the filing, or become subject to  
2195 regulations under state rules which are not promulgated to meet the requirements of 40 CFR part 271.

2196 2. Confidentiality may be requested for the information required in 40 CFR 270.13(a)–(m) incorporated  
2197 in this rule. 10 CSR 25-3.260(1)(B) sets forth requirements for protection of confidential business  
2198 information and the availability of information provided under 10 CSR 25. Therefore, 40 CFR 270.12 is not  
2199 incorporated by reference in this rule.

2200 ~~3. The topographic map required in 40 CFR 270.13(l) incorporated in this rule shall also depict~~  
2201 ~~surrounding land uses such as residential, commercial, agricultural, and recreational.~~

2202 ~~4. Seismic evaluation requirements for hazardous waste management facility permit applicants. 40 CFR~~  
2203 ~~270.14(b)(11)(i) and (ii) are not incorporated in this rule. An applicant for a hazardous waste management~~  
2204 ~~facility permit (excluding post-closure) shall design and construct the facility to withstand stresses due to~~  
2205 ~~earthquake loading or certify that the existing facility is able to withstand stresses due to earthquake loading.~~  
2206 ~~In the event that the regulated unit cannot withstand stresses, the facility shall certify that a release or~~  
2207 ~~situation which will endanger human health and/or the environment is not likely to occur. The applicant~~  
2208 ~~shall submit as part of the permit application a certification of the adequacy of the design or the ability of the~~  
2209 ~~existing facility to withstand stresses due to earthquake loading. The certification shall consider the location~~  
2210 ~~of the facility (e.g., the proximity of the facility to an active seismic zone) and must be completed by a~~  
2211 ~~qualified professional engineer registered in Missouri.~~

2212 ~~5. In addition to the topographic map required in 40 CFR 270.14(b)(19) incorporated in this rule, an~~  
2213 ~~applicant for a land-based hazardous waste management facility permit shall submit drawings which depict~~  
2214 ~~at a minimum—~~

2215 ~~A. Original contours;~~

2216 ~~B. Proposed final contours;~~

2217 ~~C. Original surface water drainage patterns;~~

2218 ~~D. Proposed final surface water drainage patterns;~~

2219 ~~E. Layout of the leachate collection system;~~

2220 ~~F. Layout of the monitoring system;~~

2221 ~~G. Access roads;~~

2222 ~~H. Location of soil borings and trenches;~~

2223 ~~I. Major rock outcrops and sinkholes within the map area;~~

2224 ~~J. Occupied permanent residential dwelling houses within one-fourth (1/4) mile of the disposal facility~~  
2225 ~~boundaries;~~

2226 ~~K. All available information on private and public wells, public water supply lines, and any aquifers,~~  
2227 ~~seeps, sinkholes, caves, or mining areas within one-fourth (1/4) mile of the facility; and~~

2228 ~~L. For landfills only, a coordinate system referenced to a benchmark and baseline that have been~~  
2229 ~~permanently established on the site and referenced to Government Land Office corners and the legal~~  
2230 ~~boundaries of the facility as described by a registered land surveyor licensed by Missouri.~~

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2231 6. All submitted engineering plans and reports shall be approved by a registered professional engineer  
2232 licensed by Missouri. The engineering plans and reports shall specify the materials, equipment, construction  
2233 methods, design standards, and specifications for hazardous waste management facilities, and processes that  
2234 will be utilized in the construction and operation of the facility. The engineering plans and reports shall also  
2235 include a diagram of any piping, instrumentation or process flows, and descriptions of any feed systems,  
2236 safety cutoffs, bypass systems, and pressure controls (for example, vents).

2237 ~~7. The applicant for a hazardous waste facility permit to construct or operate a facility shall submit the~~  
2238 ~~application to the department in triplicate (quadruplicate, if application is made for a land-based~~  
2239 ~~management facility). If a permit is issued, the permittee shall submit two (2) copies of the entire approved~~  
2240 ~~application to the department.~~

2241 8. The permit application fee set forth in 10 CSR 25-12.010 shall be submitted with the application.

2242 9. The department will supervise any field work undertaken to collect geologic and engineering data  
2243 which is to be submitted with the application. The applicant shall contact the department at least five (5)  
2244 working days prior to conducting any field work that is undertaken to collect geologic and engineering data  
2245 which is to be submitted with the application. A fee shall also be assessed pursuant to 10 CSR 25-12.010 for  
2246 all costs incurred by the department in the observation of field work, engineering and geological review of  
2247 the application, and all other review necessary by the department to verify that the application complies with  
2248 section 260.395.7., RSMo.

2249 10. The permit application shall include the following information for the purpose of notification:

2250 A. Names and address of all persons listed on the facility mailing list as defined in 10 CSR 25-  
2251 8.124(1)(A)10.C.(I)(c) shall be submitted in the form of an alphabetical list with five (5) sets of addressed,  
2252 self-adhesive mailing labels also included; and

2253 B. The name, address, and telephone number of the location where the permit application and  
2254 supporting documents are to be placed, as described in 10 CSR 25-8.124(1)(B)3.B.(II)(c) and the name of  
2255 the person at that location who may be contacted to schedule a review of the documents.

2256 11. The applicant shall submit the information required by subsection (2)(H) of this rule in the form of a  
2257 disclosure statement as part of the permit application.

2258 12. An applicant may be required to submit other information as may be necessary to enable the  
2259 department to carry out its duties.

2260 ~~13. In addition to the requirements in 40 CFR 270.15 incorporated in this rule, an owner/operator of a~~  
2261 ~~facility that treats hazardous waste in containers shall meet the requirements in 40 CFR 270.23 incorporated~~  
2262 ~~in this rule.~~

2263 ~~14. In addition to the requirements in 40 CFR 270.16 incorporated in this rule, an owner/operator of a~~  
2264 ~~facility that treats hazardous waste in a tank system shall meet the requirements in 40 CFR 270.23~~  
2265 ~~incorporated in this rule.~~

2266 ~~15. 40 CFR 270.16(h)(2) is not incorporated in this rule.~~

2267 ~~16. An owner/operator who stores, treats, or disposes of hazardous waste in surface impoundments shall~~  
2268 ~~provide the following information in addition to the requirements of 40 CFR 270.17 incorporated in this~~  
2269 ~~rule: detailed plans and an engineering report explaining the location of the saturated zone in relation to the~~  
2270 ~~surface impoundment and the design of a double liner system that incorporates a leak detection system~~  
2271 ~~between liners.~~

2272 ~~17. An owner/operator who disposes of hazardous waste in landfills shall provide the following~~  
2273 ~~information in addition to the requirements of 40 CFR 270.21 incorporated in this rule:~~

2274 ~~A. Engineering reports which describe the geology and hydrology of the site and demonstrate the site~~  
2275 ~~suitability as required in 10 CSR 25-7.264(2)(N)1.;~~

2276 ~~B. Detailed plans and an engineering report addressing the following items:~~

2277 ~~(I) Management of run off from the disposal facility or unit;~~

2278 ~~(II) Minimization of erosion, landslides, and sloughing;~~

2279 ~~(III) Control of horizontal migration of leachate where applicable;~~

2280 ~~(IV) Delineation of a three hundred foot (300') buffer between the property line of the disposal~~  
2281 ~~facility and area to be permitted;~~

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2282 ~~(V) Control of wind dispersal of waste particulate matter where applicable;~~

2283 ~~(VI) Control of odor dispersal where applicable; and~~

2284 ~~(VII) Control of escape of gases where applicable.~~

2285 ~~C. Detailed plans and engineering report explaining the location of the saturated zone in relation to the~~  
2286 ~~landfill and the design of a double liner system that incorporates a leachate collection and removal system~~  
2287 ~~above and between the liners; and~~

2288 ~~D. An explanation of how the volatile waste standards in 10 CSR 25-7.264(2)(N)4. are met.~~

2289 ~~18. An owner/operator of a hazardous waste treatment facility or operating disposal facility shall submit~~  
2290 ~~a health profile as set forth in 10 CSR 25-7.264(2)(P).~~

2291 ~~19. The person applying for a permit under sections 260.350-260.434, RSMo, shall notify the~~  
2292 ~~department in the permit application of any convictions for any acts occurring after July 9, 1990, which~~  
2293 ~~would have the effect of limiting competition. The applicant, after submission of the permit application and~~  
2294 ~~prior to permit issuance, shall notify the department in writing within thirty (30) days of any conviction for~~  
2295 ~~any act which would have the effect of limiting competition.~~

2296 ~~20. 40 CFR 270.26 is not incorporated in this rule.~~

2297 21. The **owner or operator** ~~owner/operator~~ of a **permitted or interim status** TSD facility that accepts  
2298 and/or ships hazardous waste via railroad tank car (railcar) ~~may shall~~ submit a railcar management plan in  
2299 accordance with the requirements set forth in 10 CSR 25-7.264(3) **or 10 CSR 25-7.265(3), as applicable.**

2300 22. The person applying for a permit under sections 260.350–260.434, RSMo, shall comply with the  
2301 requirements of 10 CSR 25-8.124(1).

2302 (C) Permit Conditions. This subsection sets forth requirements which modify or add to those requirements  
2303 in 40 CFR part 270 subpart C.

2304 1. This paragraph sets forth the procedures for issuance of a hazardous waste facility permit,  
2305 construction certification, and authorization to begin operation.

2306 A. If, after public notice in accordance with 10 CSR 25-8.124 and review of the application, the  
2307 department determines that the application conforms with the provisions of sections 260.350–260.434,  
2308 RSMo, and all standards and rules corresponding, the department shall issue the hazardous waste facility  
2309 permit to the applicant upon payment of a fee of one thousand dollars (\$1000) for each facility for each year  
2310 the permit is to be in effect beyond the first year. The department will issue an EPA identification number to  
2311 the facility at the time.

2312 ~~B. The applicant may begin construction or alterations at the facility in accordance with the approved~~  
2313 ~~plans, reports, design specifications, and procedures after receiving the facility permit. When construction is~~  
2314 ~~completed as approved in the permit and the financial requirements of this chapter have been fulfilled, the~~  
2315 ~~owner/operator shall submit a written request as required in 40 CFR 270.30(1)(2) incorporated in this rule to~~  
2316 ~~the department for authorization to begin operation.~~

2317 ~~C. If the permit is for a facility operating under interim status, the department may deny authority to~~  
2318 ~~operate under the permit if the construction required under the permit is not completed in accordance with~~  
2319 ~~the approved plans within the time period specified in the permit or within the time period as extended by~~  
2320 ~~the department for cause due to circumstances beyond the permittee's control.~~

2321 D. The appeal period for a permit or any condition of a permit shall begin on the date of issuance of  
2322 the permit as required in subparagraph (2)(C)1.A. of this rule. However, for the purposes of termination of  
2323 interim status pursuant to 40 CFR 270.73(a) incorporated in this rule, final administrative disposition of the  
2324 permit application shall occur either—

2325 (I) Thirty (30) days after issuance of a letter of authorization pursuant to subparagraph (2)(C)1.B. of  
2326 this rule, unless a notice of appeal is filed with the commission within that time;

2327 (II) Thirty (30) days after denial of authorization to operate pursuant to subparagraph (2)(C)1.C. of  
2328 this rule, unless a notice of appeal is filed with the commission within that time; or

2329 (III) Upon the issuance of a decision by the commission, after timely appeal of an action under  
2330 subparagraph (2)(C)1.B. or C. of this rule.

2331 2. The department may deny the permit application if—

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2332 A. The applicant fails to submit a complete application in accordance with, and within the time  
2333 specified in, a notice of deficiency issued pursuant to 10 CSR 25-8.124(1)(A)3.;

2334 B. The applicant has failed to fully disclose all relevant information in the application or during the  
2335 permit issuance process or has misrepresented facts at any time;

2336 C. The department determines that the application does not conform with the provisions of sections  
2337 260.350–260.434, RSMo, and all corresponding standards and rules, or that the facility cannot be effectively  
2338 operated and maintained in full compliance with sections 260.350–260.434, RSMo, and all corresponding  
2339 standards and rules, or that the facility is being operated or maintained in violation of a present permit, or  
2340 that continued operation of the facility presents an unreasonable threat to human health or the environment  
2341 or will create or allow for the continuance of a public nuisance;

2342 ~~D. The department determines that the applicant owner/operator is a habitual violator as defined in  
2343 subsection (2)(H) of this rule;~~

2344 E. The department determines that one (1) of the conditions specified in section 260.395.17., RSMo, is  
2345 present; or

2346 F. The applicant ~~owner or operator~~ ~~owner/operator~~ fails to submit the permit fees required by  
2347 subparagraph (2)(C)1.A. of this rule within thirty (30) days of receipt of notice from the department that the  
2348 fees are due.

2349 ~~3. In 40 CFR 270.30(1)(2) introductory text incorporated in this rule, delete “except as provided in  
2350 270.42.”~~

2351 ~~4. The owner/operator of a facility permitted under sections 260.350–260.434, RSMo, shall notify the  
2352 department in writing of any conviction for any act occurring after July 9, 1990, which would have the effect  
2353 of limiting competition. This written notification shall be provided within thirty (30) days of the conviction  
2354 or plea and shall comply with the requirements at subsection (2)(I) of this rule.~~

2355 ~~(D) Changes to Permit. (Reserved). This subsection sets forth requirements which modify or add to  
2356 those requirements in 40 CFR part 270 subpart D.~~

2357 ~~1. In addition to the requirements of 40 CFR 270.40(b), the department shall determine, in accordance  
2358 with subsection (2)(H) of this rule, whether the proposed owner or operator, including an officer or  
2359 management employee of the proposed owner or operator, is a person described in section 260.395.16,  
2360 RSMo, and whether any of the conditions specified in section 260.395.17, RSMo, would exist if the  
2361 proposed transfer were to take place.~~

2362 ~~2. “Revocation and reissuance” of a permit, as that term is used in 40 CFR part 270 incorporated in this  
2363 rule, shall mean the same as “total modification” as that term is used in 10 CSR 25-8.124.~~

2364 ~~3. The “termination” of a permit, as used in 40 CFR part 270 incorporated in this rule, shall mean the  
2365 same as “revocation” of a permit as used in 10 CSR 25-8.124.~~

2366 ~~4. The director shall suspend, revoke, or not renew the permit of any person to treat, store, and dispose  
2367 of hazardous waste if that person has had two (2) or more convictions in any court of the United States or of  
2368 any state other than Missouri, or two (2) or more convictions within a Missouri court for crimes or criminal  
2369 acts occurring after July 9, 1990, an element of which involves restraint of trade, price fixing, intimidation of  
2370 the customers of any person, or for engaging in any other acts which may have the effect of restraining or  
2371 limiting competition concerning activities regulated under Chapter 260, RSMo, the Resource Conservation  
2372 and Recovery Act, or similar laws of other states within any five (5) year period. Convictions by entities  
2373 which occurred prior to the purchase or acquisition by a permittee shall not be included. The permittee shall  
2374 submit a written report to the department within thirty (30) days of the conviction or plea. The report shall  
2375 include information explaining the charge(s) on which the permittee was convicted, the date(s) of the  
2376 conviction(s), and the date(s) and charge(s) of previous convictions.~~

2377 ~~5. The owner/operator of a facility that has had his/her permit (issued under the provisions of sections  
2378 260.350–260.434, RSMo) revoked under section 260.379, RSMo, may apply to the department for  
2379 reinstatement of his/her permit after five (5) years have elapsed from the date of the last conviction of crimes  
2380 or criminal acts as described in section 260.379, RSMo. The application must be in writing and accompanied  
2381 by a reapplication fee, updated permit application, and any other information the department deems  
2382 necessary in order to reinstate the permit.~~

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2383 ~~6. 40 CFR 270.42(j)(1) and 40 CFR 270.42(j)(2) are not incorporated in this rule.~~

2384 ~~7. 40 CFR 270.42(l) is not incorporated into this rule.~~

2385 (E) Expiration and Continuation of Permits **(Reserved)**. ~~The director will review all permits for operating~~  
2386 ~~disposal facilities every five (5) years after issuance for conformance with applicable current hazardous~~  
2387 ~~waste rules and laws. The permit will be modified as necessary to conform with the applicable rules and~~  
2388 ~~laws.~~

2389 (F) Special Forms of Permits. *(Reserved)*

2390 (G) Interim Status. This subsection sets forth requirements which modify or add to those requirements in  
2391 40 CFR part 270 subpart G.

2392 1. An **owner or operator** ~~owner/operator~~ who becomes regulated under 10 CSR 25-7 shall operate in  
2393 compliance with interim status in accordance with paragraphs ~~(2)(A)4. and~~ (2)(B)1. of this rule.

2394 2. In addition to the items in 40 CFR 270.73 incorporated in this rule, interim status terminates when the  
2395 department issues an order or commences an action pursuant to paragraph (2)(G)4. of this rule requiring the  
2396 **owner or operator** ~~owner/operator~~ to cease operations and undertake closure actions at the facility or at a  
2397 unit.

2398 3. The **owner or operator** ~~owner/operator~~, at any time, **voluntarily** may **voluntarily** submit a permit  
2399 application pursuant to this rule.

2400 4. Upon a determination by the department that the facility is not being operated or cannot be operated  
2401 in full compliance with the requirements of 10 CSR 25-7.265, the department, in lieu of or in addition to  
2402 requiring the submittal of a permit application pursuant to paragraph (2)(G)1. of this rule, may take an  
2403 enforcement action pursuant to sections 260.410, 260.420, and 260.425, RSMo, as it deems appropriate  
2404 under the circumstances in order to fully and effectively protect public health and the environment.

2405 ~~(H) Habitual Violators. This subsection describes how the department shall determine whether a hazardous~~  
2406 ~~waste management facility permit applicant is a habitual violator for purposes of implementing section~~  
2407 ~~260.395.16, RSMo. This subsection applies to the issuance, reissuance, or total modification of hazardous~~  
2408 ~~waste management facility permits, excluding post-closure and corrective action only permits, and to~~  
2409 ~~hazardous waste resource recovery facilities for the activities subject to permit requirements in 10 CSR 25-~~  
2410 ~~7.264.~~

2411 ~~1. The department shall consider the applicant's prior operating history pursuant to section 260.395.16,~~  
2412 ~~RSMo, during the review of an application for a permit to operate a hazardous waste management or~~  
2413 ~~commercial polychlorinated biphenyl (PCB) facility. All documentation required by this subsection shall be~~  
2414 ~~submitted along with the information specified in 40 CFR part 270 subparts B and D incorporated by~~  
2415 ~~reference in section (1) of this rule and modified in subsection (2)(B) of this rule, paragraph (2)(D)1. of this~~  
2416 ~~rule, and 10 CSR 25-13.010(9)(B).~~

2417 ~~2. Definitions. The definitions in this paragraph apply to subsection (2)(H) of this rule.~~

2418 ~~A. Facility, for purposes of calculating violations as required in paragraph (2)(H)5. of this rule, means~~  
2419 ~~each permitted, licensed interim status, unpermitted or unlicensed hazardous waste management or~~  
2420 ~~commercial PCB facility, solid waste disposal area, solid waste processing facility, certified hazardous waste~~  
2421 ~~resource recovery facility, or solid or hazardous waste transporter or transfer station.~~

2422 ~~B. Person, in addition to the definition in section 260.360(17) RSMo, shall mean an officer or~~  
2423 ~~management employee of the applicant, any officer or management employee of any corporation or business~~  
2424 ~~which owns an interest in the applicant, any officer or management employee of any business in which an~~  
2425 ~~interest is owned by any person, corporation, or business which owns an interest in the applicant, or any~~  
2426 ~~officer or management employee of any corporation or business in which an interest is owned by the~~  
2427 ~~applicant.~~

2428 ~~C. Management employee means any individual, including a supervisor, who has the authority to~~  
2429 ~~serve as an agent for the employer in that the employee has the authority to perform or effectively~~  
2430 ~~recommend any one (1) or more of the following actions: hiring, firing, assigning, or directing other~~  
2431 ~~employees with respect to waste management operations.~~

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2432 ~~D. Violation means any one (1) or more of the following actions or an equivalent action by this or~~  
2433 ~~another regulatory agency or competent authority in response to any violation of the Missouri solid or~~  
2434 ~~hazardous waste management law, the solid or hazardous waste management law of another state, or any~~  
2435 ~~federal law governing the management of solid waste, hazardous waste, PCB material, or PCB units:~~

- 2436 ~~(I) Final administrative order;~~
- 2437 ~~(II) Final permit revocation;~~
- 2438 ~~(III) Final permit suspension;~~
- 2439 ~~(IV) Civil judgment against the applicant;~~
- 2440 ~~(V) Criminal conviction; or~~

2441 ~~(VI) Settlement agreement in connection with a civil action which has been filed in court.~~

2442 ~~E. Interest, as used in “owning an interest in,” means having control of at least seven and one half~~  
2443 ~~percent (7.5%) of an applicant or person as defined in subparagraph (2)(H)2.B. of this rule. This is~~  
2444 ~~determined by multiplying the percentages of ownership at each successive level and comparing this result~~  
2445 ~~to a seven and one half percent (7.5%) cutoff level. For city, county, state, federal, and military owned~~  
2446 ~~facilities, interest, or owning an interest in, is defined as one (1) level above or below the facility applying~~  
2447 ~~for the permit. (For example, a military owned facility shall consider one (1) command level above the base~~  
2448 ~~on which the facility will be operated as having an interest in the facility. Likewise, the “command” shall~~  
2449 ~~consider itself as having an interest in all facilities within the command).~~

2450 ~~F. Habitual violator means a person who has failed the habitual violator test set out in paragraph~~  
2451 ~~(2)(H)5. of this rule.~~

2452 ~~3. For the purpose of this subsection, any administrative action or order, judgment, or criminal~~  
2453 ~~conviction that has been ruled on appeal in favor of the applicant by a final decision of a competent authority~~  
2454 ~~will not be considered to be a violation. If the applicant has an appeal pending, the outcome of which will~~  
2455 ~~affect the issuance of a permit, the department shall delay issuance of the permit until a final decision is~~  
2456 ~~rendered.~~

2457 ~~4. The permit applicant shall submit the following information on the Habitual Violator Disclosure~~  
2458 ~~Statement form provided by the department, incorporated by reference in this rule, and published in the~~  
2459 ~~appendix to this rule as part of the permit application;~~

2460 ~~A. Names and addresses of all persons meeting any of the following criteria:~~

- 2461 ~~(I) Any person who owns an interest in the applicant;~~
- 2462 ~~(II) Any person in whom an interest is owned by any person who owns an interest in the applicant;~~
- 2463 ~~and~~
- 2464 ~~(III) Any person in whom the applicant owns an interest;~~

2465 ~~B. A list of all solid waste management, infectious waste management, commercial PCB management~~  
2466 ~~and hazardous waste management permits (Part A and Part B), licenses, certifications, or equivalent~~  
2467 ~~documents held within the last ten (10) years by the applicant or any person(s) reported under subparagraph~~  
2468 ~~(2)(H)4.A. of this rule, for the operation or post closure of a solid waste management, infectious waste~~  
2469 ~~management, commercial PCB or hazardous waste management facility, or a combination of these, as~~  
2470 ~~defined in subparagraph (2)(H)2.A. of this rule, in Missouri or in the United States and for each provide the~~  
2471 ~~following information:~~

- 2472 ~~(I) Permit or identification number;~~
- 2473 ~~(II) Type of permit, license, certification, or equivalent document and dates held;~~
- 2474 ~~(III) Name(s) of the person(s) to whom each permit, license, certification, or equivalent document~~  
2475 ~~was issued;~~
- 2476 ~~(IV) Address or location of each facility; and~~
- 2477 ~~(V) Issuing agency;~~

2478 ~~C. The structure of the applicant in relation to any person(s) reported in accordance with subparagraph~~  
2479 ~~(2)(H)4.A.;~~

2480 ~~D. Names and addresses of the officers and management employees of any person(s) reported in~~  
2481 ~~accordance with subparagraph (2)(H)4.A.;~~

DRAFT – FOR DISCUSSION AND INFORMATIONAL PURPOSES ONLY.

2482 E. A list of all violations, including the identification of any action for which an appeal or final  
2483 judgment is pending, as defined in subparagraph (2)(H)2.D. of this rule cited within ten (10) years preceding  
2484 the date of the permit application incurred by any persons required to be reported under subparagraph  
2485 (2)(H)4.A. or (2)(H)4.D. of this rule. Each listing shall include the following information:

- 2486 (I) Dates of violations;
- 2487 (II) A brief description of each violation, including the type of regulatory action taken;
- 2488 (III) Statutory or regulatory references, or both, to each specific statute or administrative rule that  
2489 was violated;
- 2490 (IV) Name and location of the facility cited; and
- 2491 (V) Name and address of the issuing agency, and name and address of any competent authority with  
2492 final jurisdiction regarding each violation;

2493 F. A brief description of all incidents in which any person(s) reported under subparagraph (2)(H)4.A.  
2494 or (2)(H)4.D. of this rule have been adjudged in contempt of any court order enforcing the provisions of any  
2495 state's solid or hazardous waste laws, or federal laws pertaining to hazardous waste;

2496 G. A listing of all facilities as defined at (2)(H)2.A. owned or operated by any person required to be  
2497 reported at (2)(H)4.A. or (2)(H)4.D. A brief justification as to why the facility has been included on the  
2498 listing; and

2499 H. All other information requested by the department necessary for the department to conduct an  
2500 evaluation of the overall operating history of the applicant.

2501 5. The habitual violator test:

2502 A. A total of calculated violations shall be determined by the following formula:  
2503 Number of violations (as defined in subparagraph (2)(H)2.D. of this rule), occurring within the ten (10)  
2504 years preceding the date of the permit application, incurred by any person required to be reported under  
2505 (2)(H)4.A. or (2)(H)4.D., divided by the total number of facilities (as defined in subparagraph (2)(H)2.A. of  
2506 this rule) equals the number of calculated violations.

2507  
2508 
$$\frac{\text{Number of violations}}{\text{Total Number of Facilities}} = \frac{\text{Calculated}}{\text{Violations}}$$

2512 B. If the total of calculated violations is two (2.0) or less, the applicant has passed the habitual violator  
2513 test. If the total of calculated violations is greater than two (2.0), the department will notify the applicant of  
2514 his/her score. Upon receipt of notification, the applicant shall have thirty (30) days to produce clear and  
2515 convincing evidence to the department which demonstrates that the applicant is not a habitual violator. The  
2516 department shall determine whether the evidence is clear and convincing for the purpose of the habitual  
2517 violator determination. If the evidence produced by the applicant is not found to be clear and convincing, or  
2518 if no evidence is produced, the department will determine the applicant to be a habitual violator, and the  
2519 department will notify the applicant of permit denial. If the evidence produced by the applicant is found to  
2520 be clear and convincing, the department may determine that the applicant has not failed the habitual violator  
2521 test (if the department determines the applicant has failed, a notice of denial will be sent to the applicant by  
2522 the department) only after the department has considered the following factors:

- 2523 (I) The nature and severity of violations;
- 2524 (II) Any substantial realignment of corporate structure or corporate philosophy, or both;
- 2525 (III) Any significant pattern of improved environmental compliance;
- 2526 (IV) The complexity of the facilities and the volume of waste handled; and
- 2527 (V) Any other relevant factors presented as evidence.

2528 6. The department shall deny a permit for failure of the applicant to provide the required information or  
2529 for submission of false information.

2530 7. The department may deny a permit for failure of the applicant to provide complete information when  
2531 submission of the information is required by this rule.

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2532 8. The department shall deny a permit if the applicant has failed the habitual violator test specified in  
2533 paragraph (2)(H)5. of this rule.

2534 9. The department shall not issue a permit to an applicant or a person who has offered in person or  
2535 through an agent any inducement, including any discussion of possible employment opportunities, to any  
2536 department employee when that person has an application for a permit pending or a permit under review.  
2537 Distribution of job announcements from an applicant to the department, which are made in the regular  
2538 course of business and are intended for general dissemination, shall not be considered improper  
2539 inducements.

2540 10. The department shall deny a permit if any person(s) reported in accordance with subparagraph  
2541 (2)(H)4.A. or (2)(H)4.D. of this rule has been adjudged in contempt of any court order enforcing the  
2542 provisions of any state's solid or hazardous waste management laws, or federal laws pertaining to hazardous  
2543 waste.

2544 11. Any person aggrieved by a permit denial under this subsection may appeal the decision by filing a  
2545 petition with the Missouri Hazardous Waste Management Commission within thirty (30) days of notice of  
2546 denial. The appeal hearing shall be conducted in accordance with section 260.400, RSMo, and 10 CSR 25-  
2547 8.124(2).

2548 (I) Restraint of Trade.

2549 1. Any person, as defined in section 260.379.1, RSMo, applying for a permit to operate a hazardous  
2550 waste treatment, storage, or disposal facility shall notify the director of any conviction occurring after July 9,  
2551 1990, for any crimes or criminal acts specified in section 260.379, RSMo. The person shall include any  
2552 crimes or criminal acts for which an appeal or about which a final judgment is pending. The applicant shall  
2553 submit this information with the permit application. Any person with a permit application pending, or to  
2554 whom a permit has been granted, shall notify the department within thirty (30) days of the conviction or  
2555 plea. The information shall be submitted in the form of a disclosure statement worded as specified in  
2556 paragraph (2)(I)4. and shall include the following information:

2557 A. Date of conviction or plea;

2558 B. The specific charge and statutory citation;

2559 C. Statutory or regulatory references, or both, and citations to each specific statute or administrative  
2560 rule that was violated;

2561 D. Name and location of each facility or person cited;

2562 E. Name and address of the court; and

2563 F. Any other information requested by the department.

2564 2. The department shall deny, suspend, revoke, or not renew a permit if the applicant or permittee fails  
2565 to submit the required information, the information submitted is false, or the applicant or permittee exceeds  
2566 the number of convictions allowed under section 260.379, RSMo.

2567 3. Rehabilitation and reinstatement.

2568 A. A person may apply to the department for reinstatement of a permit that has been revoked under  
2569 the provisions of subsection (2)(I) of this rule and section 260.379, RSMo, no sooner than five (5) years after  
2570 revocation. The person shall demonstrate to the department that s/he had no convictions or pleas for any  
2571 crimes or criminal acts as specified in section 260.379, RSMo, in any court in any state, or any federal court,  
2572 within five (5) years preceding the request for reinstatement. The person shall also prove that no litigation or  
2573 appeal is pending against the person for any crimes or criminal acts specified in section 260.379, RSMo.

2574 B. If the permit is reinstated, the permittee, for a period of five (5) years from the date of  
2575 reinstatement, shall file semi-annual disclosure statements prepared in accordance with the requirements of  
2576 this subsection (2)(I).

2577 C. If any conviction or plea for the acts specified in section 260.379, RSMo, is entered in any court in  
2578 any state during the five (5) year period immediately following reinstatement, the reinstated permit shall be  
2579 revoked for a period of at least five (5) years. Following this five (5) year period, the person may reapply for  
2580 reinstatement of the permit.

2581 4. The disclosure statement specified in paragraph (2)(I)1. of this rule shall be worded as follows, except  
2582 that instructions in parentheses are to be replaced with the relevant information, and the parentheses deleted:

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2583 ~~(Name of permit applicant) (insert, “EPA Identification Number \_\_\_\_\_,” if applicable) hereby~~  
2584 ~~certifies that the following list contains all instances in which any person, as defined by section 260.379.1,~~  
2585 ~~RSMo, has been convicted or pled to any crimes or criminal acts an element of which involves restraint of~~  
2586 ~~trade, price fixing, intimidation of the customers of any person, or for engaging in any other acts which may~~  
2587 ~~have the effect of restraining or limiting competition concerning activities regulated under Chapter 260,~~  
2588 ~~RSMo, or similar laws of other states or the federal government; except that convictions for violations by~~  
2589 ~~entities purchased or acquired by an applicant or permittee which occurred prior to the purchase or~~  
2590 ~~acquisition, shall not be included. (For each conviction or plea required to be reported, provide a listing of~~  
2591 ~~the information required in 10 CSR 25 7.270(2)(I)1.A. F. If no conviction or plea is required to be reported,~~  
2592 ~~so state.)~~

2593 I hereby certify the following:

2594 a) The above information is complete and truthful as of the date this statement was signed;

2595 b) The wording of this disclosure statement is identical to the wording specified in 10 CSR 25  
2596 7.270(2)(I)4. on the date this statement was signed; and

2597 e) In such matters, I, the undersigned, do have the authority to act as agent for the permit applicant.

2598 (Signature)

2599 (Name)

2600 (Title)

2601 (Date)

2602 (Seal)

2603 (Notary seal and signature)

2604 *AUTHORITY: section 260.370, RSMo Supp. 2010 and sections 260.390 and 260.395, RSMo 2000*