

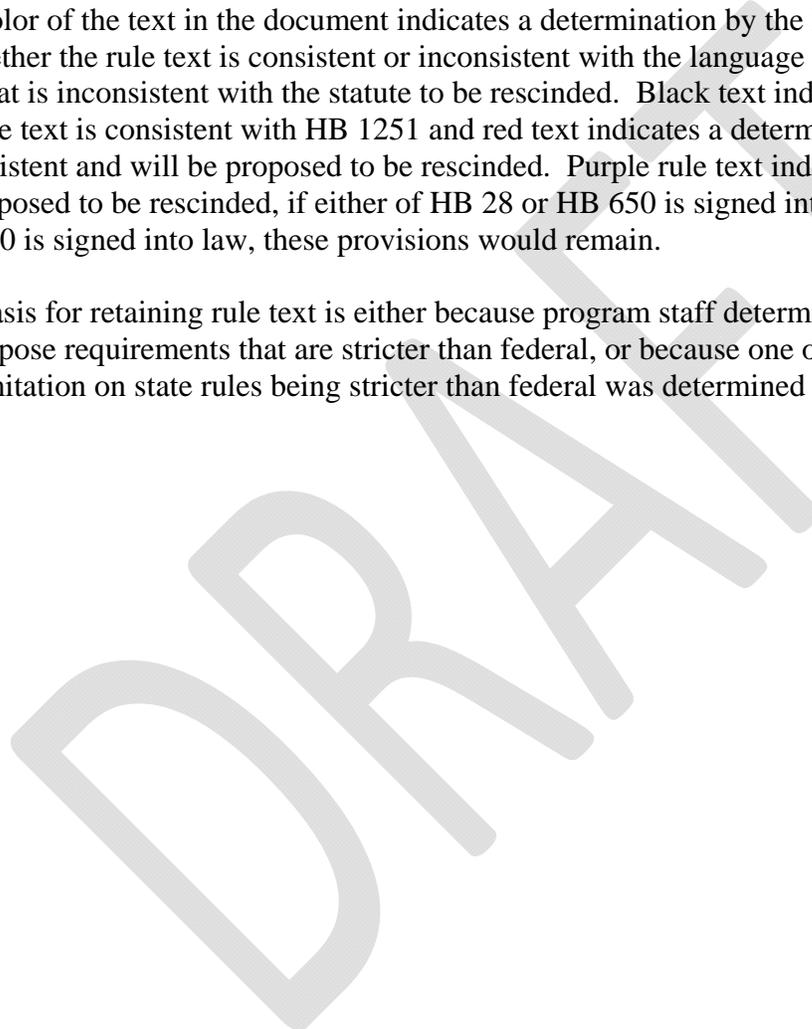
**Draft Determination of Rules Inconsistent with HB 1251**  
**June 11, 2013**

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This document is the Hazardous Waste Program’s draft evaluation of the applicability of HB1251 to Chapters 3, 4, 5, and 7 of Title 10 Division 25 of the Code of State Regulations. It was created for the purpose of initiating stakeholder discussions regarding the status of these existing rules. This document is a draft and should not be considered a final document.

The color of the text in the document indicates a determination by the Hazardous Waste Program as to whether the rule text is consistent or inconsistent with the language in HB 1251 that requires rule text that is inconsistent with the statute to be rescinded. Black text indicates a determination that the rule text is consistent with HB 1251 and red text indicates a determination that the rule text is inconsistent and will be proposed to be rescinded. Purple rule text indicates that the rule text will be proposed to be rescinded, if either of HB 28 or HB 650 is signed into law. If neither HB 28 nor HB 650 is signed into law, these provisions would remain.

The basis for retaining rule text is either because program staff determined that the state rule does not impose requirements that are stricter than federal, or because one of the statutory exclusions to the limitation on state rules being stricter than federal was determined to be applicable.



21 **10 CSR 25-3.260 Definitions, Modifications to Incorporations and Confidential Business Information**

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

25 (1) The regulations set forth in 40 CFR part 260, July 1, 2010, as published by the Office of the Federal  
26 Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA  
27 15250-7954, are incorporated by reference, except for the changes made at 70 FR 53453, September 8,  
28 2005, and 73 FR 64667 to 73 FR 64788, October 30, 2008, subject to the following additions, modifications,  
29 substitutions, or deletions. This rule does not incorporate any subsequent amendments or additions.

30 (A) Except where otherwise noted in sections (2) and (3) of this rule or elsewhere in 10 CSR 25, any  
31 federal agency, administrator, regulation, or statute that is referenced in 40 CFR parts 260–270, 273, and  
32 279, and incorporated by reference in 10 CSR 25, shall be deleted and in its place add the comparable state  
33 department, director, rule, or statute. Where conflicting rules exist in 10 CSR 25, the more stringent shall  
34 control.

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

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

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

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

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

47 6. “10 CSR 25-3.260” shall be substituted for any reference to 40 CFR part 260.

48 7. “10 CSR 25-4.261” shall be substituted for any reference to 40 CFR part 261.

49 8. “10 CSR 25-5.262” shall be substituted for any reference to 40 CFR part 262.

50 9. “10 CSR 25-6.263” shall be substituted for any reference to 40 CFR part 263.

51 10. “10 CSR 25-7.264” shall be substituted for any reference to 40 CFR part 264.

52 11. “10 CSR 25-7.265” shall be substituted for any reference to 40 CFR part 265.

53 12. “10 CSR 25-7.266” shall be substituted for any reference to 40 CFR part 266.

54 13. “10 CSR 25-7.268” shall be substituted for any reference to 40 CFR part 268.

55 14. “10 CSR 25-7.270” shall be substituted for any reference to 40 CFR part 270.

56 15. “10 CSR 25-8.124” shall be substituted for any reference to 40 CFR part 124.

57 16. “10 CSR 25-11.279” shall be substituted for any reference to 40 CFR part 279.

58 17. “10 CSR 25-16.273” shall be substituted for any reference to 40 CFR part 273.

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

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

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

63 21. “Waste within the meaning of section 260.360(21), RSMo,” shall be substituted for “solid waste  
64 within the meaning of section 1004(27) of RCRA.” Residual materials specified as wastes under section  
65 260.360(21), RSMo, shall mean any spent materials, sludges, by-products, commercial chemical products,  
66 or scrap metal that are solid wastes under 40 CFR 261.2, as incorporated in 10 CSR 25-4.261.

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

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68 23. “Chapter 610, RSMo, sections 260.430 and 260.550, RSMo, 10 CSR 25-3.260(1)(B), and 10 CSR  
69 25-7.270(2)(B)” shall be substituted for any reference to the Federal Freedom of Information Act (5 U.S.C.  
70 552(a) and (b)), 40 CFR part 2, or Section 3007(b) of RCRA.

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

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

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

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

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

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

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

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

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

109 C. The department will respond to requests for information within three (3) business days except as  
110 provided in Chapter 610, RSMo, and except as allowed for reasonable cause in accordance with Chapter  
111 610, RSMo. When the period for document production must exceed three (3) business days for reasonable  
112 cause, the department will provide the document within no more than twenty (20) business days.

113 (B) Definitions. (*Reserved*)

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

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

119 (3) Missouri Specific Definitions. Definitions of terms used in 10 CSR 25. This section sets forth definitions  
120 which modify or add to those definitions in 40 CFR parts 60, 260–270, 273, and 279 and 49 CFR parts 40,  
121 171–180, 383, 387, and 390–397.

122 (A) Definitions beginning with the letter A.

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

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

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

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

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

134 (C) Definitions beginning with the letter C.

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

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

137 3. Commission means the Hazardous Waste Management Commission of Missouri created by section  
138 260.365, RSMo.

139 4. Compliance procedure means any proceeding instituted under sections 260.350–260.434, RSMo,  
140 which seeks to require compliance with, or which is in the nature of an enforcement action or an action to  
141 cure a violation of, sections 260.350–  
142 260.434, RSMo, or rules adopted under those sections, or permits, licenses, or certifications issued under  
143 those sections. A compliance procedure includes, without limitation, an order issued pursuant to section  
144 260.410, RSMo, or any denial or revocation of or notice of intent to revoke a license, permit, or certification  
145 pursuant to, or any civil or criminal action filed in the courts of Missouri pursuant to, sections 260.350–  
146 260.434, RSMo. A compliance procedure is considered to be pending from the time an order, denial,  
147 revocation, or notice of intent to revoke is issued by the director or judicial proceedings begin, until the  
148 director notifies the person subject to the compliance procedure in writing that the violation has been  
149 corrected or that the procedure has been withdrawn or dismissed.

150 (D) Definitions beginning with the letter D.

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

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

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

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

155 (E) Definitions beginning with the letter E.

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

160 (F) Definitions beginning with the letter F.

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

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

165 (G) Definitions beginning with the letter G.

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

167 (H) Definitions beginning with the letter H.

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

170 2. Hazardous constituent means any chemical compound listed in 40 CFR part 261 Appendix VIII as  
171 incorporated in 10 CSR 25-4.261. (This is different than the term hazardous waste constituent as defined in  
172 40 CFR 260.10.)

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

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

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

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

186 (I) Definitions beginning with the letter I.

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

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

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

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

194 (L) Definitions beginning with the letter L.

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

197 (M) Definitions beginning with the letter M.

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

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

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

206 (O) Definitions beginning with the letter O.

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

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

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

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

220 (P) Definitions beginning with the letter P.

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

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

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

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

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

232 (R) Definitions beginning with the letter R.

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

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

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

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

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

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

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

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

261 (S) Definitions beginning with the letter S.

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

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

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

270 (T) Definitions beginning with the letter T.

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

274 2. Transporter; see hazardous waste transporter.

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

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

279 (U) Definitions beginning with the letter U.

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

282 2. Used oil.

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

286 (I) Lubrication/cutting oil;

287 (II) Heat transfer;

288 (III) Hydraulic power; or

289 (IV) Insulation in dielectric transformers.

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

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

297 3. USGS means United States Geological Survey.

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

302 (V) Definitions beginning with the letter V.

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

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

308 (W) Definitions beginning with the letter W.

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

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

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

316 (Y) Definitions beginning with the letter Y.

317 (*Reserved*)

318 (Z) Definitions beginning with the letter Z.

319 (*Reserved*)

320

321 **10 CSR 25-4.261 Methods for Identifying Hazardous Waste**

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

326 (1) The regulations set forth in 40 CFR part 261, July 1, 2010, as published by the Office of the Federal  
327 Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA  
328 15250-7954, are incorporated by reference, except for the changes made at 55 FR 50450, December 6, 1990,  
329 56 FR 27332, June 13, 1991, 60 FR 7366, February 7, 1995, 63 FR 33823, June 19, 1998, 70 FR 53453,  
330 September 8, 2005, 73 FR 64667 to 73 FR 64788, October 30, 2008, and 73 FR 77954, December 19, 2008.  
331 This rule does not incorporate any subsequent amendments or additions. Except as provided otherwise in  
332 this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall apply in this rule in addition to  
333 any other modifications set forth in section (2) of this rule. Where conflicting rules exist in 10 CSR 25, the  
334 more stringent shall control.

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

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

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

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

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

357 4. *(Reserved)*

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

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

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

368 8. 40 CFR 261.4(a)(11) is not incorporated in this rule;

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369 9. 40 CFR 261.4(a)(16) is not incorporated in this rule (Note: The paragraph at 40 CFR 261.4(a)(16)  
370 added by 63 FR 33823, June 19, 1998, is the paragraph not incorporated by 10 CSR 25-4.261(2)(A)9.);

371 10. Household hazardous waste which is segregated from the solid waste stream becomes a regulated  
372 hazardous waste upon acceptance by delivery at a commercial hazardous waste treatment, storage, or  
373 disposal facility. Any waste for which the commercial facility becomes the generator in this way shall not be  
374 subject to waste minimization requirements under 40 CFR 264.73(b)(9), as incorporated by 10 CSR 25-  
375 7.264(1), nor shall that facility be required to pay hazardous waste fees and taxes on that waste pursuant to  
376 10 CSR 25-12.010;

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

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

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

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

385 C. A process, procedure, method, or technology is considered to be on-site treatment for the purposes  
386 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  
387 criteria:

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

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

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

394 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  
395 incorporated in this rule. The state may not assume authority from the Environmental Protection Agency  
396 (EPA) to receive notifications of intent to export or to transmit this information to other countries through  
397 the Department of State or to transmit Acknowledgments of Consent to the exporter. This modification does  
398 not relieve the regulated person of the responsibility to comply with the Resource Conservation and  
399 Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies;

400 14. 40 CFR 261.6(a)(4) is amended by adding the following sentence: "Used oil that exhibits a  
401 hazardous characteristic and that is released into the environment is subject to the requirements of 10 CSR  
402 25-3, 4, 5, 6, 7, 8, 9, and 13.";

403 15. *(Reserved)*

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

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

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

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

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

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

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

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

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

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

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

432 3. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) is an acutely hazardous waste and is designated the  
433 Missouri hazardous waste number MH02. Without regard to any quantity specified in 40 CFR 261.5, as  
434 incorporated and modified in paragraph (2)(A)10. of this rule, if a generator generates less than one gram (1  
435 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  
436 one time, that generator shall manage that hazardous waste in accordance with subsection 260.380.2, RSMo.  
437 When a generator generates one gram (1 g) of 2,3,7,8-TCDD in a calendar month or accumulates at least one  
438 gram (1 g) of 2,3,7,8-TCDD at any one time, that generator shall manage that hazardous waste in accordance  
439 with the provisions in 10 CSR 25;

440 4. 40 CFR 261.38 is not incorporated in this rule.

441 (E) Exclusions/Exemptions.

442 1. The substitution of the director of the Department of Natural Resources for the regional administrator  
443 discussed in 10 CSR 25-3.260(1)A.1. does not apply to the requirement for notification of the export of used  
444 CRTs established in 40 CFR 261.41.  
445

446 **10 CSR 25-5.262 Standards Applicable to Generators of Hazardous Waste**

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

449 (1) The regulations set forth in 49 CFR part 172, October 1, 1999, 40 CFR 302.4 and .5, July 1, 2006, and  
450 40 CFR part 262, July 1, 2010, except Subpart H, as published by the Office of the Federal Register,  
451 National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA 15250-7954,  
452 are incorporated by reference. This rule does not incorporate any subsequent amendments or additions.  
453 Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-3.260(1)(A) shall  
454 apply in this rule in addition to any other modifications set forth in section (2) of this rule. Where conflicting  
455 rules exist in 10 CSR 25, the more stringent shall control.

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

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

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

467 A. A person generating in one (1) month or accumulating at any one (1) time the quantities of  
468 hazardous waste specified in 10 CSR 25-4.261 and a transporter who is required to register as a generator  
469 under 10 CSR 25-6.263 shall register and is subject to applicable rules under 10 CSR 25-3.260–10 CSR 25-  
470 9.020 and 10 CSR 25-12.010; and

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

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

476 3. The following constitutes the procedure for registering:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

523 (B) The Manifest. Additional manifest and reporting requirements are set forth in subsections (2)(D) and  
524 (E). This subsection is applicable to all Missouri generators and to all other generators who deposit  
525 hazardous waste in Missouri. (Note: This section is not applicable to an out-of-state or international  
526 generator who is shipping hazardous waste through, in less than ten (10) days, but not depositing hazardous  
527 waste in Missouri. This subsection does not prevent a transporter from voluntarily carrying information in  
528 addition to the manifest. Any reference to the United States Environmental Protection Agency (EPA) form  
529 8700-22 means the form as revised by EPA and approved by the federal Office of Management and Budget  
530 (OMB)).

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

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

535 3. Generators must list the Missouri waste code D098 if the hazardous waste is a used oil as described in  
536 10 CSR 25-11.279(2)(I)1.B.

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

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

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

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

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

552 A. Notwithstanding any other provisions of this rule to the contrary, a person who generates one  
553 hundred kilograms (100 kg) or more, but fewer than one thousand kilograms (1000 kg) of nonacute  
554 hazardous waste in a calendar month may store these hazardous wastes in quantities, according to time  
555 frames and under the conditions specified in 40 CFR 262.34(d) as incorporated in this rule. However, upon  
556 accumulating one thousand kilograms (1000 kg) of nonacute hazardous waste, the generator must also  
557 comply with 40 CFR 262.34(a)(1) incorporated in this rule rather than 40 CFR 262.34(d)(3) incorporated in  
558 this rule, 40 CFR part 265 subpart D as incorporated in 10 CSR 25-7.265(1) and modified in 10 CSR 25-  
559 7.265(2)(D) rather than 40 CFR 262.34(d)(5) incorporated in this rule, and 40 CFR 265.16 as incorporated  
560 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  
561 262.34(d) incorporated in this rule.

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

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

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

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

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

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

585 (I) Container storage areas shall have a containment system that is designed and operated in  
586 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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587 (II) Storage areas that store containers holding only wastes that do not contain free liquids or storage  
588 areas that store less than one thousand kilograms (1000 kg) of nonacute hazardous waste containing free  
589 liquids need not have a containment system as described in part (2)(C)2.D.(I) of this rule, provided that the  
590 storage area is sloped or is otherwise designed and operated to drain and remove liquid resulting from  
591 precipitation, or the containers are elevated or are otherwise protected from contact with accumulated liquid.

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

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

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

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

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

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

607 (IV) The containment system must also be inspected as part of the weekly inspections required by  
608 40 CFR 265.174 as incorporated in 10 CSR 25-7.265.

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

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

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

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

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

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

632 4. 40 CFR 262.34(a)(1)(iii) is not incorporated in this rule.

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

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636 6. All generators shall meet the special requirements for ignitable or reactive waste set forth in 40 CFR  
637 265.176 incorporated in 10 CSR 25-7.265 and, therefore, the following language in 40 CFR 262.34(d)(2) is  
638 not incorporated in this rule: “except the generator need not comply with subsection 265.176.”

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

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

648 1. This paragraph establishes requirements for quarterly Generator’s Hazardous Waste Summary  
649 Reports.

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

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

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

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

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

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

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

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

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

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

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

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

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

718 (E) Exports of Hazardous Waste. This subsection modifies the incorporation of 40 CFR part 262 subpart  
719 E. The state cannot assume authority from the EPA to receive notifications of intent to export or to transmit  
720 this information to other countries through the Department of State or to transmit acknowledgements of  
721 consent to the exporter. In addition, the annual reports and exception reports required in 40 CFR 262.55 and  
722 262.56, incorporated in this rule, shall be filed with the EPA administrator and copies shall be provided to  
723 the department. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 262.51,  
724 262.52, 262.53, 262.54, 262.55, 262.56, and 262.57, as incorporated in this rule. This modification does not  
725 relieve the regulated person of his/her responsibility to comply with the Resource Conservation and  
726 Recovery Act (RCRA) or other pertinent export control laws and regulations issued by other agencies (for  
727 example, the federal Department of Transportation and the Bureau of the Census of the Department of  
728 Commerce).

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

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

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

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

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

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

744 (G) Farmers. (*Reserved*)

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

747 (I) Emergency Procedures. In the event of a spill of hazardous waste at the generator's site, where there is  
748 clear and imminent danger to humans or the environment, the generator shall take reasonable action to  
749 eliminate the danger. In the event of a spill of a reportable quantity of material under 40 CFR 302.4 and  
750 302.5 (Note: this includes table 302.4), a generator shall notify **the department** in accordance with the  
751 **notification** procedure set forth in 10 CSR 24-3.010.

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

757

758 **10 CSR 25-7.264 Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and**  
759 **Disposal Facilities**

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

762 (1) The regulations set forth in 40 CFR part 264, July 1, 2010, as published by the Office of the Federal  
763 Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA  
764 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or  
765 additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-  
766 3.260(1)(A) shall apply in this rule in addition to any other modification set forth in section (2) of this rule.  
767 Where conflicting rules exist in 10 CSR 25, the more stringent shall control. “Owner/operator,” as defined in  
768 10 CSR 25-3.260(2)(O)3., shall be substituted for any reference to “owner and operator” or “owner or  
769 operator” in 40 CFR part 264 incorporated in this rule.

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

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

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

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

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

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

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

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

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806 3. 40 CFR 264.15(b)(5) is not incorporated in this rule.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

838 A. All owners/operators shall comply with the reporting requirements in 10 CSR 25-5.262(2)(D)  
839 regardless of whether the owner/operator is required to register as a generator pursuant to 10 CSR 25-  
840 5.262(2)(A)1.

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

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

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

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

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

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

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

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

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

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

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

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

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

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EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

881

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

883  $\$2 \times 250 \text{ tons} = \$500 \text{ fee}$

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

885 The number of tons would be rounded to 411:

886  $\$2 \times 411 \text{ tons} = \$822 \text{ fee}$

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

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

889  $\$2 \times 52,150 \text{ tons} = \$104,300 \text{ fee}$

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

953 1. For purposes of this subsection, commercial treatment, storage, or disposal (TSD) facility means any  
954 facility that would be considered a commercial hazardous waste TSD facility for the purposes of 10 CSR 25-  
955 12.020, or any facility that is certified as an R2 resource recovery facility according to 10 CSR 25-9.020, or  
956 any facility that receives for remuneration polychlorinated biphenyls (PCB) material or PCB units as defined  
957 by 10 CSR 25-13.010.

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

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

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

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

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

970 (I) The director deems the facility abandoned; or

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

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

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

975 (V) The premium due is paid; or

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

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

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

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

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

988 (I) The director deems the facility abandoned; or

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

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

991 (IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under Title  
992 11 (Bankruptcy), *United States Code*; or

993 (V) The premium due is paid; or

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

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

999 6. This paragraph modifies the requirements for letters of credit per 40 CFR 264.143(d), 40 CFR  
1000 264.145(d), and 40 CFR 264.147(h), incorporated in this rule. Letters of credit shall be issued by a state- or  
1001 federally-chartered and regulated bank or trust association.

1002 7. An owner/operator of a facility that is a commercial TSD facility may not satisfy financial assurance  
1003 requirements for closure, post-closure, or liability coverage, or any combination of these, by the use of a  
1004 financial test as specified in 40 CFR 264.143(f), 40 CFR 264.145(f), or 264.147(f), incorporated in this rule.

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1005 8. This paragraph modifies the requirements for closure insurance per 40 CFR 264.143(e), incorporated  
1006 in this rule, post-closure insurance per 40 CFR 264.145(e), incorporated in this rule, liability coverage for  
1007 sudden accidental occurrences per 40 CFR 264.147(a)(1), incorporated in this rule, and liability coverage for  
1008 non-sudden accidental occurrences per 40 CFR 264.147(b)(1), incorporated in this rule. Each insurance  
1009 policy shall be issued by an insurer who, at a minimum, is licensed to transact the business of insurance or is  
1010 eligible to provide insurance as an excess or surplus lines insurer in Missouri.

1011 9. In 40 CFR 264.143(f), incorporated in this rule, delete “or a firm with a ‘substantial business  
1012 relationship’ with the owner or operator.”

1013 10. In 40 CFR 264.145(f), incorporated in this rule, delete “or a firm with ‘a substantial business  
1014 relationship’ with the owner or operator.”

1015 11. In 40 CFR 264.147(g), incorporated in this rule, delete “or a firm with a ‘substantial business  
1016 relationship’ with the owner or operator.”

1017 (I) Containers. This subsection sets forth requirements in addition to 40 CFR part 264 subpart I  
1018 incorporated in this rule.

1019 1. An owner/operator of a facility which treats hazardous waste in containers shall meet the  
1020 requirements of 40 CFR 264.601–264.603 incorporated in this rule and subsection (2)(X) of this rule.

1021 2. Containers storing hazardous waste must be marked and labeled in accordance with 10 CSR 25-  
1022 5.262(2)(C) during the entire storage period.

1023 3. Container storage areas which close without removing all hazardous waste and/or hazardous waste  
1024 constituents to below background levels may pursue either a risk-based closure if there is no evidence of  
1025 groundwater or surface water contamination or, in the absence of such evidence, close in accordance with 10  
1026 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The  
1027 owner/operator shall also comply with the requirements of 10 CSR 25-7.264(2)(G).

1028 4. Containers holding ignitable or reactive waste that are stored outdoors or in buildings not equipped  
1029 with sprinkler systems shall be located at least fifty feet (50') from the facility's property line.

1030 5. Containers holding ignitable or reactive waste that are stored indoors shall be located at least fifty feet  
1031 (50') from the facility's property line unless the following requirements are satisfied:

1032 A. Exposing walls that are located more than ten feet (10') but less than fifty feet (50') from a  
1033 boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least two  
1034 (2) hours, with each opening protected by an automatically-closing listed one and one-half (1.5) hour (B)  
1035 fire door;

1036 B. Exposing walls that are located less than ten feet (10') from a boundary line of adjoining property,  
1037 that can be built upon, shall have a fire-resistance rating of at least four (4) hours, with each opening  
1038 protected by an automatically-closing listed three (3)-hour (A) fire door (Comment: All fire doors, closure  
1039 devices, and windows shall be installed in accordance with the National Fire Protection Agency (NFPA)  
1040 Code 80, *Standards for Fire Doors and Windows*, 1995 edition);

1041 C. The construction design of exterior walls shall provide ready accessibility for fire-fighting  
1042 operations through the provision of access openings, windows, or lightweight noncombustible wall panels;

1043 D. Container storage areas shall be provided with automatic fire suppression systems designed and  
1044 installed in accordance with the NFPA 14 (1996 edition), NFPA 15 (1996 edition), NFPA 16 (1995 edition),  
1045 NFPA 16A (1994 edition), NFPA 17 (1998 edition), NFPA 17A (1998 edition), NFPA 18 (1995 edition),  
1046 NFPA 20 (1996 edition), NFPA 22 (1996 edition), and NFPA 24 (1995 edition) standards. Final design of  
1047 these systems shall be approved by a qualified, registered professional engineer in Missouri;

1048 E. Each container storage area shall have preconnected hose lines capable of reaching the entire area.  
1049 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  
1050 one and one-half (1.5)-inch fire hose is used, it shall be installed in accordance with NFPA 14 (1996  
1051 edition). Hand-held fire extinguishers rated for the appropriate class of fire shall be available at each storage  
1052 area;

1053 F. Only containers meeting the requirements of, and containing products authorized by, Chapter I,  
1054 Title 49 of the *Code of Federal Regulations* (DOT Regulations) or NFPA 386, *Standard for Portable*  
1055 *Shipping Tanks* shall be used;

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1056 G. All storage of ignitable or reactive materials shall be organized in a manner which will not  
1057 physically obstruct a means of egress. Materials shall not be placed in a manner that a fire would preclude  
1058 egress from the area. Evacuation plans shall recognize the locations of any automatically-closing fire doors;

1059 H. All containers shall be arranged so there is a minimum aisle space of four feet (4') between rows,  
1060 allowing accessibility to each individual container. Double rows can be utilized. Containers shall not be  
1061 stacked or placed closer than three feet (3') from ceilings or any roof members, or both; and

1062 I. Explosive gas levels in the facility shall be monitored continuously. If the facility is not manned  
1063 twenty-four (24) hours per day, a telemetry system shall be provided to alarm designated response  
1064 personnel.

1065 (J) Tanks. This subsection sets forth requirements which modify or add to those requirements in 40 CFR  
1066 part 264 subpart J.

1067 1. Hazardous waste that has a true vapor pressure of greater than seventy-eight millimeters of mercury  
1068 (78 mm Hg) at twenty-five degrees Celsius (25 °C) is considered to be volatile and shall not be placed in an  
1069 open tank.

1070 2. 40 CFR 264.190(c) is not incorporated by reference.

1071 3. In 40 CFR 264.193(g) incorporated in this rule, delete “or that in the event of a release that does  
1072 migrate to ground water or surface water, no substantial present or potential hazard will be posed to human  
1073 health or the environment.” 40 CFR 264.193(g)(2) and its subdivisions are not incorporated in this rule.

1074 4. For purposes of 40 CFR 264.193(h) incorporated in this rule, “variance” means exception.

1075 5. In 40 CFR 264.196(c) and 40 CFR 264.196(c)(1) incorporated in this rule, delete “visible” and  
1076 “visual.” Tank storage areas which close without removing all hazardous waste and/or hazardous waste  
1077 constituents to below background levels may pursue either a risk-based closure if there is no evidence of  
1078 groundwater or surface water contamination or in the absence of such evidence, close in accordance with 10  
1079 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The  
1080 owner/operator shall also comply with the requirements of 10 CSR 25-7.264(2)(G).

1081 6. An owner/operator of a facility which treats hazardous waste in a tank system shall meet the  
1082 requirements of 40 CFR 264.601–40 CFR 264.603 incorporated in this rule and subsection (2)(X) of this  
1083 rule.

1084 (K) Surface Impoundments. This subsection sets forth standards and requirements which modify or add to  
1085 those requirements in 40 CFR part 264 subpart K.

1086 1. Design and operating requirements are as follows:

1087 A. Any existing surface impoundment or existing portion of a surface impoundment shall be replaced  
1088 with a new surface impoundment in compliance with 40 CFR part 264 subpart K, incorporated in this rule,  
1089 and this subsection prior to permit issuance;

1090 B. Each new surface impoundment shall be constructed with a double liner as required in 40 CFR  
1091 264.221(c), incorporated in this rule, and subparagraphs (2)(K)1.C. and D. of this rule;

1092 C. The lower component of the composite liner required by 40 CFR 264.221(c) shall, at a minimum,  
1093 consist of at least three feet (3') of clay, recompact to ninety-five percent (95%) of Standard Proctor  
1094 Density with the moisture content between two percent (2%) below and four percent (4%) above the  
1095 optimum moisture content. The soils used for this purpose shall meet the following minimum specifications:

1096 (I) Be classified under the United Soil Classification Systems as CL, CH, or SC (American Society  
1097 for Testing and Materials (ASTM) Standard D2487-93, current edition approved September 15, 1993,  
1098 published November 1993);

1099 (II) Allow more than thirty percent (30%) passable through a No. 200 sieve (ASTM Test D1140-54  
1100 (reapproved 1971), current edition approved September 15, 1954);

1101 (III) Have a liquid limit equal to or greater than thirty (30) (ASTM Test D4318-95a, current edition  
1102 approved December 10, 1995, published April 1996);

1103 (IV) Have a plasticity index equal to or greater than fifteen (15) (ASTM Test D4318-95a, as  
1104 previously referenced in this rule); and

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1105 (V) Have a coefficient of permeability equal to or less than  $1 \times 10^{-8}$  cm/sec when compacted to  
1106 ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%)  
1107 below and four percent (4%) above the optimum moisture content, and when tested by using the indirect  
1108 calculation from the one (1)-dimensional consolidation test for clay rich soils (ASTM D2435-96, current  
1109 edition approved June 10, 1996, published August 1996) or other procedures approved by the department;

1110 D. The leak detection system required by 40 CFR 264.221(c)(2) shall cover the entire sides and  
1111 bottom of the surface impoundment;

1112 E. When liquids are detected in the leak detection system installed to comply with subparagraph  
1113 (2)(K)1.D. of this rule and 40 CFR 264.221(c)(2), the owner/operator shall—

1114 (I) Notify the department in writing within thirty (30) days of the event;

1115 (II) Continue to operate and maintain the leak detection system so that the liquids are removed as  
1116 they accumulate or with sufficient frequency to prevent backwater within the system; and

1117 (III) Implement leachate monitoring in accordance with paragraph (2)(K)1.F. of this rule and the  
1118 facility permit;

1119 F. This paragraph sets forth requirements for leachate monitoring at surface impoundments. An  
1120 owner/operator that is required under subparagraph (2)(K)1.E. of this rule to initiate leachate monitoring  
1121 shall comply with parts (2)(K)1.F.(I)–(IV) of this rule.

1122 (I) The owner/operator shall remove any accumulated leachate in the leak detection system  
1123 collection sumps at least weekly during the active life and closure period. After the final cover is installed,  
1124 accumulated leachate shall be removed at least as often as the owner/operator is required by 40 CFR  
1125 264.226(d)(2) to record the amount of liquids removed from the system.

1126 (II) The owner/operator shall analyze the leachate at least annually. At a minimum, the annual  
1127 leachate analyses shall be conducted for indicator parameters (that is pH, specific conductance, dissolved  
1128 organic carbon, and total organic halogen) and selected hazardous waste constituents. The hazardous waste  
1129 constituents selected must provide a reliable indication of the presence of hazardous constituents that are  
1130 reasonably expected to be in or derived from wastes contained in each unit.

1131 (III) The owner/operator shall calculate the average daily flow rate for each sump as required by 40  
1132 CFR 264.222(b). If the department determines that the leachate generation rate is greater than reasonably  
1133 expected for any unit, the department may require the owner/operator to provide additional information to  
1134 evaluate the existing conditions.

1135 (IV) In accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in  
1136 this rule, the owner/operator shall submit to the department all information required to comply with parts  
1137 (2)(K)1.F.(I)–(III) of this rule.

1138 (V) The department may require more frequent leachate collection and analysis than that outlined in  
1139 parts (2)(K)1.F.(I)–(III) of this rule if determined necessary. The frequency of leachate collection and  
1140 analysis will be specified in the facility permit.

1141 (VI) Indicator parameters and constituents to be monitored as required by part (2)(K)1.F.(II) of this  
1142 rule will be specified by the department in the facility permit. If the department determines that results of the  
1143 chemical analyses are outside of the range that is reasonably expected for any unit, the department may  
1144 require the owner/operator to provide additional information to evaluate the existing conditions;

1145 G. The owner/operator shall measure daily precipitation at the facility until final closure is certified.  
1146 During the post-closure care period of the facility, the owner/operator shall also record and report regional  
1147 precipitation from the nearest weather recording station in accordance with the schedule established for the  
1148 maintenance of the facility. The information required under this paragraph shall be submitted to the  
1149 department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in  
1150 this rule; and

1151 H. If the leachate monitoring (implemented in accordance with subparagraph (2)(K)1.F. of this rule)  
1152 detects hazardous waste(s) constituents in the leak detection system, a leak in the surface impoundment liner  
1153 is indicated and the owner/operator shall—

1154 (I) Within seven (7) days after detecting the leak, notify the department in writing of the leak;

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1155 (II) Remove, within the period of time specified in the permit, accumulated liquid, repair or replace  
1156 the leaking liner to prevent the migration of hazardous waste liquids through the liner and obtain a  
1157 certification from a registered professional engineer that, to the best of his/her knowledge and opinion, the  
1158 leak has been stopped; and

1159 (III) Obtain, after performing the necessary repairs, written approval from the department prior to  
1160 placing the surface impoundment in service again.

1161 2. Those surface impoundments which are intended to be closed without removing the hazardous waste  
1162 shall meet the requirements of subparagraph (2)(N)1.A. and 40 CFR part 264 subpart N, incorporated in this  
1163 rule. If the site cannot meet these requirements and contamination exists beyond the liner of the surface  
1164 impoundment, the owner/operator shall clean up contaminated residues and hazardous constituents to the  
1165 greatest extent practical during closure. If the department determines, based on the potential impact on  
1166 human health and the environment, that it is not necessary or feasible to remove contaminated material down  
1167 to background concentrations during closure, the owner/operator shall—

1168 A. Comply with subsection 40 CFR 264.228(b) incorporated in this rule; or

1169 B. Submit and obtain approval for a delisting petition pursuant to 40 CFR 260.20 and 40 CFR 260.22  
1170 for the contaminated material not removed during closure.

1171 3. An owner/operator of a facility which treats hazardous waste in a surface impoundment shall meet the  
1172 requirements of 40 CFR 264.601–40 CFR 264.603 incorporated in this rule and subsection (2)(X) of this  
1173 rule.

1174 (L) Waste Piles. This subsection sets forth standards which modify or add to those requirements in 40  
1175 CFR part 264 subpart L.

1176 1. In addition to the requirements in 40 CFR part 264.250(c) incorporated in this rule, the waste pile  
1177 must be at least ten feet (10') above the historical high groundwater table to be exempt from the regulatory  
1178 requirements in 40 CFR 264.251 incorporated in this rule, 40 CFR part 264 subpart F incorporated in this  
1179 rule, and subsection (2)(F) of this rule.

1180 2. Design and operating requirements are as follows:

1181 A. Any existing waste pile or existing portion of a waste pile shall be replaced with a new waste pile  
1182 in compliance with 40 CFR 264 subpart L, incorporated in this rule, and this subsection prior to permit  
1183 issuance;

1184 B. Each new waste pile shall be constructed with a double liner as required in 40 CFR 264.251(c),  
1185 incorporated in this rule, and subparagraphs (2)(L)2.C. and D. of this rule;

1186 C. The lower component of the composite liner required by 40 CFR 264.251(c), at a minimum, shall  
1187 consist of at least three feet (3') of clay, recompact to ninety-five percent (95%) of Standard Proctor  
1188 Density with the moisture content between two percent (2%) below and four percent (4%) above the  
1189 optimum moisture content. The soils used for this purpose shall meet the following minimum specifications:

1190 (I) Be classified under the United Soil Classification Systems as CL, CH, or SC (ASTM Standard  
1191 D2487-93, as previously referenced in this rule);

1192 (II) Allow more than thirty percent (30%) passable through a No. 200 sieve (ASTM Test D1140, as  
1193 previously referenced in this rule);

1194 (III) Have a liquid limit equal to or greater than thirty (30) (ASTM Test D4318-95a, as previously  
1195 referenced in this rule);

1196 (IV) Have a plasticity index equal to or greater than fifteen (15) (ASTM Test D4318-95a, as  
1197 previously referenced in this rule); and

1198 (V) Have a coefficient of permeability equal to or less than  $1 \times 10^{-8}$  cm/sec when compacted to  
1199 ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%)  
1200 below and four percent (4%) above the optimum moisture content, and when tested by using the indirect  
1201 calculation from the one (1) dimensional consolidation test for clay rich soils (ASTM D2435-96, as  
1202 previously referenced in this rule) or other procedures approved by the department;

1203 D. The leak detection system required by 40 CFR 264.251(c)(3) shall be capable of detecting leaks  
1204 from the entire area of the waste pile;

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1205 E. When liquids are detected in the leachate collection/removal system installed to comply with 40  
1206 CFR 264.251(c)(2), the owner/operator shall—

1207 (I) Notify the department in writing within thirty (30) days of the event;

1208 (II) Continue to operate and maintain the leachate collection/removal and leak detection systems so  
1209 that the liquids are removed as they accumulate or with sufficient frequency to prevent backwater within the  
1210 system; and

1211 (III) Implement leachate monitoring in accordance with subparagraph (2)(L)2.F. of this rule and the  
1212 facility permit;

1213 F. This paragraph sets forth requirements for leachate monitoring at waste piles. An owner/operator  
1214 that is required under subparagraph (2)(L)2.E. to initiate leachate monitoring shall comply with parts  
1215 (2)(L)2.F.(I)–(IV) of this rule.

1216 (I) The owner/operator shall remove any accumulated leachate in the leachate collection/removal  
1217 and leak detection system collection sumps at least weekly during the active life and closure period. After  
1218 the final cover is installed, accumulated leachate shall be removed at least as often as the owner/operator is  
1219 required by subparagraph (2)(L)3.A. of this rule to record the amount of liquids removed from the system.

1220 (II) The owner/operator shall analyze leachate from the leak detection system at least annually. If  
1221 leachate has not yet been discovered in the leak detection system, the annual analysis shall be completed on  
1222 leachate collected from the leachate collection/removal system. At a minimum, the annual leachate analyses  
1223 shall be conducted for indicator parameters (that is pH, specific conductance, dissolved organic carbon, and  
1224 total organic halogen) and selected hazardous waste constituents. The hazardous waste constituents selected  
1225 must provide a reliable indication of the presence of hazardous constituents that are reasonably expected to  
1226 be in or derived from wastes contained in each unit.

1227 (III) The owner/operator shall calculate the average daily flow rate for each sump in the leak  
1228 detection system as required by 40 CFR 264.252(b), in addition the average daily flow rate for each sump  
1229 calculated in a similar manner. If the unit is closed in accordance with 40 CFR 264.258(b), the average daily  
1230 flow rates shall be calculated at the same frequency as the recording of leachate removal as required by  
1231 subparagraph (2)(L)3.B. of this rule. If the department determines that the leachate generation rate is greater  
1232 than reasonably expected for any unit, the department may require the owner/operator to provide additional  
1233 information to evaluate the existing conditions.

1234 (IV) The owner/operator shall submit all information required to comply with parts (2)(L)2.F.(I)–  
1235 (III) of this rule to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264  
1236 subpart E incorporated in this rule.

1237 (V) The department may require more frequent leachate collection and analysis than that outlined in  
1238 parts (2)(L)2.F.(I)–(III) of this rule if determined necessary. The frequency of leachate collection and  
1239 analysis will be specified in the facility permit.

1240 (VI) Indicator parameters and constituents to be monitored, as required by part (2)(L)2.F.(II) of this  
1241 rule, will be specified by the department in the facility permit. If the department determines that results of  
1242 the chemical analyses are outside of the range that is reasonably expected for any unit, the department may  
1243 require the owner/operator to provide additional information to evaluate the existing conditions;

1244 G. The owner/operator shall measure daily precipitation at the facility until final closure is certified.  
1245 During the post-closure care period of the facility, the owner/operator shall also record and report regional  
1246 precipitation from the nearest weather recording station in accordance with the schedule established for the  
1247 maintenance of the facility. The information required under this paragraph shall be submitted to the  
1248 department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in  
1249 this rule; and

1250 H. If the leachate monitoring (implemented in accordance with subparagraph (2)(L)2.F. of this rule)  
1251 detects hazardous waste constituents in the leak detection system, a leak in the waste pile liner is indicated,  
1252 and the owner/operator shall—

1253 (I) Notify the department in writing of the leak within seven (7) days after detecting the leak;

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1254 (II) Remove, within the period of time specified in the permits, accumulated liquid, repair or replace  
1255 the leaking liner to prevent the migration of hazardous waste liquids through the liner and obtain a  
1256 certification from a registered professional engineer that, to the best of his/her knowledge and opinion, the  
1257 leak has been stopped; and

1258 (III) Obtain, after performing the necessary repairs, written approval from the department prior to  
1259 placing the waste pile in service again.

1260 3. This paragraph sets forth standards which modify or add to those requirements in 40 CFR 264.254(c)  
1261 for monitoring and inspection.

1262 A. In addition to recording the amount of liquids removed from each leak detection system sump at  
1263 least once per week during the active live and closure period, the owner/operator shall record the amount of  
1264 liquids removed from each leachate collection/removal system sump at the same frequency.

1265 B. If the waste pile is closed in accordance with 40 CFR 264.258(b), following closure the amount of  
1266 liquids removed from each leachate collection/removal and leak detection system sump shall be recorded at  
1267 least monthly. If the liquid level in the sump stays below the pump operating level for two (2) consecutive  
1268 months, the amount of liquids in the sump must be recorded at least quarterly. If the liquid level in the sump  
1269 stays below the pump operating level for two (2) consecutive quarters, the amount of liquids in the sump  
1270 shall be recorded at least semiannually. If at any time during the post-closure care period the pump operating  
1271 level is exceeded at units on quarterly or semiannual recording schedules, the owner/operator must return to  
1272 monthly recording of amounts of liquids removed from each sump until the liquid level again stays below  
1273 the pump operating level for two (2) consecutive months.

1274 (M) Land Treatment. *(Reserved)*

1275 (N) Landfills. This subsection sets forth standards which modify or add to those requirements in 40 CFR  
1276 part 264 subpart N.

1277 1. This paragraph sets forth standards for a site suitability demonstration.

1278 A. Location standards.

1279 (I) A landfill shall be located so as to minimize discharges and the potential for harm to human  
1280 health and the environment.

1281 (II) A landfill shall be located so that a total of no less than thirty feet (30') of soil or other material,  
1282 which has a coefficient of permeability of less than  $1 \times 10^{-7}$  cm/sec, when tested according to subpart  
1283 (2)(N)1.B.(II)(d) of this rule, lies between the bottom of the lowest artificial liner or lowest engineered soil  
1284 liner and the uppermost regional aquifer.

1285 (III) The requirements of part (2)(N)1.A.(II) of this rule do not apply to a landfill which meets the  
1286 following criteria:

1287 (a) Demonstrates to the satisfaction of the department by a combination of laboratory tests, field  
1288 test and development of models that naturally occurring materials between the lowest artificial liner or  
1289 lowest engineered soil liner and the uppermost regional aquifer would retard the migration of hazardous  
1290 constituents contained in the waste to at least the same degree that thirty feet (30') of material having a  
1291 coefficient of permeability of  $1 \times 10^{-7}$  cm/sec when tested according to subpart (2)(N)1.B.(II)(d) would  
1292 retard the migration of water, but in no case shall the thickness of the naturally occurring material be less  
1293 than twenty feet (20');

1294 (b) Receives only wastes generated by its operator(s); and

1295 (c) Meeting the criteria in subparts (2)(N)1.A.(III)(a) and (b) shall not waive compliance with any  
1296 regulations except those set forth in part (2)(N)1.A.(II) of this rule.

1297 (IV) No landfill shall be located in the following areas:

1298 (a) In a wetland;

1299 (b) Within two hundred feet (200') of a fault which has had surface displacement in Holocene  
1300 time;

1301 (c) In a one hundred (100)-year flood plain;

1302 (d) In an area of unstable soil deposits or area(s) containing landslides; or

1303 (e) In an area subject to catastrophic collapse as evaluated by the Division of Geology and Land  
1304 Survey.

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- 1305 B. The permit application shall include the following engineering reports:  
1306 (I) A geologic description of the region in which the site is located, which description shall be  
1307 prepared by a qualified geologist familiar with the region;  
1308 (II) A description of the natural soils and bedrock underlying the site including a representative  
1309 number of borings that indicate the type, depth and thickness of soils, bedrock, and other materials  
1310 underlying the site and test results that indicate the following parameters for soils or other materials  
1311 underlying the site. The following test methods shall be utilized unless other procedures have been evaluated  
1312 and approved by the department:  
1313 (a) Atterberg limits (ASTM D4318-95a, as previously referenced in this rule);  
1314 (b) pH (*Methods of Soil Analysis Part II, Chemical and Microbiological Properties*, A.L. Page,  
1315 Ed. American Society of Agronomy, 2nd Ed., 1982, pp. 200–209);  
1316 (c) Maximum dry density at optimum moisture content (ASTM D1557-91, current edition  
1317 approved November 18, 1991, published January 1992);  
1318 (d) Coefficient of permeability, which is the indirect calculation from the one (1)-dimensional  
1319 consolidation test for clay rich soils (ASTM D2435-96, as previously referenced in this rule) or other  
1320 laboratory procedures found in the professional literature and approved by the department;  
1321 (e) Grain size distribution, Unified Soil Classification System designation (ASTM Standards  
1322 D2487-93, as previously referenced in this rule and D422-63 (reapproved 1990) current edition approved  
1323 November 21, 1963); and  
1324 (f) Cation exchange capacity (*Methods of Soil Analysis Part II, Chemical and Microbiological*  
1325 *Properties*, A.L. Page, Ed., American Society of Agronomy, 2nd Ed., 1982, pp. 149–157);  
1326 (III) A hydrogeologic study conducted at the site to determine the potential for transport of  
1327 groundwater and contaminants. This study shall include:  
1328 (a) Piezometric contours of groundwater;  
1329 (b) Potential direction(s) of groundwater movement and estimated rate(s);  
1330 (c) Identification and description of the aquifer(s);  
1331 (d) Background water quality data; and  
1332 (e) Field permeability tests as found in the professional literature and approved by the department;  
1333 (IV) A present water balance which shall be determined as outlined in *Use of the Water Balance*  
1334 *Method for Predicting Leachate Generation from Solid Waste Disposal Sites*, EPA/530/SW-168 or an  
1335 equivalent method approved by the department;  
1336 (V) Engineering and geologic drawings that delineate—  
1337 (a) Typical disposal cells for each hazardous waste type;  
1338 (b) Structures for surface water control;  
1339 (c) Locations of borings and monitoring systems;  
1340 (d) Leachate collection systems, bottom elevations, and cover elevations for each disposal area;  
1341 and  
1342 (e) Stratigraphic cross-sections of the geologic setting showing, at a minimum, boring locations  
1343 and depths, trench design and depths, and piezometric surfaces and water tables where present; and  
1344 (VI) Any other applicable details.  
1345 2. This paragraph sets forth additional design and operating requirements.  
1346 A. Any existing landfill or existing portion of a landfill shall be replaced with a new landfill in  
1347 compliance with 40 CFR part 264 subpart N, incorporated in this rule, and this subsection prior to permit  
1348 issuance;  
1349 B. Each new landfill shall be constructed with a double liner as required in 40 CFR 264.301(c),  
1350 incorporated in this rule, and subparagraphs (2)(N)2.C. of this rule;  
1351 C. The lower component of the composite liner required by 40 CFR 264.301(c), at a minimum, shall  
1352 consist of at least three feet (3') of clay, recompacted to ninety-five percent (95%) of Standard Proctor  
1353 Density with the moisture content between two percent (2%) below and four percent (4%) above the  
1354 optimum moisture content. The soils used for this purpose shall meet the following minimum specifications:

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1355 (I) Be classified under the United Soil Classification Systems as CL, CH, or SC (ASTM Standard  
1356 D2487-93, as previously referenced in this rule);

1357 (II) Allow more than thirty percent (30%) passable through a No. 200 sieve (ASTM Test D1140, as  
1358 previously referenced in this rule);

1359 (III) Have a liquid limit equal to or greater than thirty (30) (ASTM Test D4318-95a, as previously  
1360 referenced in this rule);

1361 (IV) Have a plasticity index equal to or greater than fifteen (15) (ASTM Test D4318-95a, as  
1362 previously referenced by this rule); and

1363 (V) Have a coefficient of permeability equal to or less than  $1 \times 10^{-8}$  cm/sec when compacted to  
1364 ninety-five percent (95%) of Standard Proctor Density with the moisture content between two percent (2%)  
1365 below and four percent (4%) above the optimum moisture content, and when tested by using the indirect  
1366 calculation from the one (1)-dimensional consolidation test for clay rich soils (ASTM D2435-96, as  
1367 previously referenced by this rule) or other procedures approved by the department;

1368 D. Each detection or collection and removal system shall meet the requirements of 40 CFR  
1369 264.301(c)(3)(I)–(V), incorporated in this rule.

1370 E. The leak detection system required by 40 CFR 264.301(c)(3) shall be capable of detecting leaks  
1371 from the entire sides and bottom of each cell.

1372 F. When liquids are detected in the leachate collection/removal system installed to comply with 40  
1373 CFR 264.301(c)(2), the owner/operator shall—

1374 (I) Notify the department in writing within thirty (30) days of the event;

1375 (II) Continue to operate and maintain the leachate collection/removal and leak detection systems so  
1376 that the liquids are removed as they accumulate or with sufficient frequency to prevent backwater within the  
1377 system; and

1378 (III) Implement leachate monitoring in accordance with subparagraph (2)(N)2.G. of this rule and the  
1379 facility permit;

1380 G. This paragraph sets forth requirements for leachate monitoring at landfills. An owner/operator that  
1381 is required under subparagraph (2)(N)2.F. to initiate leachate monitoring shall comply with parts  
1382 (2)(N)2.G.(I)–(V) of this rule.

1383 (I) The owner/operator shall remove any accumulated leachate in the leachate collection/removal  
1384 and leak detection system collection sumps at least weekly during the active life and closure period. After  
1385 the final cover is installed, accumulated leachate shall be removed at least as often as the owner/operator is  
1386 required by 40 CFR 264.303(c)(2) to record the amount of liquids removed from the systems.

1387 (II) The owner/operator shall analyze leachate from the leak detection system at least annually. If  
1388 leachate has not yet been discovered in the leak detection system, the annual analysis shall be completed on  
1389 leachate collected from the leachate collection/removal system. At a minimum, the annual leachate analyses  
1390 shall be conducted for indicator parameters (that is pH, specific conductance, dissolved organic carbon, and  
1391 total organic halogen) and selected hazardous waste constituents. The hazardous waste constituents selected  
1392 must provide a reliable indication of the presence of hazardous constituents that are reasonably expected to  
1393 be in or derived from wastes contained in each unit.

1394 (III) At the first occurrence of leachate in the leak detection system, the owner/operator shall  
1395 analyze leachate from that system for the complete list of parameters identified in 40 CFR part 264  
1396 Appendix IX.

1397 (IV) The owner/operator shall calculate the average daily flow rate for each sump in the leak  
1398 detection system as required by 40 CFR 264.302(b). In addition, the average daily flow rate for each sump in  
1399 each of the leachate collection/removal systems shall also be calculated in a similar manner. Following  
1400 closure, the average daily flow rates shall be calculated at the same frequency as the recording of leachate  
1401 removal as required by 40 CFR 264.303(c)(2). If the department determines that the leachate generation rate  
1402 is greater than reasonably expected for any unit, the department may require the owner/operator to provide  
1403 additional information to evaluate the existing conditions.

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1404 (V) The owner/operator shall submit all information required to comply with parts (2)(N)2.G.(I)–  
1405 (IV) of this rule to the department in accordance with subsection (2)(E) of this rule and 40 CFR part 264  
1406 subpart E incorporated in this rule.

1407 (VI) The department may require more frequent leachate collection and analysis than that outlined  
1408 in parts (2)(N)2.G.(I)–(IV) of this rule if determined necessary. The frequency of leachate collection and  
1409 analysis will be specified in the facility permit.

1410 (VII) Indicator parameters and constituents to be monitored as required by part (2)(N)2.G.(II) of this  
1411 rule will be specified by the department in the facility permit. If the department determines that results of the  
1412 chemical analyses are outside of the range that is reasonably expected for any unit, the department may  
1413 require the owner/operator to provide additional information to evaluate the existing conditions.

1414 H. The owner/operator shall measure daily precipitation at the facility until final closure is certified.  
1415 During the post-closure care period of the facility, the owner/operator shall also record and report regional  
1416 precipitation from the nearest weather recording station in accordance with the schedule established for the  
1417 maintenance of the facility. The information required under this paragraph shall be submitted to the  
1418 department in accordance with subsection (2)(E) of this rule and 40 CFR part 264 subpart E incorporated in  
1419 this rule.

1420 I. If the volume or rate of flow of leachate contained in the leak detection system (implemented in  
1421 accordance with subparagraph (2)(N)2.G. of this rule) exceeds ten percent (10%) of the action leakage rate  
1422 as defined in 40 CFR 264.302, incorporated in this rule, then the owner/operator shall analyze the leachate  
1423 for the indicator parameters and constituents outlined in the facility permit. If the analyzed leachate exceeds  
1424 the detection limits outlined in the facility permit, the owner/operator shall—

1425 (I) Notify the department in writing of the leak within seven (7) days after detecting the leak;

1426 (II) Remove, within the period of time specified in the permit, accumulated liquid, conduct an  
1427 assessment of the leakage to determine the cause and extent of the leak, and, if necessary, initiate repairs or  
1428 replace the leaking liner to prevent the migration of hazardous waste liquids through the liner; and

1429 (III) Submit to the department the assessment and a certification from a registered professional  
1430 engineer describing any repairs or replacement of the liner system within thirty (30) days of completion.

1431 J. A landfill shall be designed, constructed, and operated to minimize erosion, landslides and  
1432 sloughing.

1433 K. Where necessary, features shall be provided around closed units or, when leachate is detected in the  
1434 lower leachate collection system, features shall control horizontal migration of leachate from the disposal  
1435 unit. These features may include, but are not limited to, recompacted trench walls, slurry trenches, and  
1436 interceptor trenches.

1437 L. There shall be a minimum of three hundred feet (300') of buffer between the property line of the  
1438 disposal facility and the permitted area.

1439 M. If the owner/operator accepts any odoriferous waste, the owner/operator shall apply cover or  
1440 otherwise manage the landfill to control odor dispersal.

1441 N. If gases are generated within the landfill, a gas collection and control system shall be installed to  
1442 control the vertical and horizontal escape of gases from the landfill.

1443 3. All hazardous wastes accepted for disposal shall be listed in the permit application in accordance with  
1444 40 CFR 270.13(j) as incorporated by reference in 10 CSR 25-7.270. In addition, departmental approval of  
1445 individual waste streams may be required prior to allowing the disposal of the waste streams in the landfill.

1446 4. Wastes having a true vapor pressure greater than seventy-eight millimeters of mercury (78 mm Hg) at  
1447 twenty-five degrees Celsius (25 °C) are volatile wastes and shall not be landfilled.

1448 (O) Incinerators. This subsection sets forth standards which modify or add to those requirements in 40  
1449 CFR part 264 subpart O.

1450 1. Sampling methods to determine compliance with 40 CFR 264.343 incorporated in this rule will be  
1451 specified by the department in the permit and shall consist of any of the following methods:

1452 A. The methods described in the *Engineering Handbook for Hazardous Waste Incineration*, SW-889,  
1453 by the United States EPA or equivalent; or

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1454 B. The methods specified in 40 CFR part 60 Appendix A (July 1, 1989). For facilities subject to  
1455 paragraph (2)(O)2. of this rule, the methods referenced in this paragraph shall be used exclusively to  
1456 determine compliance with the emission limitations required in this subsection.

1457 2. The provisions of 40 CFR part 60 subpart E, July 1, 1989, shall apply and are incorporated by  
1458 reference as part of this rule. An owner/operator of a hazardous waste incinerator which is regulated under  
1459 the New Source Performance Standards in that subpart shall comply with the provisions in addition to  
1460 complying with all other applicable provisions in this rule.

1461 3. Where emission limitations found in both paragraph (2)(O)2. of this rule and in another provision of  
1462 this rule are applicable to a hazardous waste incinerator, the more stringent shall control.

1463 (P) Health Profiles.

1464 1. An owner/operator shall submit a health profile, as required by section 260.395.7(5), RSMo, with the  
1465 initial application for a hazardous waste treatment or land disposal facility. A health profile is not necessary  
1466 for facilities that must obtain a permit for only post-closure care and/or corrective action activities. A health  
1467 profile shall identify any potential serious illnesses, the rate of which exceeds the state average for the  
1468 illnesses, which might be attributable to environmental contamination from any hazardous waste treatment  
1469 or land disposal unit at the hazardous waste facility applying for the permit. The purpose of the information  
1470 in the health profile is to document the potential for exposure from the applicable hazardous waste treatment  
1471 or land disposal units and to determine whether additional permit controls are necessary for these units to  
1472 ensure protection of human health beyond the facility property boundaries. One of the following for each  
1473 applicable unit or combination of units as approved by the department may constitute a health profile for the  
1474 purposes of this subsection:

1475 A. For combustion units—

1476 (I) The evaluation described in 40 CFR 270.10(l)(1) for hazardous waste combustion units;

1477 (II) An evaluation of the potential risk to human health resulting from both direct and indirect  
1478 exposure pathways. In selecting this option, the applicant shall submit a workplan to conduct the evaluation  
1479 with the initial application; however, the permit shall not be issued until the evaluation is final; or

1480 (III) A Health Evaluation by the Missouri Department of Health and Senior Services requested by  
1481 the facility according to paragraph (2)(P)4;

1482 B. For other treatment units—

1483 (I) An evaluation of the potential risk to human health resulting from both direct and indirect  
1484 exposure pathways. In selecting this option, the applicant shall submit a workplan to conduct the evaluation  
1485 with the initial application; however, the permit shall not be issued until the evaluation is final; or

1486 (II) A Health Evaluation by the Missouri Department of Health and Senior Services requested by the  
1487 facility according to paragraph (2)(P)4.; and

1488 C. For land disposal units—

1489 (I) The information required by 40 CFR 270.10(j);

1490 (II) An evaluation of the potential risk to human health resulting from both direct and indirect  
1491 exposure pathways. In selecting this option, the applicant shall submit a workplan to conduct the evaluation  
1492 with the initial application; however, the permit shall not be issued until the evaluation is final; or

1493 (III) A Health Evaluation by the Missouri Department of Health and Senior Services requested by  
1494 the facility according to paragraph (2)(P)4.

1495 2. This paragraph sets forth requirements which shall be met subsequent to the initial permit application  
1496 for hazardous waste treatment and/or land disposal activities.

1497 A. If changes occur after permit issuance that may increase the potential for human exposure to  
1498 hazardous waste or hazardous constituents from the treatment or land disposal unit, an updated health profile  
1499 shall be part of a facility application for permit renewal or permit modifications that include addition or  
1500 modification of a hazardous waste treatment or land disposal unit.

1501 B. Appropriate documentation to be submitted as the updated health profile shall include one (1) of  
1502 the options set out in subparagraphs (2)(P)1.A. through C., or an update of a previous submittal under those  
1503 requirements.

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1504 3. Additional epidemiological investigations by the Missouri Department of Health and Senior Services  
1505 may be required if the information provided pursuant to subparagraph (2)(P)2.B. indicates the presence of  
1506 potentially unacceptable human health risks.

1507 4. A Health Evaluation by the Missouri Department of Health and Senior Services will assess the  
1508 potential for exposure and adverse health effects to the public from materials released by the applicable  
1509 hazardous waste units. If the owner or operator chooses to request a Health Evaluation by the Missouri  
1510 Department of Health and Senior Services to meet the requirements of this subsection, the request shall be  
1511 submitted with the initial application; however, a permit shall not be issued until the evaluation is final.

1512 (Q) *(Reserved)*

1513 (R) *(Reserved)*

1514 (S) Corrective Action for Solid Waste Management Units. *(Reserved)*

1515 (T) *(Reserved)*

1516 (U) *(Reserved)*

1517 (V) *(Reserved)*

1518 (W) Drip Pads. 40 CFR part 264 subpart W is not incorporated by reference.

1519 (X) Miscellaneous Units. **This subsection sets forth requirements in addition to 40 CFR part 264 subpart X**  
1520 **incorporated in this rule.**

1521 1. A facility which continuously feeds hazardous waste into the treatment process shall be equipped with  
1522 an automatic waste feed cutoff or a bypass system that is activated when a malfunction in the treatment  
1523 process occurs. A bypass system shall return hazardous wastefeed to storage and shall not allow a discharge  
1524 or release of hazardous waste.

1525 2. Residuals of by-products from a treatment process (for example, sludges, spent resins) shall be  
1526 analyzed during a trial period to determine the effectiveness of the treatment process.

1527 (Y) *(Reserved)*

1528 (Z) *(Reserved)*

1529 (AA) Air Emission Standards for Process Vents. *(Reserved)*

1530 (BB) Air Emission Standards for Equipment Leaks. *(Reserved)*

1531 (CC) Air Emission Standards for Tanks, Surface Impoundments, and Containers. *(Reserved)*

1532 (DD) Containment Buildings. *(Reserved)*

1533 (EE) Hazardous Waste Munitions and Explosive Storage. *(Reserved)*

1534 (3) The following requirements apply to hazardous waste TSD facilities that accept and/or ship hazardous  
1535 waste via railroad tank car (railcar).

1536 (A) The owner/operator shall submit a railcar management plan with the application for a hazardous waste  
1537 treatment, storage, or disposal facility permit. Permitted facilities that currently accept and/or ship hazardous  
1538 waste via railcars shall request a Class I permit modification that requires prior director approval for the  
1539 railcar management plan according to the procedures defined in 10 CSR 25-7.270 within one hundred eighty  
1540 (180) days of the effective date of this paragraph. Permitted facilities that fail to apply for a permit  
1541 modification in compliance with this subsection shall cease all operations involved in the acceptance and/or  
1542 shipment of hazardous waste via railcar. The permitted facility that has fully complied with this subsection  
1543 has authorization to conduct the operations involved in the acceptance and/or shipment of hazardous waste  
1544 via railcar, pending action by the director.

1545 1. The railcar management plan shall describe steps to be taken by the facility in order to comply with  
1546 the requirements of subsections (3)(B)–(3)(F).

1547 2. The railcar management plan shall be maintained at the facility.

1548 (B) Railcars shall not be used as container or tank storage units at a facility unless the owner/operator  
1549 complies with the standards for container storage set forth in 40 CFR part 264 subpart I as incorporated in  
1550 this rule and 40 CFR 270.15 as incorporated in 10 CSR 25-7.270. During the time allowed for loading and  
1551 unloading as set forth in this section, the railcar shall not be considered to be in storage.

1552 1. The owner/operator shall ship hazardous wastes loaded onto a railcar within seventy-two (72) hours  
1553 after loading is initiated. For the purposes of this section, shipment occurs when—

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- 1554 A. The transporter signs and dates the manifest acknowledging acceptance of the hazardous waste;  
1555 B. The transporter returns a signed copy of the manifest to the facility; and  
1556 C. The railcar crosses the property boundary line of the TSD facility.

1557 2. The owner/operator shall have a maximum of ten (10) days following receipt of a shipment to unload  
1558 hazardous waste from incoming railcars. The amount of time allowed for unloading shall be specified in the  
1559 approved railcar management plan for each facility as part of the permit. The department will review and  
1560 approve each railcar management plan on a case-by-case basis and will base its decision regarding the time  
1561 allowed for unloading on factors including, but not limited to, the size of the rail siding, surveillance and  
1562 security standards, enclosure of the facility, type and amount of emergency response equipment, and the  
1563 facility's capacity to handle incidents. Unless more time is allowed by an approved railcar management  
1564 plan, the owner/operator shall unload hazardous waste from an incoming railcar within seventy-two (72)  
1565 hours of receipt of the shipment. For the purposes of this section, receipt of the shipment occurs when—

- 1566 A. The owner/operator signs the shipping paper; or  
1567 B. The owner/operator signs the manifest; or  
1568 C. The railcar crosses the property boundary line of the TSD facility.

1569 3. The time limits in this subsection may be extended for up to an additional twenty-four (24) hours  
1570 for Saturdays, Sundays, or public holidays as defined in section 9.010, RSMo 2000, that fall within the time  
1571 period approved in the railcar management plan.

1572 4. If the owner/operator finds that a railcar shipment must be rejected, the railcar shall be shipped  
1573 within twenty-four (24) hours of that determination, or within the time period approved in the railcar  
1574 management plan, whichever is later. The rejection and the reasons for the rejection shall be documented in  
1575 the facility's operating record.

1576 5. The owner/operator shall attempt to arrange for the rail carrier to provide the owner/operator a  
1577 notification detailing when a railcar was picked up from the facility or when a railcar was delivered to the  
1578 facility. If the rail carrier declines to enter into such arrangements, the owner/operator must document the  
1579 refusal in the operating record. The time limitations set forth in this subsection must be documented by  
1580 recording dates and times in the facility's operating record.

1581 6. If the loading and unloading time frames specified in this section are exceeded, then the  
1582 owner/operators utilizing railcars shall comply with the standards for container storage in 40 CFR part 264  
1583 subpart I, as incorporated in this rule, and with 40 CFR 270.15, as incorporated in 10 CSR 25-7.270.

1584 (C) The owner/operator shall comply with 40 CFR 264.17, incorporated in this rule, during railcar loading  
1585 and unloading. Additional specific precautions to be taken shall include facility design, construction,  
1586 operation and maintenance standards as specified in "Loading and Unloading Operations: Tank Vehicles and  
1587 Tank Cars" in section 5-4.4.1 of the 1993 Edition of the *National Fire Protection Association Flammable  
1588 and Combustible Liquids Code* (NFPA 30).

1589 (D) The owner/operator shall provide security for railcars at the facility by utilizing one of the alternatives  
1590 specified in 40 CFR 264.14(b), as incorporated in this rule. If the owner/operator demonstrates that it is not  
1591 practical to provide security for railcars at the facility as specified in 40 CFR 264.14(b), incorporated in this  
1592 rule, railcars shall be secured by locking all fill and drain posts upon receipt of a loaded railcar or upon  
1593 completion of the owner/operator's loading procedures. The locks must remain in place until the  
1594 owner/operator begins unloading procedures or until the rail carrier picks up the loaded or rejected railcar  
1595 for transport off-site.

1596 (E) In accordance with 40 CFR 264.15, incorporated in this rule, the owner/operator shall inspect railcars  
1597 and surrounding areas, at least daily, looking for leaks and for deterioration caused by corrosion or other  
1598 factors.

1599 (F) In accordance with 40 CFR part 264 subpart C and 40 CFR part 264 subpart D, as incorporated in this  
1600 rule, the owner/operator shall develop preparedness and prevention procedures and a contingency plan for  
1601 railcars. If the owner/operator has not prepared a Spill Prevention Control and Countermeasures (SPCC)  
1602 Plan for hazardous waste, then one must be developed that parallels requirements and guidelines as specified  
1603 in 40 CFR part 112 for oil. At a minimum, the SPCC Plan must include adequate spill response equipment  
1604 and preventative measures, such as dikes, curbing, and containment systems.

1605  
1606  
1607 **10 CSR 25-7.265 Interim Status Standards for Owners and Operators of Hazardous Waste**  
1608 **Treatment, Storage, and Disposal Facilities**

1609 *PURPOSE: This rule incorporates 40 CFR part 265 by reference and sets forth additional state standards.*

1610 (1) The regulations set forth in 40 CFR part 265, July 1, 2010, as published by the Office of the Federal  
1611 Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA  
1612 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or  
1613 additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-  
1614 3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule.  
1615 Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

1616 (2) The owner/operator of a treatment, storage, or disposal (TSD) facility shall comply with the requirements  
1617 noted in this section in addition to requirements set forth in 40 CFR part 265 incorporated in this rule. In the  
1618 case of contradictory or conflicting requirements in 10 CSR 25, the more stringent shall control. (Comment:  
1619 This section has been organized so that all Missouri additions, changes, or deletions to any subpart of the  
1620 federal regulations are noted within the corresponding subsection of this section. For example, the additional  
1621 requirements to be added to 40 CFR part 265 subpart A are found in subsection (2)(A) of this rule.)

1622 (A) General. In addition to the requirements in 40 CFR part 265 subpart A, the following regulations also  
1623 apply:

1624 1. This rule does not apply to an owner/operator of an elementary neutralization unit or a wastewater  
1625 treatment unit receiving only hazardous waste generated on-site or generated by its operator or only one (1)  
1626 operator if the unit meets the standards set forth in 10 CSR 25-7.270(2)(A)3.;

1627 2. This rule does not apply to an owner/operator for that portion of or process at the facility which is in  
1628 compliance with 10 CSR 25-9.020 Hazardous Waste Resource Recovery Processes. (Note: Underground  
1629 injection wells are prohibited in Missouri by section 577.155, RSMo.);

1630 3. State interim status is authorization to operate a hazardous waste treatment, storage, or disposal  
1631 facility pursuant to section 260.395.15, RSMo, 10 CSR 25-7.265, and 10 CSR 25-7.270 until the final  
1632 administrative disposition of the permit application is made or until interim status is terminated pursuant to  
1633 10 CSR 25-7.270. The owner/operator of a facility or unit operating under state interim status shall comply  
1634 with the requirements of this rule and 10 CSR 25-7.270. In addition to providing notification to the  
1635 Environmental Protection Agency (EPA), the owner/operator is required to provide  
1636 state notification in accordance with 10 CSR 25-7.270; and

1637 4. Hazardous waste which must be managed in a permitted unit (e.g., waste generated on-site and stored  
1638 beyond the time frames allowed without a permit pursuant to 10 CSR 25-5.262, waste received from off-site,  
1639 certain hazardous waste fuels, etc.) shall not be stored or managed outside an area or unit which does not  
1640 have a permit or interim status for that waste for a period which exceeds twenty-four (24) hours. This  
1641 provision shall not apply to railcars held in areas for handling during the time period allowed by, and  
1642 managed in accordance with, 10 CSR 25-7.264(3) of this regulation. (Comment: The purpose of this  
1643 paragraph is to allow the necessary movement of hazardous waste into, out of, and through facilities, and not  
1644 to evade permit requirements.).

1645 (B) General Facility Standards. This subsection sets forth requirements that modify or add to the  
1646 requirements in 40 CFR part 265 subpart B.

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1647 1. In addition to the requirements in 40 CFR 265.12(a) incorporated in this rule, an owner/operator shall  
1648 submit to the department a separate analysis for each hazardous waste that s/he intends to import. Each  
1649 analysis shall contain the following information: the foreign generator's name, site address, and telephone  
1650 number; a list of applicable EPA waste codes and a percentage of each for each hazardous waste; the flash  
1651 point determined in accordance with 40 CFR 261.21, incorporated by reference in 10 CSR 25-4; a list of  
1652 reactive waste(s) as defined in 40 CFR 261.23, incorporated by reference in 10 CSR 25-4; and results of  
1653 toxicity tests conducted in accordance with 40 CFR 261.24, incorporated by reference in 10 CSR 25-4.261,  
1654 if applicable.

1655 2. 40 CFR 265.15(b)(5) is not incorporated in this rule.

1656 (C) Preparedness and Prevention. (*Reserved*)

1657 (D) Contingency Plan and Emergency Procedures. (*Reserved*)

1658 (E) Manifest System, Record Keeping, and Reporting. This subsection sets forth standards which modify  
1659 or add to those requirements in 40 CFR part 265 subpart E.

1660 1. All owners/operators shall comply with the reporting requirements in 10 CSR 25-5.262(2)(D)  
1661 regardless of whether the owner/operator is required to register as a generator pursuant to 10 CSR 25-  
1662 5.262(2)(A)1.

1663 2. In addition to the requirements in 10 CSR 25-5.262(2)(D) for hazardous waste generated on-site and  
1664 shipped off-site for treatment, storage, resource recovery, or disposal, the owner/operator shall meet the  
1665 same requirements for the following:

1666 A. All hazardous waste generated on-site during the reporting period that is managed on-site; and

1667 B. All hazardous waste received from off-site during the reporting period, including hazardous waste  
1668 generated by another generator and hazardous waste generated at other sites under the control of the  
1669 owner/operator.

1670 3. In addition to the information required in 10 CSR 25-5.262(2)(D), an owner/operator shall include the  
1671 following information in the summary report:

1672 A. A description and the quantity of each hazardous waste that was both generated and managed on-  
1673 site during the reporting period;

1674 B. For each hazardous waste that is received from off-site, a description and the quantity of each  
1675 hazardous waste and the corresponding state and EPA identification numbers of each generator;

1676 C. For imports, the name and address of the foreign generator;

1677 D. The corresponding method of treatment, storage, resource recovery, disposal, or other approved  
1678 management method used for each hazardous waste.

1679 4. As outlined in section 260.380.2, RSMo, all owners/operators shall pay a fee to the department of two  
1680 dollars (\$2) per ton or portion thereof for any and all hazardous waste received from outside of Missouri.  
1681 This fee shall be referred to as the Out-of-State Waste Fee and shall not be paid on hazardous waste received  
1682 directly from other permitted treatment, storage, and disposal facilities located in Missouri.

1683 A. For each owner/operator, this fee shall be paid on or before January 1 of each year and shall be  
1684 based on the total tons of hazardous waste received in the aggregate by that owner/operator for the twelve  
1685 (12)-month period ending the previous June 30. As outlined in section 260.380.4, RSMo, failure to pay this  
1686 fee in full by the due date shall result in imposition of a late fee equal to fifteen percent (15%) of the total  
1687 original fee. Each twelve (12)-month period ending on June 30 shall be referred to as a reporting year.

1688 B. Owners/operators may elect, but are not required, to pay this fee on a quarterly basis at the time  
1689 they file the reporting required in subparagraphs (2)(E)3.B. and C. of this rule. If they do not choose to pay  
1690 the fee quarterly, owners/operators may elect, but are not required, to pay the fee at the time they file their  
1691 final quarterly report of each reporting year. However, the total fee for each reporting year must be paid on  
1692 or before January 1 immediately following the end of each reporting year.

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1695 EXAMPLES OF OUT-OF-STATE WASTE FEE CALCULATION

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Example 1. ABC Company reports receiving 250 tons of hazardous waste from outside of Missouri:  
 $\$2 \times 250 \text{ tons} = \$500 \text{ fee}$

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

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

1706 (F) Groundwater Monitoring. *(Reserved)*  
1707 (G) Closure and Post-Closure. This subsection sets forth additional requirements to 40 CFR part 265  
1708 subpart G, incorporated in this rule.

1709 1. The incorporation by reference of 40 CFR 265.113(d) and (e) does not relieve the owner/operator of  
1710 his/her responsibility to comply with 10 CSR 80 if a solid waste permit is required under those rules.

1711 2. The owner/operator of a hazardous waste unit which is certifying closure with residues left in place,  
1712 regardless of the level of treatment to render the residue nonhazardous, shall meet the requirements in 40  
1713 CFR 265.116 incorporated in this rule.

1714 3. In addition to requirements in 40 CFR 265.116, when an owner/operator certifies a closure which did  
1715 not result in removal of hazardous wastes to background levels, the owner/operator shall record, in  
1716 accordance with state law, a notation on an instrument which is normally examined during title search that  
1717 will notify, in perpetuity, a potential purchaser of the property that the land has been used to manage  
1718 hazardous waste.

1719 4. In addition to the requirements in 40 CFR 265.116 and 265.119 as incorporated in this rule, an  
1720 owner/operator shall submit a notarized statement to the department certifying that the owner/operator has  
1721 caused the notation(s) to be recorded. The notation(s) shall be recorded with the recorder(s) of deeds in all  
1722 counties in which the facility or part of the facility is located.

1723 (H) Financial Assurance Requirements. This subsection sets forth the requirements which modify or add  
1724 to those requirements in 40 CFR part 265 subpart H.

1725 1. For purposes of this subsection, commercial treatment, storage, or disposal (TSD) facility means any  
1726 facility that would be considered a commercial hazardous waste treatment, storage, and disposal facility for  
1727 purposes of 10 CSR 25-12.020, or any facility that is certified as an R2 resource recovery facility according  
1728 to 10 CSR 25-9.020, or any facility that receives for remuneration polychlorinated biphenyls (PCB) material  
1729 or PCB units as defined by 10 CSR 25-13.010.

1730 2. In 40 CFR 265.143(a)(3), incorporated by reference in this rule, delete “the 20 years” and insert in its  
1731 place “a period of five (5) years.”

1732 3. In 40 CFR 265.145(a)(3), incorporated by reference in this rule, delete “the 20 years” and insert in its  
1733 place “a period of five (5) years.”

1734 4. This paragraph modifies the requirements for surety bonds guaranteeing payment into a closure trust  
1735 fund or post-closure trust fund per 40 CFR 265.143(b) or 40 CFR 265.145(b), incorporated in this rule.

1736 A. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-  
1737 closure trust fund shall be authorized to do business in Missouri.

1738 B. Any surety company issuing a surety bond guaranteeing payment into a closure trust fund or post-  
1739 closure trust fund shall not cancel, terminate, or fail to renew a surety bond guaranteeing payment into a  
1740 closure or post-closure trust fund and the surety bond shall remain in full force and effect in the event that on  
1741 or before the date of cancellation—

1742 (I) The director deems the facility abandoned; or

1743 (II) Interim status is terminated or revoked; or

1744 (III) Closure is ordered by the department or a court of competent jurisdiction; or

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1745 (IV) The owner/operator is named as a debtor in a voluntary or involuntary proceeding under 11  
1746 U.S.C. section 1, et seq.; or

1747 (V) The premium due is paid; or

1748 (VI) An appeal of an order to close the facility as specified in part (2)(H)4.B.(III) of this  
1749 subparagraph is pending.

1750 C. Facilities that have a surety bond or bonds guaranteeing payment into a closure trust fund or a post-  
1751 closure trust fund as of the effective date of this subparagraph shall modify their surety instruments to  
1752 comply with this paragraph within twelve (12) months of the effective date of this subparagraph.

1753 5. This paragraph modifies the requirements for letters of credit per 40 CFR 265.143(c), incorporated in  
1754 this rule, 40 CFR 265.145(c), incorporated in this rule, and 40 CFR 265.147(h), incorporated in this rule.  
1755 Letters of credit shall be issued by a state- or federally-chartered and regulated bank or trust association.

1756 6. An owner/operator of a facility that is a commercial TSD facility may not satisfy financial assurance  
1757 requirements for closure, post-closure, or liability coverage, or any combination of these, by the use of a  
1758 financial test as specified in 40 CFR 265.143(e), incorporated in this rule, 40 CFR 265.145(e), incorporated  
1759 in this rule, or 40 CFR 265.147(f), incorporated in this rule.

1760 7. This paragraph modifies the requirements for closure insurance per 40 CFR 265.143(d), incorporated  
1761 in this rule, post-closure insurance per 40 CFR 265.145(d), incorporated in this rule, liability coverage for  
1762 sudden accidental occurrences per 40 CFR 265.147(a)(1), incorporated in this rule, and liability coverage for  
1763 non-sudden accidental occurrences per 40 CFR 265.147(b)(1), incorporated in this rule. Each insurance  
1764 policy shall be issued by an insurer which, at a minimum, is licensed to transact the business of insurance or  
1765 is eligible to provide insurance as an excess or surplus lines insurer in Missouri.

1766 8. In 40 CFR 265.143(e), incorporated in this rule, delete “or a firm with a ‘substantial business  
1767 relationship’ with the owner or operator.”

1768 9. In 40 CFR 265.145(e), incorporated in this rule, delete “or a firm with a ‘substantial business  
1769 relationship’ with the owner or operator.”

1770 10. In 40 CFR 265.147(g), incorporated in this rule, delete “or a firm with a ‘substantial business  
1771 relationship’ with the owner or operator.”

1772 (I) Use and Management of Containers. This subsection sets forth additional standards for container  
1773 storage areas.

1774 1. Container storage areas shall have a containment system that is designed and operated in accordance  
1775 with paragraph (2)(I)2. of this rule except as provided by paragraph (2)(I)4. of this rule.

1776 2. A containment system shall be designed, maintained, and operated as follows:

1777 A. A containment system shall have a base which is free of cracks or gaps and is sufficiently  
1778 impervious to contain leaks, spills, and accumulated precipitation until the collected material is detected and  
1779 removed;

1780 B. The base shall be sloped or the containment system shall be otherwise designed and operated to  
1781 drain and remove liquids resulting from leaks, spills, or precipitation, unless the containers are elevated or  
1782 otherwise protected from contact with accumulated liquids;

1783 C. The containment system shall have a capacity equal to ten percent (10%) of the containerized waste  
1784 volume or the volume of the largest container, whichever is greater. Containers that do not contain free  
1785 liquids need not be considered in this calculation;

1786 D. Run-on into the containment system shall be prevented unless the collection system has sufficient  
1787 excess capacity in addition to that required in subparagraph (2)(I)2.C. of this rule to contain any run-on  
1788 which might enter the system; and

1789 E. Spilled or leaked waste and accumulated precipitation shall be removed from the sump or collection  
1790 area in as timely a  
1791 manner as is necessary to prevent overflow of the collection system.

1792 3. The containment system shall also be inspected as part of the weekly inspections required by 40 CFR  
1793 265.174, incorporated in this rule.

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1794 4. Storage areas that store containers holding only wastes that do not contain free liquids or storage  
1795 facilities that store less than one thousand kilograms (1,000 kg) of nonacute hazardous waste containing free  
1796 liquids need not have a containment system described in paragraph (2)(I)2. of this rule provided that—

1797 A. The storage area is sloped or is otherwise designed and operated to drain and remove liquid  
1798 resulting from precipitation; or

1799 B. The containers are elevated or are otherwise protected from contact with accumulated liquid.

1800 5. Containers storing hazardous waste must be marked and labeled in accordance with 10 CSR 25-  
1801 5.262(2)(C) during the entire storage period.

1802 6. Container storage areas which close without removing all hazardous waste and/or hazardous waste  
1803 constituents to below background levels may pursue either a risk-based closure if there is no evidence of  
1804 groundwater or surface water contamination or, in the absence of such evidence, close in accordance with 10  
1805 CSR 25-7.264(2)(N) and 40 CFR part 264 subpart N, as incorporated in subsection (2)(N). The  
1806 owner/operator shall also comply with the requirements of 10 CSR 25-7.265(2)(G).

1807 7. Containers holding ignitable or reactive waste which are stored outdoors or in buildings not equipped  
1808 with sprinkler systems shall be located at least fifty feet (50') from the facility's property line.

1809 8. Containers holding ignitable or reactive waste which are stored indoors shall be located at least fifty  
1810 feet (50') from the facility's property line, unless the following requirements are satisfied:

1811 A. Exposing walls that are located more than ten feet (10') but less than fifty feet (50') from a  
1812 boundary line of adjoining property that can be built upon shall have a fire-resistance rating of at least two  
1813 (2) hours, with each opening protected by an automatically-closing listed one and one-half (1.5)-hour (B)  
1814 fire door;

1815 B. Exposing walls that are located less than ten feet (10') from a boundary line of adjoining property  
1816 that can be built upon shall have a fire-resistance rating of at least four (4) hours, with each opening  
1817 protected by an automatically-closing listed three (3)-hour (A) fire door (Comment: All fire doors, closure  
1818 devices, and windows shall be installed in accordance with the National Fire Protection Association (NFPA)  
1819 Code 80, *Standards for Fire Doors and Windows*, 1995 edition);

1820 C. The construction design of exterior walls shall provide ready accessibility for fire-fighting  
1821 operations through the provision of access openings, windows, or lightweight noncombustible wall panels;

1822 D. Container storage areas shall be provided with automatic fire suppression systems designed and  
1823 installed in accordance with NFPA 14 (1996 edition), NFPA 15 (1996 edition), NFPA 16 (1995 edition),  
1824 NFPA 16A (1994 edition), NFPA 17 (1998 edition), NFPA 17A (1998 edition), NFPA 18 (1995 edition),  
1825 NFPA 20 (1996 edition), NFPA 22 (1996 edition), and NFPA 24 (1995 edition) Standards. Final design of  
1826 these systems shall be approved by a qualified, registered professional engineer in Missouri;

1827 E. Each container storage area shall have preconnected hose lines capable of reaching the entire area.  
1828 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  
1829 one-half (1.5)-inch fire hose is used, it shall be installed in accordance with NFPA 14 (1996 edition). Hand-  
1830 held fire extinguishers rated for the appropriate class of fire shall be available at each storage area;

1831 F. Only containers meeting the requirements of, and containing products authorized by, Chapter I,  
1832 Title 49 of the *Code of Federal Regulations* (DOT Regulations) or NFPA 386, *Standard for Portable*  
1833 *Shipping Tanks* (1990 edition) shall be used;

1834 G. All storage of ignitable or reactive materials shall be organized in a manner which will not  
1835 physically obstruct a means of egress. Materials shall not be placed in a manner that a fire would preclude  
1836 egress from the area. Evacuation plans shall recognize the locations of any automatically-closing fire doors;

1837 H. All containers shall be arranged so that there is a minimum aisle space of four feet (4') between  
1838 rows, allowing accessibility to each individual container. Double rows can be utilized. Containers shall not  
1839 be stacked, placed, or both, closer than three feet (3') from ceilings or any roof members; and

1840 I. Explosive gas levels in the facility shall be monitored continuously. If the facility is not manned  
1841 twenty-four (24) hours per day, a telemetry system shall be provided to alarm designated response  
1842 personnel.

1843 (J) Tanks. This subsection modifies and adds to the incorporation of 40 CFR part 265 subpart J.

1844 1. 40 CFR 264.190(c) is not incorporated by reference.

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1845 2. In 40 CFR 265.193(g)(1) incorporated in this rule, delete “or that in the event of a release that does  
1846 migrate to ground water or surface water, no substantial present or potential hazard will be posed to human  
1847 health or the environment.” 40 CFR 265.193(g)(2) is not incorporated by reference in this rule. In 40 CFR  
1848 265.193(g)(4)(ii) incorporated in this rule, substitute “264.197(b)” for “265.197(b).” For purposes of 40  
1849 CFR 265.193(h) incorporated in this rule, “variance” means exception.

1850 3. In 40 CFR 265.196(c) and (c)(2) incorporated in this rule, delete “visible” and “visual.” Tank storage  
1851 areas which close without removing all hazardous waste and/or hazardous waste constituents to below  
1852 background levels may pursue either a risk-based closure if there is no evidence of groundwater or surface  
1853 water contamination or in the absence of such evidence, close in accordance with 10 CSR 25-7.264(2)(N)  
1854 and 40 CFR part 264 subpart N as incorporated in subsection (2)(N). The owner/operator shall also comply  
1855 with the requirements of 10 CSR 25-7.265(2)(G).

1856 (K) Surface Impoundments. In addition to the requirements in 40 CFR part 265 subpart K, those surface  
1857 impoundments which are intended to be closed without removing the hazardous waste shall meet the  
1858 requirements of 10 CSR 25-7.264(2)(N)1.A. and 40 CFR part 264 subpart N as incorporated in 10 CSR 25-  
1859 7.264. If the site location for any such impoundment cannot meet these site specific location requirements  
1860 and contamination exists beyond the liner of the surface impoundment, the owner/operator shall clean up  
1861 contaminated residues and hazardous constituents to the greatest extent practical during closure. If the  
1862 department determines, based on the potential impact on human health and the environment, that it is not  
1863 necessary or not feasible to remove contaminated material down to background concentrations during  
1864 closure, the owner/operator shall comply with 40 CFR 264.228(b) incorporated in 10 CSR 25-7.264 or shall  
1865 submit a delisting petition and obtain approval from EPA for that delisting petition pursuant to 40 CFR  
1866 260.20 and 40 CFR 260.22 for the contaminated material not removed during closure.

1867 (L) Waste Piles. *(Reserved)*

1868 (M) Land Treatment. *(Reserved)*

1869 (N) Landfills. *(Reserved)*

1870 (O) Incinerators. *(Reserved)*

1871 (P) Thermal Treatment. *(Reserved)*

1872 (Q) Chemical, Physical, and Biological Treatment. *(Reserved)*

1873 (R) Underground Injection. 40 CFR part 265 subpart R is not incorporated by reference.

1874 (S) *(Reserved)*

1875 (T) *(Reserved)*

1876 (U) *(Reserved)*

1877 (V) *(Reserved)*

1878 (W) Drip Pads. 40 CFR part 265 subpart W is not incorporated by reference.

1879 (X) *(Reserved)*

1880 (Y) *(Reserved)*

1881 (Z) *(Reserved)*

1882 (AA) Air Emission Standards for Process Vents. *(Reserved)*

1883 (BB) Air Emission Standards for Equipment Leaks. *(Reserved)*

1884 (CC) Air Emission Standards for Tanks, Surface Impoundments, and Containers. *(Reserved)*

1885 (DD) Containment Buildings. *(Reserved)*

1886 (EE) Hazardous Waste Munitions and Explosives Storage. *(Reserved)*

1887 (3) This section applies to TSD facilities that accept and/or ship hazardous waste via railroad tank cars  
1888 (railcars). The owner/operator of a TSD facility shall comply with requirements set forth in 10 CSR 25-  
1889 7.264(3) and shall submit a rail car management plan for inclusion in their part B permit application within  
1890 one hundred eighty (180) days of the effective date of this section.

1891

1892

1893

1894 **10 CSR 25-7.266 Standards for the Management of Specific Hazardous Wastes and Specific Types of**  
1895 **Hazardous Waste Management Facilities**

1896 *PURPOSE: This rule incorporates federal regulations in 40 CFR part 266 by reference and provides*  
1897 *Missouri specific additions, deletions, or changes to the federal regulations. This rule provides limited*  
1898 *standards for certain hazardous waste management practices, particularly in regard to recyclable materials*  
1899 *and sets forth standards for recyclable materials used in a manner constituting disposal, hazardous waste*  
1900 *burned in boilers and industrial furnaces recyclable materials utilized for precious metals recovery and*  
1901 *spent lead-acid batteries being reclaimed.*

1902 (1) The regulations set forth in 40 CFR part 266, July 1, 2010, as published by the Office of the Federal  
1903 Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA  
1904 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or  
1905 additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-  
1906 3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule.  
1907 Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

1908 (2) Persons subject to the regulations in 40 CFR part 266 shall comply with the requirements, changes,  
1909 additions, or deletions noted in this section in addition to 40 CFR part 266 incorporated in this rule.  
1910 (Comment: This section has been organized so that all Missouri additions or changes to any subpart of the  
1911 federal regulations are noted within the corresponding subsection of this section. For example, the changes  
1912 to the management requirements for hazardous waste fuels, 40 CFR part 266 subpart D, are found in  
1913 subsection (2)(D) of this rule.)

1914 (A) *(Reserved)*

1915 (B) *(Reserved)*

1916 (C) Recyclable Materials Used in a Manner Constituting Disposal. In addition to the requirements in 40  
1917 CFR part 266 subpart C incorporated in this rule, a person who is marketing hazardous waste recyclable  
1918 materials which would be used in a manner constituting disposal must obtain a hazardous waste resource  
1919 recovery certification pursuant to 10 CSR 25-9.020.

1920 (D) *(Reserved)*

1921 (E) *(Reserved)*

1922 (F) Recyclable Materials Used for Precious Metals Recovery. *(Reserved)*

1923 (G) Spent Lead-Acid Batteries Being Reclaimed. In addition to the requirements in 40 CFR part 266  
1924 subpart G a person who reclaims materials from spent lead-acid batteries shall obtain a hazardous waste  
1925 resource recovery certification pursuant to 10 CSR 25-9.020.

1926 1. Owners or operators of facilities that store spent batteries before reclaiming them are subject to the  
1927 following requirements:

1928 A. Notification requirements under section 3010 of RCRA;

1929 B. All applicable provisions in subparts A, B (but not 40 CFR 264.13 (waste analysis)), C, D, E (but  
1930 not 264.71 or 264.72 (dealing with the use of the manifest and manifest discrepancies)), and F through L of  
1931 40 CFR part 264, as incorporated by reference in 10 CSR 25-7.264(1) and modified in 10 CSR 25-  
1932 7.264(2)(A) through 10 CSR 25-7.264(2)(L);

1933 C. All applicable provisions in subparts A, B (but not 40 CFR 265.13 (waste analysis)), C, D, E (but  
1934 not 265.71 or 265.72 (dealing with the use of the manifest and manifest discrepancies)), and F through L of  
1935 40 CFR part 265, as incorporated by reference in 10 CSR 25-7.265(1) and modified in 10 CSR 25-  
1936 7.265(2)(A) through 10 CSR 25-7.265(2)(L);

1937 D. All applicable provisions in parts 270 and 124 of the CFR, as incorporated by reference in 10 CSR  
1938 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  
1939 originally incorporated by reference from 40 CFR 266.80(b), 1994 edition. The language is reprinted here  
1940 because it was mistakenly omitted from subsequent editions of the *Code of Federal Regulations*.)

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1941 (H) Hazardous Waste Burned in Boilers and Industrial Furnaces. Additions, modifications, and deletions  
1942 to 40 CFR part 266 subpart H “Hazardous Waste Burned in Boilers and Industrial Furnaces” are as follows:

1943 1. 40 CFR 266.100(c)(1) is not incorporated by reference in this rule;

1944 2. Add the following provision to 40 CFR 266.100(d) incorporated in this rule: “The owner/operator of  
1945 facilities that process hazardous waste solely for metal recovery in accordance with 40 CFR 266.100(d) shall  
1946 be certified for resource recovery pursuant to 10 CSR 25-9.020”;

1947 3. In 40 CFR 266.101(c)(2) incorporated in this rule, replace “paragraph (c)(1)” with “paragraphs (c)(1)  
1948 and (d)(1)”;

1949 4. 40 CFR 266.101 is amended by adding a new subsection (d) to 266.101 incorporated in this rule as  
1950 follows: (d)(1) Treatment facilities. Owners/operators of permitted facilities that thermally, chemically,  
1951 physically (that is, shredding, grinding, etc.), or biologically treat hazardous waste prior to burning must  
1952 comply with 10 CSR 25-7.264(2)(X), and owners/operators of interim status facilities that thermally,  
1953 chemically, physically (that is, shredding, grinding, etc.), or biologically treat hazardous waste prior to  
1954 burning shall comply with 10 CSR 25-7.265(2)(P) and (Q). Owners/operators of permitted facilities which  
1955 blend hazardous waste in tanks or containers prior to burning must comply with 10 CSR 25-7.264(2)(J)6.,  
1956 and owners/operators of interim status facilities that blend hazardous waste in tanks or containers prior to  
1957 burning shall comply with 10 CSR 25-7.265(2)(J).

1958 (I) Reserved.

1959 (J) Reserved.

1960 (K) Reserved.

1961 (L) Reserved.

1962 (M) Military Munitions. Additions, modifications, and deletions to 40 CFR part 266 subpart M “Military  
1963 Munitions” are:

1964 1. Oral and written notifications required by 40 CFR 266.203(a)(1) shall be submitted to the  
1965 department’s emergency response coordinator at (573) 634-2436 or (573) 634-CHEM, in lieu of the director;  
1966 and

1967 2. Oral and written notifications required by 40 CFR 266.205(a)(1) shall be submitted to the  
1968 department’s emergency response coordinator at (573) 634-2436 or (573) 634-CHEM, in lieu of the director.

1969 *Editor’s Note: Subsection (2)(H) becomes effective December 31, 1993.*

1970 *AUTHORITY: section 260.370, RSMo Supp. 2010 and sections 260.390 and 260.395, RSMo 2000.\* Original*  
1971 *rule filed Dec. 16, 1985, effective Oct. 1, 1986. Amended: Filed Feb. 3, 1987, effective Aug. 1, 1987.*  
1972 *Amended: Filed Dec. 1, 1987, effective Aug. 12, 1988. Amended: Filed Feb. 16, 1990, effective Dec. 31,*  
1973 *1990. Amended: Filed Jan. 15, 1991, effective Aug. 1, 1991. Amended: Filed Feb. 14, 1992, effective Dec. 3,*  
1974 *1992. Amended: Filed Jan. 5, 1994, effective Aug. 28, 1994. Amended: Filed Aug. 16, 1995, effective April*  
1975 *30, 1996. Amended: Filed June 1, 1998, effective Jan. 30, 1999. Amended: Filed Feb. 1, 2001, effective Oct.*  
1976 *30, 2001. Amended: Filed March 31, 2006, effective Dec. 30, 2006. Amended: Filed Oct. 15, 2008, effective*  
1977 *June 30, 2009. Amended: Filed April 15, 2011, effective Dec. 30, 2011.*

1978 *\*Original authority: 260.370, RSMo 1977, amended 1980, 1988, 1993, 1995, 2004, 2010; 260.390, RSMo*  
1979 *1977, amended 1980, 1983, 1985, 1993; and 260.395, RSMo 1977, amended 1980, 1983, 1985, 1988, 2000.*

1981 **10 CSR 25-7.268 Land Disposal Restrictions**

1982 *PURPOSE: This rule establishes standards and requirements that identify hazardous wastes that are*  
1983 *restricted from land disposal.*

1984 *PUBLISHER’S NOTE: The secretary of state has determined that the publication of the entire text of the*  
1985 *material which is incorporated by reference as a portion of this rule would be unduly cumbersome or*  
1986 *expensive. This material as incorporated by reference in this rule shall be maintained by the agency at its*  
1987 *headquarters and shall be made available to the public for inspection and copying at no more than the*  
1988 *actual cost of reproduction. This note applies only to the reference material. The entire text of the rule is*  
1989 *printed here.*

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1990 (1) The regulations set forth in 40 CFR part 268, July 1, 2010, as published by the Office of the Federal  
1991 Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh, PA  
1992 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments or  
1993 additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-  
1994 3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule.  
1995 Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

1996 (2) Persons who generate or transport hazardous waste and owners/operators of hazardous waste treatment,  
1997 storage, and disposal facilities shall comply with this section in addition to the regulations in 40 CFR part  
1998 268. (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any  
1999 subpart of the federal regulations are noted within the corresponding subsection of this section. For example,  
2000 the changes to 40 CFR part 268 subpart A are found in subsection (2)(A) of this rule.)

2001 (A) General. This subsection sets forth modifications to 40 CFR part 268 subpart A incorporated by  
2002 reference in section (1) of this rule.

2003 1. *(Reserved)*

2004 2. The state cannot be delegated the authority from the United States Environmental Protection Agency  
2005 (EPA) to approve extensions to effective dates of any applicable restrictions, as provided in 40 CFR 268.5  
2006 incorporated in this rule. The substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR  
2007 268.5 as incorporated in this rule. This modification does not relieve the regulated person of his/her  
2008 responsibility to comply with 40 CFR 268.5 of the federal hazardous waste management regulations.

2009 3. The state cannot be delegated the authority from the EPA to approve exemptions from prohibitions  
2010 for the disposal of a restricted hazardous waste in a particular unit(s) based upon a petition demonstrating, to  
2011 a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal  
2012 unit(s) for as long as the wastes remain hazardous as provided in 40 CFR 268.6 incorporated in this rule. The  
2013 substitution of terms in 10 CSR 25-3.260(1)(A) does not apply in 40 CFR 268.6 as incorporated in this rule.  
2014 This modification does not relieve the regulated person of his/her responsibility to comply with 40 CFR  
2015 268.6 of the federal hazardous waste management regulations.

2016 (B) 40 CFR part 268 subpart B, Schedule for Land Disposal Prohibition and Establishment of Treatment  
2017 Standards ***(Reserved)***, is not incorporated in this rule.

2018 (C) Prohibitions on Land Disposal. This subsection sets forth modifications to 40 CFR part 268 subpart C  
2019 incorporated by reference in section (1) of this rule.

2020 1. The waste specific prohibitions in 40 CFR 268.31 apply to the hazardous wastes identified by EPA  
2021 hazardous waste numbers F020, F023, and F027 as amended in 10 CSR 25-4.261(2)(D)1.A.–C.

2022 2. The waste specific prohibitions in 40 CFR 268.31 apply to the EPA hazardous waste numbers F020,  
2023 F021, F022, F023, F026, and F027 as amended in 10 CSR 25-4.261(2)(D)2.

2024 3. The hazardous waste identified by the Missouri hazardous waste number MH02 in 10 CSR 25-  
2025 4.261(2)(D)3. may be disposed in a landfill or surface impoundment only if that unit is in compliance with  
2026 the requirements specified in 40 CFR 268.5(h)(2) as incorporated in section (1) of this rule and all other  
2027 applicable requirements of 10 CSR 25-7.264(1) incorporating by reference 40 CFR part 264 and 10 CSR 25-  
2028 7.265(1) incorporating by reference 40 CFR part 265.

2029 (D) Treatment Standards. This subsection sets forth modifications to 40 CFR part 268 subpart D  
2030 incorporated by reference in section (1) of this rule.

2031 1. The treatment standards in 40 CFR part 268 subpart D for the hazardous wastes identified by EPA  
2032 hazardous waste numbers F020, F023, and F027 apply to F020, F023, and F027 hazardous wastes as  
2033 amended in 10 CSR 25-4.261(2)(D)1.A.–C.

2034 2. The treatment standard in 40 CFR part 268 subpart D for the hazardous wastes identified by EPA  
2035 hazardous waste numbers F020, F021, F022, F023, F026, and F027 apply to these listed wastes as amended  
2036 in 10 CSR 25-4.261(2)(D)2.

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2037 3. The state cannot be delegated the authority from the U.S. EPA to allow the use of alternative  
2038 treatment methods as provided in 40 CFR 268.42(b) incorporated in this rule. The substitution of terms in 10  
2039 CSR 25-3.260(1)(A) does not apply in 40 CFR 268.42(b) as incorporated in this rule. This modification does  
2040 not relieve the regulated person of his/her responsibility to comply with 40 CFR 268.42(b) of the federal  
2041 hazardous waste management regulations.

2042 4. The state cannot be delegated the authority from the U.S. EPA to approve variances from treatment  
2043 standards as provided in 40 CFR 268.44 incorporated in this rule. The substitution of terms in 10 CSR 25-  
2044 3.260(1)(A) does not apply in 40 CFR 268.44, as incorporated in this rule. This modification does not  
2045 relieve the regulated person of his/her responsibility to comply with 40 CFR 268.44 of the federal hazardous  
2046 waste management regulations.

2047 (E) Prohibitions on Storage. (*Reserved*)

2048  
2049 **10 CSR 25-7.270 Missouri Administered Permit Programs: The Hazardous Waste Permit Program**

2050 *PURPOSE: This rule incorporates the federal regulations in 40 CFR part 270 by reference and sets forth*  
2051 *additional state requirements.*

2052 (1) The regulations set forth in 40 CFR part 270, July 1, 2010, except for the changes made at 70 FR 53453  
2053 September 8, 2005, and 73 FR 64667 to 73 FR 64788, October 30, 2008, as published by the Office of the  
2054 Federal Register, National Archives and Records Administration, Superintendent of Documents, Pittsburgh,  
2055 PA 15250-7954, are incorporated by reference. This rule does not incorporate any subsequent amendments  
2056 or additions. Except as provided otherwise in this rule, the substitution of terms set forth in 10 CSR 25-  
2057 3.260(1)(A) shall apply in this rule in addition to any other modifications set forth in section (2) of this rule.  
2058 Where conflicting rules exist in 10 CSR 25, the more stringent shall control.

2059 (A) Any federal agency, administrator, regulation, or statute that is referenced in 40 CFR part 270 shall be  
2060 deleted and the comparable state department, director, rule, or statute as provided in 10 CSR 25-3.260(1)(A)  
2061 shall be added in its place except as specified in paragraph (2)(A)6. of this rule. The additional substitutions  
2062 or changes noted in this subsection shall also apply.

2063 1. “Owner/operator” as defined by 10 CSR 25-3.260(2)(O)3. shall be substituted for any reference to  
2064 “owner and operator” or “owner or operator” in 40 CFR part 270.

2065 (2) The owner/operator of a permitted hazardous waste treatment, storage, or disposal (TSD) facility shall  
2066 comply with the requirements noted in this rule along with 40 CFR part 270, incorporated in this rule.  
2067 (Comment: This section has been organized so that all Missouri additions, changes, or deletions to any  
2068 subpart of the federal regulations are noted within the corresponding subsection of this section. For example,  
2069 the changes to 40 CFR part 270 subpart A are found in subsection (2)(A) of this rule.)

2070 (A) General Information. This subsection sets forth requirements which modify or add to those  
2071 requirements in 40 CFR part 270 subpart A.

2072 1. When a facility is owned by one (1) person but is operated by another person, both the owner and  
2073 operator shall sign the permit application, and the permit shall be issued to both.

2074 2. The owner/operator of a new hazardous waste management facility shall contact the department and  
2075 obtain a United States Environmental Protection Agency (EPA) identification number before commencing  
2076 treatment, storage, or disposal of hazardous waste.

2077 3. A permit is not required under this rule for an elementary neutralization unit or a wastewater  
2078 treatment unit receiving only hazardous waste that is generated on-site or generated by its operator or only  
2079 one (1) generator if the owner/operator, upon request, can demonstrate to the satisfaction of the department  
2080 the following:

2081 A. There is sufficient evidence that the unit is not leaking;

2082 B. The unit is structurally sound and there is no evidence that the unit will fail or collapse;

2083 C. There are no incompatible wastes being placed in the unit;

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2084 D. The owner/operator has been and is in compliance with all present and prior permits and  
2085 authorizations issued to the owner/operator; and

2086 E. There is no evidence of any past releases from the unit.

2087 4. In addition to the requirements in 40 CFR 270.1(b) incorporated in this rule, the owner/operator shall  
2088 provide state notification to the department within sixty (60) days after the effective date of a state rule that  
2089 first requires him/her to comply with 10 CSR 25 where that notification is required.

2090 5. *(Reserved)*

2091 6. In 40 CFR 270.2, substitute “Facility mailing list means the mailing list required of the permittee or  
2092 applicant in accordance with 10 CSR 25-7.270(2)(B)10.” for the definition of “Facility mailing list” given in  
2093 the incorporated regulation.

2094 7. In 40 CFR 270.3 “Considerations Under Federal Law,” do not substitute any comparable Missouri  
2095 statute or administrative rule for the federal acts and regulations. This does not relieve the owner/operator of  
2096 his/her responsibility to comply with any applicable and comparable state law or rule in addition to  
2097 complying with the federal acts and regulations.

2098 (B) Permit Application. This subsection sets forth requirements which modify or add to those  
2099 requirements in 40 CFR part 270 subpart B.

2100 1. Existing hazardous waste management facilities must submit a **state** Part A permit application to the  
2101 department no later than sixty (60) days after the effective date of state rules which first require them to  
2102 comply with the requirements set forth in 10 CSR 25-7.265 or 10 CSR 25-7.266. A facility which did not  
2103 meet federal notification and Part A submittal requirements under the Hazardous and Solid Waste  
2104 Amendments (HSWA) shall not qualify for state interim status. State interim status is granted to those  
2105 facilities which either meet federal interim status requirements, are required to meet state interim status  
2106 requirements because no federal interim status requirements affect the filing, or become subject to  
2107 regulations under state rules which are not promulgated to meet the requirements of 40 CFR part 271.

2108 2. Confidentiality may be requested for the information required in 40 CFR 270.13(a)–(m) incorporated  
2109 in this rule. 10 CSR 25-3.260(1)(B) sets forth requirements for protection of confidential business  
2110 information and the availability of information provided under 10 CSR 25. Therefore, 40 CFR 270.12 is not  
2111 incorporated by reference in this rule.

2112 3. The topographic map required in 40 CFR 270.13(l) incorporated in this rule shall also depict  
2113 surrounding land uses such as residential, commercial, agricultural, and recreational.

2114 4. Seismic evaluation requirements for hazardous waste management facility permit applicants. 40 CFR  
2115 270.14(b)(11)(i) and (ii) are not incorporated in this rule. An applicant for a hazardous waste management  
2116 facility permit (excluding post-closure) shall design and construct the facility to withstand stresses due to  
2117 earthquake loading or certify that the existing facility is able to withstand stresses due to earthquake loading.  
2118 In the event that the regulated unit cannot withstand stresses, the facility shall certify that a release or  
2119 situation which will endanger human health and/or the environment is not likely to occur. The applicant  
2120 shall submit as part of the permit application a certification of the adequacy of the design or the ability of the  
2121 existing facility to withstand stresses due to earthquake loading. The certification shall consider the location  
2122 of the facility (e.g., the proximity of the facility to an active seismic zone) and must be completed by a  
2123 qualified professional engineer registered in Missouri.

2124 5. In addition to the topographic map required in 40 CFR 270.14(b)(19) incorporated in this rule, an  
2125 applicant for a land-based hazardous waste management facility permit shall submit drawings which depict  
2126 at a minimum—

2127 A. Original contours;

2128 B. Proposed final contours;

2129 C. Original surface water drainage patterns;

2130 D. Proposed final surface water drainage patterns;

2131 E. Layout of the leachate collection system;

2132 F. Layout of the monitoring system;

2133 G. Access roads;

2134 H. Location of soil borings and trenches;

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- 2135 I. Major rock outcrops and sinkholes within the map area;  
2136 J. Occupied permanent residential dwelling houses within one-fourth (1/4) mile of the disposal facility  
2137 boundaries;  
2138 K. All available information on private and public wells, public water supply lines, and any aquifers,  
2139 seeps, sinkholes, caves, or mining areas within one-fourth (1/4) mile of the facility; and  
2140 L. For landfills only, a coordinate system referenced to a benchmark and baseline that have been  
2141 permanently established on the site and referenced to Government Land Office corners and the legal  
2142 boundaries of the facility as described by a registered land surveyor licensed by Missouri.
- 2143 6. All submitted engineering plans and reports shall be approved by a registered professional engineer  
2144 licensed by Missouri. The engineering plans and reports shall specify the materials, equipment, construction  
2145 methods, design standards, and specifications for hazardous waste management facilities, and processes that  
2146 will be utilized in the construction and operation of the facility. The engineering plans and reports shall also  
2147 include a diagram of any piping, instrumentation or process flows, and descriptions of any feed systems,  
2148 safety cutoffs, bypass systems, and pressure controls (for example, vents).
- 2149 7. The applicant for a hazardous waste facility permit to construct or operate a facility shall submit the  
2150 application to the department in triplicate (quadruplicate, if application is made for a land-based  
2151 management facility). If a permit is issued, the permittee shall submit two (2) copies of the entire approved  
2152 application to the department.
- 2153 8. The permit application fee set forth in 10 CSR 25-12.010 shall be submitted with the application.
- 2154 9. The department will supervise any field work undertaken to collect geologic and engineering data  
2155 which is to be submitted with the application. The applicant shall contact the department at least five (5)  
2156 working days prior to conducting any field work that is undertaken to collect geologic and engineering data  
2157 which is to be submitted with the application. A fee shall also be assessed pursuant to 10 CSR 25-12.010 for  
2158 all costs incurred by the department in the observation of field work, engineering and geological review of  
2159 the application, and all other review necessary by the department to verify that the application complies with  
2160 section 260.395.7., RSMo.
- 2161 10. The permit application shall include the following information for the purpose of notification:  
2162 A. Names and address of all persons listed on the facility mailing list as defined in 10 CSR 25-  
2163 8.124(1)(A)10.C.(I)(c) shall be submitted in the form of an alphabetical list with five (5) sets of addressed,  
2164 self-adhesive mailing labels also included; and  
2165 B. The name, address, and telephone number of the location where the permit application and  
2166 supporting documents are to be placed, as described in 10 CSR 25-8.124(1)(B)3.B.(II)(c) and the name of  
2167 the person at that location who may be contacted to schedule a review of the documents.
- 2168 11. The applicant shall submit the information required by subsection (2)(H) of this rule in the form of a  
2169 disclosure statement as part of the permit application.
- 2170 12. An applicant may be required to submit other information as may be necessary to enable the  
2171 department to carry out its duties.
- 2172 13. In addition to the requirements in 40 CFR 270.15 incorporated in this rule, an owner/operator of a  
2173 facility that treats hazardous waste in containers shall meet the requirements in 40 CFR 270.23 incorporated  
2174 in this rule.
- 2175 14. In addition to the requirements in 40 CFR 270.16 incorporated in this rule, an owner/operator of a  
2176 facility that treats hazardous waste in a tank system shall meet the requirements in 40 CFR 270.23  
2177 incorporated in this rule.
- 2178 15. 40 CFR 270.16(h)(2) is not incorporated in this rule.
- 2179 16. An owner/operator who stores, treats, or disposes of hazardous waste in surface impoundments shall  
2180 provide the following information in addition to the requirements of 40 CFR 270.17 incorporated in this  
2181 rule: detailed plans and an engineering report explaining the location of the saturated zone in relation to the  
2182 surface impoundment and the design of a double-liner system that incorporates a leak detection system  
2183 between liners.
- 2184 17. An owner/operator who disposes of hazardous waste in landfills shall provide the following  
2185 information in addition to the requirements of 40 CFR 270.21 incorporated in this rule:

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- 2186 A. Engineering reports which describe the geology and hydrology of the site and demonstrate the site  
2187 suitability as required in 10 CSR 25-7.264(2)(N)1.;
- 2188 B. Detailed plans and an engineering report addressing the following items:  
2189 (I) Management of run off from the disposal facility or unit;  
2190 (II) Minimization of erosion, landslides, and sloughing;  
2191 (III) Control of horizontal migration of leachate where applicable;  
2192 (IV) Delineation of a three hundred foot (300') buffer between the property line of the disposal  
2193 facility and area to be permitted;  
2194 (V) Control of wind dispersal of waste particulate matter where applicable;  
2195 (VI) Control of odor dispersal where applicable; and  
2196 (VII) Control of escape of gases where applicable.
- 2197 C. Detailed plans and engineering report explaining the location of the saturated zone in relation to the  
2198 landfill and the design of a double-liner system that incorporates a leachate collection and removal system  
2199 above and between the liners; and
- 2200 D. An explanation of how the volatile waste standards in 10 CSR 25-7.264(2)(N)4. are met.
- 2201 18. An owner/operator of a hazardous waste treatment facility or operating disposal facility shall submit  
2202 a health profile as set forth in 10 CSR 25-7.264(2)(P).
- 2203 19. The person applying for a permit under sections 260.350–260.434, RSMo, shall notify the  
2204 department in the permit application of any convictions for any acts occurring after July 9, 1990, which  
2205 would have the effect of limiting competition. The applicant, after submission of the permit application and  
2206 prior to permit issuance, shall notify the department in writing within thirty (30) days of any conviction for  
2207 any act which would have the effect of limiting competition.
- 2208 20. 40 CFR 270.26 is not incorporated in this rule.
- 2209 21. The owner/operator of a TSD facility that accepts and/or ships hazardous waste via railroad tank car  
2210 (railcar) shall submit a railcar management plan in accordance with the requirements set forth in 10 CSR 25-  
2211 7.264(3).
- 2212 22. The person applying for a permit under sections 260.350–260.434, RSMo, shall comply with the  
2213 requirements of 10 CSR 25-8.124(1).
- 2214 (C) Permit Conditions. This subsection sets forth requirements which modify or add to those requirements  
2215 in 40 CFR part 270 subpart C.
- 2216 1. This paragraph sets forth the procedures for issuance of a hazardous waste facility permit,  
2217 construction certification, and authorization to begin operation.
- 2218 A. If, after public notice in accordance with 10 CSR 25-8.124 and review of the application, the  
2219 department determines that the application conforms with the provisions of sections 260.350–260.434,  
2220 RSMo, and all standards and rules corresponding, the department shall issue the hazardous waste facility  
2221 permit to the applicant upon payment of a fee of one thousand dollars (\$1000) for each facility for each year  
2222 the permit is to be in effect beyond the first year. The department will issue an EPA identification number to  
2223 the facility at the time.
- 2224 B. The applicant may begin construction or alterations at the facility in accordance with the approved  
2225 plans, reports, design specifications, and procedures after receiving the facility permit. When construction is  
2226 completed as approved in the permit and the financial requirements of this chapter have been fulfilled, the  
2227 owner/operator shall submit a written request as required in 40 CFR 270.30(l)(2) incorporated in this rule to  
2228 the department for authorization to begin operation.
- 2229 C. If the permit is for a facility operating under interim status, the department may deny authority to  
2230 operate under the permit if the construction required under the permit is not completed in accordance with  
2231 the approved plans within the time period specified in the permit or within the time period as extended by  
2232 the department for cause due to circumstances beyond the permittee's control.
- 2233 D. The appeal period for a permit or any condition of a permit shall begin on the date of issuance of  
2234 the permit as required in subparagraph (2)(C)1.A. of this rule. However, for the purposes of termination of  
2235 interim status pursuant to 40 CFR 270.73(a) incorporated in this rule, final administrative disposition of the  
2236 permit application shall occur either—

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2237 (I) Thirty (30) days after issuance of a letter of authorization pursuant to subparagraph (2)(C)1.B. of  
2238 this rule, unless a notice of appeal is filed with the commission within that time;

2239 (II) Thirty (30) days after denial of authorization to operate pursuant to subparagraph (2)(C)1.C. of  
2240 this rule, unless a notice of appeal is filed with the commission within that time; or

2241 (III) Upon the issuance of a decision by the commission, after timely appeal of an action under  
2242 subparagraph (2)(C)1.B. or C. of this rule.

2243 2. The department may deny the permit application if—

2244 A. The applicant fails to submit a complete application in accordance with, and within the time  
2245 specified in, a notice of deficiency issued pursuant to 10 CSR 25-8.124(1)(A)3.;

2246 B. The applicant has failed to fully disclose all relevant information in the application or during the  
2247 permit issuance process or has misrepresented facts at any time;

2248 C. The department determines that the application does not conform with the provisions of sections  
2249 260.350–260.434, RSMo, and all corresponding standards and rules, or that the facility cannot be effectively  
2250 operated and maintained in full compliance with sections 260.350–260.434, RSMo, and all corresponding  
2251 standards and rules, or that the facility is being operated or maintained in violation of a present permit, or  
2252 that continued operation of the facility presents an unreasonable threat to human health or the environment  
2253 or will create or allow for the continuance of a public nuisance;

2254 D. The department determines that the applicant owner/operator is a habitual violator as defined in  
2255 subsection (2)(H) of this rule;

2256 E. The department determines that one (1) of the conditions specified in section 260.395.17., RSMo, is  
2257 present; or

2258 F. The applicant owner/operator fails to submit the permit fees required by subparagraph (2)(C)1.A. of  
2259 this rule within thirty (30) days of receipt of notice from the department that the fees are due.

2260 3. In 40 CFR 270.30(1)(2) introductory text incorporated in this rule, delete “except as provided in  
2261 270.42.”

2262 4. The owner/operator of a facility permitted under sections 260.350–260.434, RSMo, shall notify the  
2263 department in writing of any conviction for any act occurring after July 9, 1990, which would have the effect  
2264 of limiting competition. This written notification shall be provided within thirty (30) days of the conviction  
2265 or plea and shall comply with the requirements at subsection (2)(I) of this rule.

2266 (D) Changes to Permit. This subsection sets forth requirements which modify or add to those  
2267 requirements in 40 CFR part 270 subpart D.

2268 1. In addition to the requirements of 40 CFR 270.40(b), the department shall determine, in accordance  
2269 with subsection (2)(H) of this rule, whether the proposed owner or operator, including an officer or  
2270 management employee of the proposed owner or operator, is a person described in section 260.395.16,  
2271 RSMo, and whether any of the conditions specified in section 260.395.17, RSMo, would exist if the  
2272 proposed transfer were to take place.

2273 2. “Revocation and reissuance” of a permit, as that term is used in 40 CFR part 270 incorporated in this  
2274 rule, shall mean the same as “total modification” as that term is used in 10 CSR 25-8.124.

2275 3. The “termination” of a permit, as used in 40 CFR part 270 incorporated in this rule, shall mean the  
2276 same as “revocation” of a permit as used in 10 CSR 25-8.124.

2277 4. The director shall suspend, revoke, or not renew the permit of any person to treat, store, and dispose  
2278 of hazardous waste if that person has had two (2) or more convictions in any court of the United States or of  
2279 any state other than Missouri, or two (2) or more convictions within a Missouri court for crimes or criminal  
2280 acts occurring after July 9, 1990, an element of which involves restraint of trade, price fixing, intimidation of  
2281 the customers of any person, or for engaging in any other acts which may have the effect of restraining or  
2282 limiting competition concerning activities regulated under Chapter 260, RSMo, the Resource Conservation  
2283 and Recovery Act, or similar laws of other states within any five (5)-year period. Convictions by entities  
2284 which occurred prior to the purchase or acquisition by a permittee shall not be included. The permittee shall  
2285 submit a written report to the department within thirty (30) days of the conviction or plea. The report shall  
2286 include information explaining the charge(s) on which the permittee was convicted, the date(s) of the  
2287 conviction(s), and the date(s) and charge(s) of previous convictions.

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2288 5. The owner/operator of a facility that has had his/her permit (issued under the provisions of sections  
2289 260.350–260.434, RSMo) revoked under section 260.379, RSMo, may apply to the department for  
2290 reinstatement of his/her permit after five (5) years have elapsed from the date of the last conviction of crimes  
2291 or criminal acts as described in section 260.379, RSMo. The application must be in writing and accompanied  
2292 by a reapplication fee, updated permit application, and any other information the department deems  
2293 necessary in order to reinstate the permit.

2294 6. 40 CFR 270.42(j)(1) and 40 CFR 270.42(j)(2) are not incorporated in this rule.

2295 7. 40 CFR 270.42(l) is not incorporated into this rule.

2296 (E) Expiration and Continuation of Permits. The director will review all permits for operating disposal  
2297 facilities every five (5) years after issuance for conformance with applicable current hazardous waste rules  
2298 and laws. The permit will be modified as necessary to conform with the applicable rules and laws.

2299 (F) Special Forms of Permits. (*Reserved*)

2300 (G) Interim Status. This subsection sets forth requirements which modify or add to those requirements in  
2301 40 CFR part 270 subpart G.

2302 1. An owner/operator who becomes regulated under 10 CSR 25-7 shall operate in compliance with  
2303 interim status in accordance with paragraphs (2)(A)4. and (2)(B)1. of this rule.

2304 2. In addition to the items in 40 CFR 270.73 incorporated in this rule, interim status terminates when the  
2305 department issues an order or commences an action pursuant to paragraph (2)(G)4. of this rule requiring the  
2306 owner/operator to cease operations and undertake closure actions at the facility or at a unit.

2307 3. The owner/operator, at any time, voluntarily may submit a permit application pursuant to this rule.

2308 4. Upon a determination by the department that the facility is not being operated or cannot be operated  
2309 in full compliance with the requirements of 10 CSR 25-7.265, the department, in lieu of or in addition to  
2310 requiring the submittal of a permit application pursuant to paragraph (2)(G)1. of this rule, may take an  
2311 enforcement action pursuant to sections 260.410, 260.420, and 260.425, RSMo, as it deems appropriate  
2312 under the circumstances in order to fully and effectively protect public health and the environment.

2313 (H) Habitual Violators. This subsection describes how the department shall determine whether a hazardous  
2314 waste management facility permit applicant is a habitual violator for purposes of implementing section  
2315 260.395.16, RSMo. This subsection applies to the issuance, reissuance, or total modification of hazardous  
2316 waste management facility permits, excluding post-closure and corrective action only permits, and to  
2317 hazardous waste resource recovery facilities for the activities subject to permit requirements in 10 CSR 25-  
2318 7.264.

2319 1. The department shall consider the applicant's prior operating history pursuant to section 260.395.16,  
2320 RSMo, during the review of an application for a permit to operate a hazardous waste management or  
2321 commercial polychlorinated biphenyl (PCB) facility. All documentation required by this subsection shall be  
2322 submitted along with the information specified in 40 CFR part 270 subparts B and D incorporated by  
2323 reference in section (1) of this rule and modified in subsection (2)(B) of this rule, paragraph (2)(D)1. of this  
2324 rule, and 10 CSR 25-13.010(9)(B).

2325 2. Definitions. The definitions in this paragraph apply to subsection (2)(H) of this rule.

2326 A. Facility, for purposes of calculating violations as required in paragraph (2)(H)5. of this rule, means  
2327 each permitted, licensed interim status, unpermitted or unlicensed hazardous waste management or  
2328 commercial PCB facility, solid waste disposal area, solid waste processing facility, certified hazardous waste  
2329 resource recovery facility, or solid or hazardous waste transporter or transfer station.

2330 B. Person, in addition to the definition in section 260.360(17) RSMo, shall mean an officer or  
2331 management employee of the applicant, any officer or management employee of any corporation or business  
2332 which owns an interest in the applicant, any officer or management employee of any business in which an  
2333 interest is owned by any person, corporation, or business which owns an interest in the applicant, or any  
2334 officer or management employee of any corporation or business in which an interest is owned by the  
2335 applicant.

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2336 C. Management employee means any individual, including a supervisor, who has the authority to  
2337 serve as an agent for the employer in that the employee has the authority to perform or effectively  
2338 recommend any one (1) or more of the following actions: hiring, firing, assigning, or directing other  
2339 employees with respect to waste management operations.

2340 D. Violation means any one (1) or more of the following actions or an equivalent action by this or  
2341 another regulatory agency or competent authority in response to any violation of the Missouri solid or  
2342 hazardous waste management law, the solid or hazardous waste management law of another state, or any  
2343 federal law governing the management of solid waste, hazardous waste, PCB material, or PCB units:

- 2344 (I) Final administrative order;
- 2345 (II) Final permit revocation;
- 2346 (III) Final permit suspension;
- 2347 (IV) Civil judgment against the applicant;
- 2348 (V) Criminal conviction; or

2349 (VI) Settlement agreement in connection with a civil action which has been filed in court.

2350 E. Interest, as used in “owning an interest in,” means having control of at least seven and one-half  
2351 percent (7.5%) of an applicant or person as defined in subparagraph (2)(H)2.B. of this rule. This is  
2352 determined by multiplying the percentages of ownership at each successive level and comparing this result  
2353 to a seven and one-half percent (7.5%) cutoff level. For city, county, state, federal, and military-owned  
2354 facilities, interest, or owning an interest in, is defined as one (1) level above or below the facility applying  
2355 for the permit. (For example, a military-owned facility shall consider one (1) command level above the base  
2356 on which the facility will be operated as having an interest in the facility. Likewise, the “command” shall  
2357 consider itself as having an interest in all facilities within the command).

2358 F. Habitual violator means a person who has failed the habitual violator test set out in paragraph  
2359 (2)(H)5. of this rule.

2360 3. For the purpose of this subsection, any administrative action or order, judgment, or criminal  
2361 conviction that has been ruled on appeal in favor of the applicant by a final decision of a competent authority  
2362 will not be considered to be a violation. If the applicant has an appeal pending, the outcome of which will  
2363 affect the issuance of a permit, the department shall delay issuance of the permit until a final decision is  
2364 rendered.

2365 4. The permit applicant shall submit the following information on the Habitual Violator Disclosure  
2366 Statement form provided by the department, incorporated by reference in this rule, and published in the  
2367 appendix to this rule as part of the permit application:

2368 A. Names and addresses of all persons meeting any of the following criteria:

- 2369 (I) Any person who owns an interest in the applicant;
- 2370 (II) Any person in whom an interest is owned by any person who owns an interest in the applicant;

2371 and

- 2372 (III) Any person in whom the applicant owns an interest;

2373 B. A list of all solid waste management, infectious waste management, commercial PCB management  
2374 and hazardous waste management permits (Part A and Part B), licenses, certifications, or equivalent  
2375 documents held within the last ten (10) years by the applicant or any person(s) reported under subparagraph  
2376 (2)(H)4.A. of this rule, for the operation or post-closure of a solid waste management, infectious waste  
2377 management, commercial PCB or hazardous waste management facility, or a combination of these, as  
2378 defined in subparagraph (2)(H)2.A. of this rule, in Missouri or in the United States and for each provide the  
2379 following information:

- 2380 (I) Permit or identification number;
- 2381 (II) Type of permit, license, certification, or equivalent document and dates held;
- 2382 (III) Name(s) of the person(s) to whom each permit, license, certification, or equivalent document  
2383 was issued;
- 2384 (IV) Address or location of each facility; and
- 2385 (V) Issuing agency;

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2386 C. The structure of the applicant in relation to any person(s) reported in accordance with subparagraph  
2387 (2)(H)4.A.;

2388 D. Names and addresses of the officers and management employees of any person(s) reported in  
2389 accordance with subparagraph (2)(H)4.A.;

2390 E. A list of all violations, including the identification of any action for which an appeal or final  
2391 judgment is pending, as defined in subparagraph (2)(H)2.D. of this rule cited within ten (10) years preceding  
2392 the date of the permit application incurred by any persons required to be reported under subparagraph  
2393 (2)(H)4.A. or (2)(H)4.D. of this rule. Each listing shall include the following information:

2394 (I) Dates of violations;

2395 (II) A brief description of each violation, including the type of regulatory action taken;

2396 (III) Statutory or regulatory references, or both, to each specific statute or administrative rule that  
2397 was violated;

2398 (IV) Name and location of the facility cited; and

2399 (V) Name and address of the issuing agency, and name and address of any competent authority with  
2400 final jurisdiction regarding each violation;

2401 F. A brief description of all incidents in which any person(s) reported under subparagraph (2)(H)4.A.  
2402 or (2)(H)4.D. of this rule have been adjudged in contempt of any court order enforcing the provisions of any  
2403 state’s solid or hazardous waste laws, or federal laws pertaining to hazardous waste;

2404 G. A listing of all facilities as defined at (2)(H)2.A. owned or operated by any person required to be  
2405 reported at (2)(H)4.A. or (2)(H)4.D. A brief justification as to why the facility has been included on the  
2406 listing; and

2407 H. All other information requested by the department necessary for the department to conduct an  
2408 evaluation of the overall operating history of the applicant.

2409 5. The habitual violator test.

2410 A. A total of calculated violations shall be determined by the following formula:

2411 Number of violations (as defined in subparagraph (2)(H)2.D. of this rule), occurring within the ten (10)  
2412 years preceding the date of the permit application, incurred by any person required to be reported under  
2413 (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  
2414 this rule) equals the number of calculated violations.

2415  
2416 
$$\frac{\text{Number of violations}}{\text{Total Number of Facilities}} = \text{Calculated Violations}$$
  
2417  
2418

2421 B. If the total of calculated violations is two (2.0) or less, the applicant has passed the habitual violator  
2422 test. If the total of calculated violations is greater than two (2.0), the department will notify the applicant of  
2423 his/her score. Upon receipt of notification, the applicant shall have thirty (30) days to produce clear and  
2424 convincing evidence to the department which demonstrates that the applicant is not a habitual violator. The  
2425 department shall determine whether the evidence is clear and convincing for the purpose of the habitual  
2426 violator determination. If the evidence produced by the applicant is not found to be clear and convincing, or  
2427 if no evidence is produced, the department will determine the applicant to be a habitual violator, and the  
2428 department will notify the applicant of permit denial. If the evidence produced by the applicant is found to  
2429 be clear and convincing, the department may determine that the applicant has not failed the habitual violator  
2430 test (if the department determines the applicant has failed, a notice of denial will be sent to the applicant by  
2431 the department) only after the department has considered the following factors:

2432 (I) The nature and severity of violations;

2433 (II) Any substantial realignment of corporate structure or corporate philosophy, or both;

2434 (III) Any significant pattern of improved environmental compliance;

2435 (IV) The complexity of the facilities and the volume of waste handled; and

2436 (V) Any other relevant factors presented as evidence.

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2437 6. The department shall deny a permit for failure of the applicant to provide the required information or  
2438 for submission of false information.

2439 7. The department may deny a permit for failure of the applicant to provide complete information when  
2440 submission of the information is required by this rule.

2441 8. The department shall deny a permit if the applicant has failed the habitual violator test specified in  
2442 paragraph (2)(H)5. of this rule.

2443 9. The department shall not issue a permit to an applicant or a person who has offered in person or  
2444 through an agent any inducement, including any discussion of possible employment opportunities, to any  
2445 department employee when that person has an application for a permit pending or a permit under review.  
2446 Distribution of job announcements from an applicant to the department, which are made in the regular  
2447 course of business and are intended for general dissemination, shall not be considered improper  
2448 inducements.

2449 10. The department shall deny a permit if any person(s) reported in accordance with subparagraph  
2450 (2)(H)4.A. or (2)(H)4.D. of this rule has been adjudged in contempt of any court order enforcing the  
2451 provisions of any state's solid or hazardous waste management laws, or federal laws pertaining to hazardous  
2452 waste.

2453 11. Any person aggrieved by a permit denial under this subsection may appeal the decision by filing a  
2454 petition with the Missouri Hazardous Waste Management Commission within thirty (30) days of notice of  
2455 denial. The appeal hearing shall be conducted in accordance with section 260.400, RSMo, and 10 CSR 25-  
2456 8.124(2).

2457 (I) Restraint of Trade.

2458 1. Any person, as defined in section 260.379.1, RSMo, applying for a permit to operate a hazardous  
2459 waste treatment, storage, or disposal facility shall notify the director of any conviction occurring after July 9,  
2460 1990, for any crimes or criminal acts specified in section 260.379, RSMo. The person shall include any  
2461 crimes or criminal acts for which an appeal or about which a final judgment is pending. The applicant shall  
2462 submit this information with the permit application. Any person with a permit application pending, or to  
2463 whom a permit has been granted, shall notify the department within thirty (30) days of the conviction or  
2464 plea. The information shall be submitted in the form of a disclosure statement worded as specified in  
2465 paragraph (2)(I)4. and shall include the following information:

2466 A. Date of conviction or plea;

2467 B. The specific charge and statutory citation;

2468 C. Statutory or regulatory references, or both, and citations to each specific statute or administrative  
2469 rule that was violated;

2470 D. Name and location of each facility or person cited;

2471 E. Name and address of the court; and

2472 F. Any other information requested by the department.

2473 2. The department shall deny, suspend, revoke, or not renew a permit if the applicant or permittee fails  
2474 to submit the required information, the information submitted is false, or the applicant or permittee exceeds  
2475 the number of convictions allowed under section 260.379, RSMo.

2476 3. Rehabilitation and reinstatement.

2477 A. A person may apply to the department for reinstatement of a permit that has been revoked under  
2478 the provisions of subsection (2)(I) of this rule and section 260.379, RSMo, no sooner than five (5) years after  
2479 revocation. The person shall demonstrate to the department that s/he had no convictions or pleas for any  
2480 crimes or criminal acts as specified in section 260.379, RSMo, in any court in any state, or any federal court,  
2481 within five (5) years preceding the request for reinstatement. The person shall also prove that no litigation or  
2482 appeal is pending against the person for any crimes or criminal acts specified in section 260.379, RSMo.

2483 B. If the permit is reinstated, the permittee, for a period of five (5) years from the date of  
2484 reinstatement, shall file semi-annual disclosure statements prepared in accordance with the requirements of  
2485 this subsection (2)(I).

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2486 C. If any conviction or plea for the acts specified in section 260.379, RSMo, is entered in any court in  
2487 any state during the five (5)-year period immediately following reinstatement, the reinstated permit shall be  
2488 revoked for a period of at least five (5) years. Following this five (5)-year period, the person may reapply for  
2489 reinstatement of the permit.

2490 4. The disclosure statement specified in paragraph (2)(I)1. of this rule shall be worded as follows, except  
2491 that instructions in parentheses are to be replaced with the relevant information, and the parentheses deleted:

2492 (*Name of permit applicant*) (insert, “EPA Identification Number \_\_\_\_\_,” if applicable) hereby  
2493 certifies that the following list contains all instances in which any person, as defined by section 260.379.1,  
2494 RSMo, has been convicted or pled to any crimes or criminal acts an element of which involves restraint of  
2495 trade, price-fixing, intimidation of the customers of any person, or for engaging in any other acts which may  
2496 have the effect of restraining or limiting competition concerning activities regulated under Chapter 260,  
2497 RSMo, or similar laws of other states or the federal government; except that convictions for violations by  
2498 entities purchased or acquired by an applicant or permittee which occurred prior to the purchase or  
2499 acquisition, shall not be included. (For each conviction or plea required to be reported, provide a listing of  
2500 the information required in 10 CSR 25-7.270(2)(I)1.A.–F. If no conviction or plea is required to be reported,  
2501 so state.)

2502 I hereby certify the following:

- 2503 a) The above information is complete and truthful as of the date this statement was signed;  
2504 b) The wording of this disclosure statement is identical to the wording specified in 10 CSR 25-  
2505 7.270(2)(I)4. on the date this statement was signed; and  
2506 c) In such matters, I, the undersigned, do have the authority to act as agent for the permit applicant.

2507 (Signature)

2508 (Name)

2509 (Title)

2510 (Date)

2511 (Seal)

2512 (Notary seal and signature)

2513 *AUTHORITY: section 260.370, RSMo Supp. 2010 and sections 260.390 and 260.395, RSMo 2000*