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(Rescinded October 1, 1986)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 July 1, 1980. Amended: Filed 
Jan. 13, 1981, effective July 12, 1981. Amended: 
Filed March 13, 1981, effective July 13, 1981. Amended: 
Filed Aug. 12, 1986, effective Dec. 14, 1981. Amended: 
Filed Dec. 10, 1983, effective June 13, 1983. Amended: 
Filed March 14, 1984, effective Aug. 13, 1984. Amended: 
Filed March 14, 1985, effective July 19, 1985. Rescinded: 

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 characteris- 
tics and lists by which a generator can deter- 
mine whether his/her waste is hazardous. 
This rule defines hazardous waste under sec- 
tions 260.475–260.479, RSMo. The federal 
regulations in 40 CFR part 261 are incorpo- 
rated by reference, subject to the modifica-
tions 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 mate-
rial. 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 haz-
ardous. Suspension of these wastes from the 
rule was effective February 28, 1991.

(1) The regulations set forth in 40 CFR part 
261, July 1, 2006, as published by the Office 
of the Federal Register, National Archives 
and Records Administration, Superintendent 
of Documents, Pittsburgh, PA 15250-7954, 
and the changes made at 71 FR 42928, July 
28, 2006, and 72 FR 31185, June 6, 2007, 
are incorporated by reference, except for the 
changes made at 55 FR 50450, December 6, 
1990, 56 FR 27352, June 13, 1991, 60 FR 
7366, February 7, 1995, 63 FR 33823, June 
19, 1998, and 70 FR 53453, September 8, 
2005. This rule does not incorporate any sub-
sequent amendments or additions. Except as 
provided otherwise in this rule, the substitu-
tion of terms set forth in 10 CSR 25-
3.260(1)(A) shall apply in this rule in addi-
tion 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 modifica-
tions of the regulations incorporated in sec-
tion (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 subsec-
tion (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 accumu-
lated in surface impoundments or waste piles is 
inhomogeneous waste-like as provided in 40 CFR 
261.2(d) incorporated in this rule, and is a 
solid waste, regardless of whether the materi-
al is recycled;

2. A solid waste, as defined in 40 CFR 
261.2, as incorporated in this rule, is a haz-
ardous 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 incorpo-
rated 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 haz-
ardous wastes listed in 40 CFR part 261 sub-
part D, as incorporated in this rule, are not 
hazardous wastes (except by application of 40 
CFR part 261.3(a)(2)(ii) or (ii), as incorpo-
rated in this rule) if the generator can demon-
strate 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 
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 mate-
rial in his/her manufacturing process”;

4. Except as provided otherwise in 40 
CFR 261.3(c)(2)(ii), as incorporated in this 
rule, any solid waste generated from the treat-
ment, storage, or disposal of a hazardous 
material, including any sludge, spill residue, 
ash, emission control dust, or leachate (but 
not including precipitation run off) is a haz-
ardous waste. (However, materials that are 
reclaimed from solid wastes and that are used 
beneficially are not solid wastes and hence 
are not hazardous wastes under this provision 
unless the reclaimed material is burned for 
energy recovery or used in a manner constit-
tuting disposal);

5. In addition to the requirements in 40 
CFR 261.3 incorporated in this rule, haz-
ardous 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 section 
644.006–644.564, RSMo, or is not benefit-
ally 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) incorporat-
ed 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 incorpo-
rated in this rule;

9. 40 CFR 261.4(a)(16) is not incorpo-
rated 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)9.3.

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(o)(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.

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. Provided they are managed in accordance with the requirements of 40 CFR 261.9 and 10 CSR 25-16.273, the following wastes are excluded from the requirements of 10 CSR 25-5.262 to 10 CSR 25-7.270:

A. Batteries as described in 40 CFR 273.2 and as modified in 10 CSR 25-16.273(2)(A)2.;

B. Pesticides as described in 40 CFR 273.3 and as modified in 10 CSR 25-16.273(2)(A)3.;

C. Mercury switches as described in 10 CSR 25-16.273(2)(A)4.A., mercury containing thermometers and manometers as described in 10 CSR 25-16.273(2)(A)4.B.; and

D. Lamps as described in 40 CFR 273.5.;


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

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

(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 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 rashes resulting from medicinal uses.);

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

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

(E) Exclusions/Exemptions.

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