



Rules of
Department of Natural Resources
Division 25—Hazardous Waste Management Commission
Chapter 4—Methods for Identifying Hazardous Waste

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**Title 10—DEPARTMENT OF
NATURAL RESOURCES
Division 25—Hazardous Waste
Management Commission
Chapter 4—Methods for Identifying
Hazardous Waste**

**10 CSR 25-4.010 Hazardous Waste
Identification**

(Rescinded October 1, 1986)

AUTHORITY: sections 260.370 and 260.430, RSMo 1978. Original rule filed April 12, 1979, effective Jan. 1, 1980. Amended: Filed Aug. 13, 1980, effective Jan. 12, 1981. Amended: Filed Jan. 13, 1981, effective July 12, 1981. Amended: Filed March 13, 1981, effective July 13, 1981. Amended: Filed Aug. 12, 1981, effective Dec. 14, 1981. Amended: Filed Dec. 10, 1982, effective June 13, 1983. Amended: Filed March 14, 1984, effective Aug. 13, 1984. Amended: Filed March 14, 1985, effective July 19, 1985. Rescinded: Filed Dec. 16, 1985, effective Oct. 1, 1986.

10 CSR 25-4.020 Waste Oil

(Moved to 10 CSR 25-11.010)

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

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

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

Editor's Note: Pursuant to American Mining Wastes v. the U.S. EPA, cited as 907 F2d 1179 (D.C. Cir. 1990), the following waste streams are not incorporated by reference in this rule: K064, K065, K066, K090, and K091. These waste streams were remanded to

the Environmental Protection Agency (EPA) by the United States Court of Appeals until the EPA provides adequate justification to the court for the listing of the wastes as hazardous. Suspension of these wastes from the state rule was effective February 28, 1991.

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

Publisher's Note: The effective date for rules of mixed radioactive and hazardous wastes in Missouri is March 12, 1993.

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

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

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

2. A solid waste, as defined in 40 CFR 261.2, as incorporated in this rule, is a hazardous waste if it is a mixture of solid waste and one (1) or more hazardous wastes listed in 40 CFR part 261 subpart D, as incorporated in this rule, and has not been excluded from 40 CFR 261.3(a)(2), as incorporated in

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

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

4. (Reserved)

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

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

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

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

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

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



fees and taxes on that waste pursuant to 10 CSR 25-12.010;

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

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

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

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

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

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

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

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

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

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

15. *(Reserved)*

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

11.279 and applicable portions of 10 CSR 25-3.260-10 CSR 25-9.020;

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

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

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

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

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

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

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

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

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

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

3. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) is an acutely hazardous waste and is designated the Missouri hazardous waste number MH02. Without regard to any quantity specified in 40 CFR 261.5, as incorpo-

rated and modified in paragraph (2)(A)10. of this rule, if a generator generates less than one gram (1 g) of 2,3,7,8-TCDD in a calendar month and does not accumulate one gram (1 g) of 2,3,7,8-TCDD at any one time, that generator shall manage that hazardous waste in accordance with subsection 260.380.2, RSMo. When a generator generates one gram (1 g) of 2,3,7,8-TCDD in a calendar month or accumulates at least one gram (1 g) of 2,3,7,8-TCDD at any one time, that generator shall manage that hazardous waste in accordance with the provisions in 10 CSR 25;

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

(E) Exclusions/Exemptions.

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

AUTHORITY: section 260.370, RSMo Supp. 2010. Original rule filed Dec. 16, 1985, effective Oct. 1, 1986. Amended: Filed Feb. 3, 1987, effective Aug. 1, 1987. Amended: Filed Dec. 1, 1987, effective Aug. 12, 1988. Amended: Filed Feb. 16, 1990, effective Dec. 31, 1990. Amended: Filed Jan. 15, 1991, effective Oct. 1, 1991. Amended: Filed Feb. 14, 1992, effective Dec. 3, 1992. Amended: Filed Aug. 14, 1992, effective May 6, 1993. Amended: Filed Jan. 5, 1993, effective Aug. 9, 1993. Amended: Filed June 3, 1993, effective Jan. 31, 1994. Amended: Filed Jan. 5, 1994, effective Aug. 28, 1994. Amended: Filed Aug. 16, 1995, effective April 30, 1996. Amended: Filed March 22, 1996, effective Nov. 30, 1996. Amended: Filed June 1, 1998, effective Jan. 30, 1999. Amended: Filed Feb. 1, 2001, effective Oct. 30, 2001. Amended: Filed March 31, 2006, effective Dec. 30, 2006. Amended: Filed Oct. 15, 2008, effective June 30, 2009. Amended: Filed April 15, 2011, effective Dec. 30, 2011.*

**Original authority: 260.370, RSMo 1977, amended 1980, 1988, 1993, 1995, 2004, 2010.*