

DEPARTMENT OF ENVIRONMENTAL QUALITY

EXHIBIT E

SUBJECT: Regulation No. 23; 2009 Hazardous Waste Management Annual Update

DESCRIPTION: The Pollution Control and Ecology Commission is proposing to amend its Regulation No. 23, Hazardous Waste Management, to adopt federal revisions to the hazardous waste management rules, and make administrative changes to the state-only provisions of the rule. Federal regulation changes to be added to Regulation 23, listed by topic and date of publication in the *Federal Register*, include:

- Regulation of Oil-Bearing Hazardous Secondary Materials from the Petroleum Refining Industry Processed in a Gasification System to Produce Synthesis Gas; January 2, 2008.
- National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendment; April 8, 2008.
- Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019; June 4, 2008.
- Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated with Colleges and Universities; December 8, 2008.
- Federal revisions to 40 CFR Part 261, which include changes published in the following Federal Register notices:
- Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures ("Headworks Exemptions"); October 4, 2005.
- Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Removal of Final Rule; June 20, 2006.
- Waste and Used Oil; Corrections to Errors in the Code of Federal Regulations; July 14, 2006.
- Hazardous Waste Management System; Modifications of the Hazardous Waste Program; Cathode Ray Tubes; July 28, 2006.

In addition to incorporation of changes to conform to federal regulator provisions, the following ADEQ-initiated revisions to Regulation 23 are proposed:

- Amending Section 3(b) to show June 30, 2009, as the current ending date for adoption by reference of federal hazardous waste regulations as part of Regulation 23.
- Removing and reserving for future use of Section 6(v) to reflect the discontinuance of a fee for a state-specific hazardous waste manifest.
- Revision of Sections 260.20(d), (e), (f)(2), and 270.7(e)(2)(ii) to update references to portions of APC&EC Regulation 8 (Administrative Procedures) which have been revised.
- Removing and reserving for future use, Chapter 4, since its language has been moved to APC&EC Regulation 30 (Remedial Action Trust Fund Hazardous

Substances Priority Site List); Section 25 of Chapter 4 is being moved to a new paragraph, designated as Section 6(aa).

PUBLIC COMMENT: A public hearing was held October 29, 2009. The public comment period expired November 12, 2009. No public comments were submitted to ADEQ regarding the proposed rule. The proposed effective date is February 2010.

CONTROVERSY: This is not expected to be controversial.

FINANCIAL IMPACT: Implementing the proposed revisions will not discernibly increase or decrease program operational or administrative costs.

Economic Impact Statement

1. Explain the need for the proposed changes. Did any complaints motivate you to pursue regulatory action? If so, please explain the nature of such complaints. ADEQ has been delegated responsibility for implementing both federal and state provisions for the RCRA hazardous waste management program in Arkansas. This delegation is contingent upon the state maintaining a regulatory program that is consistent with and no less stringent than the corresponding federal requirements. Annually, ADEQ initiates rulemaking procedures via the Arkansas Pollution Control and Ecology Commission to incorporate and adopt recent changes to the federal regulations to maintain equivalence and consistency between the state and federal hazardous waste management regulations. This proposal seeks to incorporate relevant changes to federal regulations published since December 2007. Complaints played no role in the development of these draft revisions.

2. What are the top three benefits of the proposed rule? 1) Maintains equivalence between state and new federal hazardous waste management regulations; 2) Provides a lower-cost alternative means for the reclamation and recycling of cathode ray tubes; and 3) clarifies outdated language and corrects errors found in the current text of Regulation No. 23.

3. What would be the consequence of taking no action, thereby maintaining the status quo? The delegation and program cooperative agreements between ADEQ and U.S. EPA require that the department make an earnest effort to maintain consistency between state and federal regulations. While all components proposed in this revision are optional for the state to adopt them or not, the current state requirements corresponding to these proposed revisions are in the main more stringent, and Arkansas businesses would face a greater burden in maintaining compliance than those in neighboring and other states.

4. Describe market-based alternatives or voluntary standards that were considered in place of the proposed regulation and state the reason for not selecting these alternatives. This rulemaking substantially codifies existing, revised federal regulations into the corresponding state regulation. As such, they are not subject to Sections 3-5 of Executive Order 05-04. As this proposal seeks to adopt and incorporate federal regulations into corresponding state rules to implement a federally authorized program, market-based or other alternatives were not considered.

5. Estimate the cost to state government of collecting information, completing paperwork filing, recordkeeping, auditing, and inspecting associated with this new rule. Actions and activities required pursuant to these revisions will be carried out with existing department staff and resources. No additional costs are anticipated other than the current costs of implementing the program.
6. What types of small businesses will be required to comply with the new rule? Please estimate the number of small businesses affected. Small businesses which generate and/or manage hazardous wastes, used oils, and universal wastes are required to comply with Regulation No. 23 in managing, shipping, treating, and disposing of these wastes. As of July 1, 2009, 4,555 businesses fall within the regulated universe of the RCRA waste management program. ADEQ does not track whether regulated businesses fall within the definition of a "small business," but the RCRA regulations provide for varying degrees of regulatory requirements and compliance oversight based upon the amount of waste that a business generates at any time. Small businesses in Arkansas typically fall within those categories regulated as small quantity generators (SQGs) and conditionally-exempt small quantity generators (CESQGs). As of July 1, 2009, 279 SQGs and 31,504 CESQGs were known to be active in Arkansas. However, only a small number of these facilities fall within the economic definition of "small business."
7. Does the proposed rule create barriers to entry? If so, please describe those barriers and why those barriers are necessary. Reg. No. 23 does not create any barrier to entry for small businesses, and the proposed revisions will not affect this. Businesses subject to this rule are obligated to comply pursuant to federal and state law.
8. Explain the additional requirements with which small business owners will have to comply and estimate the costs associated with compliance. These amendments create no additional requirements or costs for small business. The federal revisions proposed to be adopted pursuant to this rulemaking are actually less stringent than the previous federal regulations that they are replacing, and the state adoption of these provisions will maintain equivalence and equity with the corresponding federal rules. Affected small businesses should recognize reduced compliance costs once these new rules are in effect within the state.
9. State whether the regulation contains different requirements for different-sized entities, and explain why this is, or is not, necessary. As noted above, requirements under this rule are not based upon the size of a particular business, but upon the amount of wastes which a particular business generates from month to month, regardless of the business' size or number of employees. This is consistent with the corresponding federal regulations for managing hazardous wastes.
10. Describe your understanding of the ability of small business owners to implement changes required by the proposed rule. ADEQ does not anticipate any difficulty for small businesses implementing these revised rules. In most cases, since many of the proposed revisions will reduce the reporting and administrative burden of compliance in comparison to the existing regulations, small businesses should realize reduced administrative burdens and costs in carrying out these provisions within their operations.

11. How does this rule compare to similar rules in other states or the federal government? These revisions are equivalent to the corresponding federal rules in Title 40, Code of Federal Regulations. Surrounding states are also required, as a condition of their program delegation, to consider adoption of these revisions and update their rules appropriately, so there is and will be no significant differences in the compliance requirements from those in adjacent states. Note that for easy reference, ADEQ identifies specific provisions in the body of the rule which are more stringent than or in addition to the corresponding federal regulations by printing them in italic text.

12. Provide a summary of the input your agency has received from small business or small business advocates about the proposed rule. In June 2009, ADEQ met with the Hazardous Waste Subcommittee of the Arkansas Environmental Federal, which represents industry and small businesses affected by the federal and state waste management programs. No objection was raised to the revisions proposed in this rulemaking.

LEGAL AUTHORIZATION: Arkansas Code § 8-7-209 (b)(1) authorizes the Arkansas Pollution Control & Ecology Commission to "promulgate, modify, repeal, and enforce rules and regulations regarding hazardous waste management." Arkansas Code § 8-7-506 specifically authorizes the commission to "adopt regulations" with regard to the Remedial Action Trust Fund. This rule is the annual update necessary to bring hazardous waste regulation in Arkansas up to federal standards as set forth in 40 CFR Part 271 (the state program requirements under the federal Resources Conservation and Recovery Act).

EXECUTIVE SUMMARY
REVISIONS TO APC&EC REGULATION No. 23
(HAZARDOUS WASTE MANAGEMENT)
Proposed September 25, 2009

The Arkansas Pollution Control and Ecology Commission (APC&EC) is proposing to amend its Regulation No. 23 (Hazardous Waste Management) in order to adopt Federal revisions to the hazardous waste management rules, and make administrative changes to the state-only provisions of the regulation. A public hearing will be held at the Arkansas Department of Environmental Quality's (ADEQ) headquarters in North Little Rock on October 29, 2009, to receive comments on the proposed revisions. This hearing will begin at 2:00 p.m. in Room 1E09 at the ADEQ headquarters building at 5301 Northshore Drive. The deadline for submitting written comments on the proposed changes is 4:30 p.m. on November 13, 2009.

Federal regulation changes to be added to Regulation 23, listed by topic and date of publication in the *Federal Register*, include:

- Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System to Produce Synthesis Gas; January 2, 2008.
- National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments; April 8, 2008.
- Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019; June 4, 2008.
- Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated with Colleges and Universities; December 1, 2008.
- Federal revisions to 40 CFR Part 261, which include changes published in the following *Federal Register* notices:
 - Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures ("Headworks Exemptions"); October 4, 2005.
 - Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Removal of Final Rule; June 20, 2006.
 - Waste and Used Oil; Corrections to Errors in the Code of Federal Regulations; July 14, 2006.
 - Hazardous Waste Management System; Modifications of the Hazardous Waste Program; Cathode Ray Tubes; July 28, 2006.

In addition to incorporation of changes to conform to federal regulatory provisions, the following ADEQ-initiated revisions to Regulation 23 are proposed:

- Amending Section 3(b) to show June 30, 2009, as the current ending date for adoption by reference of federal hazardous waste regulations as part of Regulation 23.
- Removing and reserving for future use of Section 6(v) to reflect the discontinuance of a fee for a state-specific hazardous waste manifest.
- Revision of Sections 260.20(d), (e), (f)(2), and 270.7(e)(2)(ii) to update references to portions of APC&EC Regulation 8 (Administrative Procedures) which have been revised.
- Removing and reserving for future use Chapter 4, since its language has been moved to APC&EC Regulation 30 (Remedial Action Trust Fund Hazardous Substances Priority Site List); Section 25 of Chapter 4 is being moved to a new paragraph, designated as Section 6(aa).

A complete listing of the proposed changes to Regulation 23 can be found on the Drafts of Proposed Regulations page of the ADEQ's Internet web site at http://www.adeg.state.ar.us/regs/drafts/reg23_draft_docket_09-005-R/reg23_draft_docket_09-005-R.htm.

Oral and written comments will be accepted at the hearings, but written comments are preferred in the interest of accuracy. In addition, written and electronic mail comments will be considered if received no later than 4:30 p.m. November 13, 2009. Written comments should be delivered or mailed to: Doug Szenher, public information coordinator, POA Division, Arkansas Department of Environmental Quality, 5301 Northshore Drive, North Little Rock, AR 72118. Electronic mail comments should be sent to: reg-comment@adeq.state.ar.us.

directly to another petroleum refinery. The proposal would also add "gasification" to the list of already recognized petroleum refinery processes into which oil-bearing hazardous secondary materials can be legitimately recycled, and add a definition for the term "gasification."

(B) **National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments.** 73 FR 18970-18984, April 8, 2008. This federal revision finalized amendments to the October 12, 2005 rule - National Emission Standards for Hazardous Air Pollutants (NESHAP): Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II Standards). It clarifies specific compliance monitoring provisions and corrects typographical errors and omissions in the earlier federal rule. This is an amendment to the Hazardous Waste Combustor Maximum Achievable Control Technology (HWC MACT) requirements previously adopted by the Commission, which are neither more nor less stringent than existing requirements, in that it makes explicit the requirement to carry out risk assessments and the imposition of permit conditions necessary to ensure protection of human health and the environment available under provisions of the RCRA omnibus authority and its implementing regulations (Regulation No. 23 § 270.32(b)).

(C) **Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019.** 73 FR 31768, June 4, 2008. This federal revision amends the F019 waste listing to exempt the wastewater treatment sludge generated from zinc phosphating processes used in automobile assembly, provided the wastes are not placed outside on the land prior to shipment to a landfill for disposal and the waste is disposed in a landfill unit subject to certain liner requirements. Wastes that meet these conditions will be exempted from the listing from their point of generation, and will not be subject to any RCRA Subtitle C management requirements for generation, storage, transport, treatment, or disposal. Generators will be required to maintain records on site to show that their waste meets the conditions of this listing.

(D) **Standards Applicable to Generators of Hazardous Waste; Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities Formally Affiliated with Colleges and Universities;** (73 FR 72954-72960), December 1, 2008. This Federal revision establishes an alternative set of generator requirements applicable to laboratories owned by universities and eligible teaching hospitals to address the specific nature of hazardous waste generation and accumulation in these laboratories.

Two Federal revisions promulgated during the window addressed in this update have not been included in this petition. These are (1) **Revisions to the Definition of Solid Waste.** 73 FR 64667-64716, October 30, 2008, also known as the

BEFORE THE ARKANSAS POLLUTION CONTROL AND ECOLOGY
COMMISSION

IN THE MATTER OF AMENDMENTS TO)
REGULATION NO. 23, HAZARDOUS)
WASTE MANAGEMENT)

DOCKET NO. 09-005-R

PETITION TO INITIATE RULEMAKING TO AMEND REGULATION NO. 23,
HAZARDOUS WASTE MANAGEMENT

The Arkansas Department of Environmental Quality (hereinafter "ADEQ" or the "Department"), for its Petition to Initiate Rulemaking to Amend Regulation No. 23, Hazardous Waste Management, states.

1. The U.S. Environmental Protection Agency has promulgated specific changes to the hazardous waste management regulations (40 CFR Parts 260-279) published in the *Federal Register* between December 31, 2007, and June 30, 2009, which affect the hazardous waste management program implemented by the Department pursuant to the Hazardous Waste Management Act and the Commission's Regulation No. 23 (Hazardous Waste Management).
2. Specific regulatory amendments to the federal hazardous waste management program which are proposed for incorporation into Regulation No. 23 include the following *Federal Register* notices

(A) **Regulation of Oil-Bearing Hazardous Secondary Materials From the Petroleum Refining Industry Processed in a Gasification System to Produce Synthesis Gas** 73 FR 57, January 2, 2008. This federal revision amends an existing exclusion from the definition of solid waste that applies to oil-bearing hazardous secondary materials generated at a petroleum refinery when these materials are recycled by inserting them back into the petroleum refining process and certain other conditions are met. The exclusion allows these materials to be inserted into the same petroleum refinery where they are generated, or sent

conditions are met, as published in **Hazardous Waste Management System: Modification of the Hazardous Waste Program: Cathode Ray Tubes: 71 FR 42947-42949, July 28, 2006**. This exemption will create an additional option for and streamline management requirements for recycling used CRTs and glass removed from CRTs, and is intended to encourage the recycling and reuse of CRTs and CRT glass.

The missing provisions in Section 261 from these federal revisions, whose other components were adopted in the April 2008 update to Regulation No. 23, are re-promulgated in this petition for correction and incorporation into the Regulation.

3 The Department is proposing the following state-specific revisions to the state-specific provisions of Regulation No. 23:

(A) **Section 3(b)** is amended to reflect the updated window (through June 30, 2009) for Federal regulations adopted and/or incorporated by reference.

(B) **Section 6(v)** is removed and reserved, as the Department has implemented the Federal Uniform Manifest Rule and no longer sells or requires the use of a state-specific hazardous waste manifest.

(C) **Sections 260.20(d), (e), (f)(2), and 270.7(e)(2)(ii)** are revised to update revised citations to the Commission's Regulation No. 8, wherein the chapters and paragraphs were renumbered during its most recent revision in January, 2009.

(D) **Chapter 4** (Regulations Promulgated Pursuant to Act 479 of 1985) is removed and reserved, as these regulations have been moved to Regulation No. 30. **Section 25** (Fees on the Generation of Hazardous Waste) has been renumbered and moved to a new paragraph, **Section 6(aa)**.

4 Line-by-line details of the proposed revisions are listed at Exhibit "A."

5 *(Compliance with Act 143 of 2007 (formerly Executive Order 05-04))* The Act is not applicable to rules that are federally mandated, or that substantially codify existing state or federal laws (A.C.A. § 25-15-302(a)(2)). ADEQ determines that Act 143 of 2007 is

"Hazardous Secondary Materials rule," and (2) **Expansion of RCRA Comparable Fuel Exclusion** (73 FR 77953-78017, December 19, 2008). Both these rules were published in the closing days of the previous presidential administration and were subsequently challenged to the Environmental Appeals Board. EPA began a series of hearings in late June, 2009 to formulate an answer to the issues raised, determine whether the Hazardous Secondary Materials Rule should be modified or left in place, and is considering rescinding the expansion of the Comparable Fuels rule. ADEQ has opted to defer adoption and implementation of these revisions pending the resolution of EPA's review of these rules.

In the final copy of Regulation No. 23 filed for adoption by the Commission on April 25, 2008, the proposed revisions to Section 261 of the Regulation were mistakenly left out. This included components of four federal revisions which had been proposed for adoption at that time:

- **Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures ("Headworks Exemptions")**: 70 FR 57784-57785, October 4, 2005, which added an exemption for *de minimis* amounts of benzene and 2-ethoxyethanol in specific wastewaters;

- **Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Removal of Final Rule: 71 FR 35395-35396, June 20, 2006**. This federal revision amended Section 261, Appendix IX, Table 1 to remove a delisting decision for wastewater treatment sludges (F006 filter cake) generated by the Tokusen, USA facility in Conway, Faulkner County. Changes in the production operations at the facility invalidated the conditions of the delisting, and this delisting decision was withdrawn by EPA. (Tokusen USA has since applied for a new delisting of the wastewater treatment sludges from the revised process, and this petition is currently being reviewed by EPA Region 6 and ADEQ staff.)

- The revisions to Section 261 contained in **Hazardous Waste and Used Oil: Corrections to Errors in the Code of Federal Regulations: 71 FR 40258-40280, July 14, 2006**; which corrected certain omissions, typographical errors, misspellings, citations etc in the text of the federal regulations. These revisions do not create any new regulatory requirements.

- The conditional exemption for cathode ray tubes (CRTs) from the RCRA definition of solid waste if specific

not applicable to this proposed rule because the amendments to Regulation No. 23 included in this proposed rulemaking substantially codify existing state and federal regulations (Ark. Code of 1987, Ann., § 25-15-302(a)(2)(C)). An overview of the projected impact of each specific provision proposed for adoption in this regulation is included in the Economic Impact Environmental Benefit Analysis at Exhibit "D."

7. Clyde Rhodes, Chief, Hazardous Waste Division, will be available to answer questions concerning this proposed rulemaking. A version of the regulation showing the proposed changes is attached as Exhibit "A" and is hereby incorporated by reference. (Due to the size of Regulation No. 23, only the specific sections to be amended are addressed at Exhibit "A". These revisions will be incorporated in the whole of the Regulation at the completion of this rulemaking.) The Legislative Questionnaire for filing proposed rules and regulations with the Arkansas Legislative Council and Joint Interim Committee is attached at Exhibit "B." The Legislative Financial Impact Statement is attached at Exhibit "C." A statement concerning compliance with the provisions of Act 143 of 2007 is attached at Exhibit "D." A copy of the completed economic impact/environmental benefit analysis pursuant to Regulation No. 8 812 is attached at Exhibit "E." A copy of a regulatory flexibility analysis prepared pursuant to Executive Order 05-04 and Act 143 of 2007 is attached at Exhibit "F." A proposed Minute Order which initiates this request is attached at Exhibit "G."

WHEREFORE, the ADEQ requests that the Commission initiate the rulemaking process, adopt the proposed Minute Order, and promulgate the proposed amendments to Regulation No. 23 for public notice and comment.

Respectfully submitted,

J. Ryan Benefield, P.E.
Acting Chief, Hazardous Waste Division
Arkansas Department of Environmental Quality
(501) 682-0831

EXHIBIT A:

PROPOSED RULE CHANGES

**ARKANSAS POLLUTION CONTROL
AND ECOLOGY COMMISSION**



**REGULATION No. 23
HAZARDOUS WASTE MANAGEMENT**

INITIAL DRAFT

Presented to the Pollution Control and Ecology Commission
on
September 25, 2009

267-2	What is the relationship to interim status standards?	267-2	266-4	Management price for burning	266-4
267-3	How does this section affect an treatment hazard activity?	267-2	266-5	Permit standards for burning	266-5
Subsection B—General Facility Standards			266-6	Permit standards for burning	266-6
267-10	Does this subsection apply to me?	267-2	266-7	Standards to control organic emissions	266-7
267-11	What must I do to comply with this subsection?	267-2	266-8	Standards to control particulate matter	266-8
267-12	How do I calculate an abatement number?	267-2	266-9	Standards to control metals emissions	266-9
267-13	What are my waste analysis requirements?	267-3	266-10	Standards for direct transfer	266-10
267-14	What are my security requirements?	267-3	266-11	Standards for direct transfer	266-11
267-15	What are my general inspection requirements?	267-3	266-12	Standards for direct transfer	266-12
267-16	What are the requirements for managing ignitable, reactive, or incompatible waste?	267-3	266-13	Standards for direct transfer	266-13
267-17	What are the standards for conducting the location of my facility?	267-3	266-14	Standards for direct transfer	266-14
Subsection C—Preparation and Prevention			266-15	Standards for direct transfer	266-15
267-30	Does this section apply to me?	267-5	266-16	Standards for direct transfer	266-16
267-31	What are the design and operation standards?	267-5	266-17	Standards for direct transfer	266-17
267-32	What are the testing and maintenance requirements for the equipment?	267-5	266-18	Standards for direct transfer	266-18
267-33	What are the testing and maintenance requirements for the equipment?	267-5	266-19	Standards for direct transfer	266-19
267-34	When must personnel have access to communication equipment or an alarm system?	267-5	266-20	Standards for direct transfer	266-20
267-35	How do I ensure access for personnel and equipment during emergencies?	267-5	266-21	Standards for direct transfer	266-21
267-36	What arrangements must I make with local authorities for emergencies?	267-6	266-22	Standards for direct transfer	266-22
Subsection D—Contingency Plan and Emergency Procedures			266-23	Standards for direct transfer	266-23
267-58	Does this subsection apply to me?	267-6	266-24	Standards for direct transfer	266-24
267-59	What is the purpose of the contingency plan and how do I use it?	267-6	266-25	Standards for direct transfer	266-25
267-59	What must be in the contingency plan?	267-6	266-26	Standards for direct transfer	266-26
267-59	When must I amend the contingency plan?	267-7	266-27	Standards for direct transfer	266-27
267-59	What are the roles of the emergency coordinator?	267-7	266-28	Standards for direct transfer	266-28
267-59	What are the roles of the emergency coordinator?	267-7	266-29	Standards for direct transfer	266-29
267-59	What are the roles of the emergency coordinator?	267-7	266-30	Standards for direct transfer	266-30
267-59	What are the roles of the emergency coordinator?	267-7	266-31	Standards for direct transfer	266-31
267-59	What are the roles of the emergency coordinator?	267-7	266-32	Standards for direct transfer	266-32
267-59	What are the roles of the emergency coordinator?	267-7	266-33	Standards for direct transfer	266-33
267-59	What are the roles of the emergency coordinator?	267-7	266-34	Standards for direct transfer	266-34
267-59	What are the roles of the emergency coordinator?	267-7	266-35	Standards for direct transfer	266-35
267-59	What are the roles of the emergency coordinator?	267-7	266-36	Standards for direct transfer	266-36
267-59	What are the roles of the emergency coordinator?	267-7	266-37	Standards for direct transfer	266-37
267-59	What are the roles of the emergency coordinator?	267-7	266-38	Standards for direct transfer	266-38
267-59	What are the roles of the emergency coordinator?	267-7	266-39	Standards for direct transfer	266-39
267-59	What are the roles of the emergency coordinator?	267-7	266-40	Standards for direct transfer	266-40
267-59	What are the roles of the emergency coordinator?	267-7	266-41	Standards for direct transfer	266-41
267-59	What are the roles of the emergency coordinator?	267-7	266-42	Standards for direct transfer	266-42
267-59	What are the roles of the emergency coordinator?	267-7	266-43	Standards for direct transfer	266-43
267-59	What are the roles of the emergency coordinator?	267-7	266-44	Standards for direct transfer	266-44
267-59	What are the roles of the emergency coordinator?	267-7	266-45	Standards for direct transfer	266-45
267-59	What are the roles of the emergency coordinator?	267-7	266-46	Standards for direct transfer	266-46
267-59	What are the roles of the emergency coordinator?	267-7	266-47	Standards for direct transfer	266-47
267-59	What are the roles of the emergency coordinator?	267-7	266-48	Standards for direct transfer	266-48
267-59	What are the roles of the emergency coordinator?	267-7	266-49	Standards for direct transfer	266-49
267-59	What are the roles of the emergency coordinator?	267-7	266-50	Standards for direct transfer	266-50
267-59	What are the roles of the emergency coordinator?	267-7	266-51	Standards for direct transfer	266-51
267-59	What are the roles of the emergency coordinator?	267-7	266-52	Standards for direct transfer	266-52
267-59	What are the roles of the emergency coordinator?	267-7	266-53	Standards for direct transfer	266-53
267-59	What are the roles of the emergency coordinator?	267-7	266-54	Standards for direct transfer	266-54
267-59	What are the roles of the emergency coordinator?	267-7	266-55	Standards for direct transfer	266-55
267-59	What are the roles of the emergency coordinator?	267-7	266-56	Standards for direct transfer	266-56
267-59	What are the roles of the emergency coordinator?	267-7	266-57	Standards for direct transfer	266-57
267-59	What are the roles of the emergency coordinator?	267-7	266-58	Standards for direct transfer	266-58
267-59	What are the roles of the emergency coordinator?	267-7	266-59	Standards for direct transfer	266-59
267-59	What are the roles of the emergency coordinator?	267-7	266-60	Standards for direct transfer	266-60
267-59	What are the roles of the emergency coordinator?	267-7	266-61	Standards for direct transfer	266-61
267-59	What are the roles of the emergency coordinator?	267-7	266-62	Standards for direct transfer	266-62
267-59	What are the roles of the emergency coordinator?	267-7	266-63	Standards for direct transfer	266-63
267-59	What are the roles of the emergency coordinator?	267-7	266-64	Standards for direct transfer	266-64
267-59	What are the roles of the emergency coordinator?	267-7	266-65	Standards for direct transfer	266-65
267-59	What are the roles of the emergency coordinator?	267-7	266-66	Standards for direct transfer	266-66
267-59	What are the roles of the emergency coordinator?	267-7	266-67	Standards for direct transfer	266-67
267-59	What are the roles of the emergency coordinator?	267-7	266-68	Standards for direct transfer	266-68
267-59	What are the roles of the emergency coordinator?	267-7	266-69	Standards for direct transfer	266-69
267-59	What are the roles of the emergency coordinator?	267-7	266-70	Standards for direct transfer	266-70
267-59	What are the roles of the emergency coordinator?	267-7	266-71	Standards for direct transfer	266-71
267-59	What are the roles of the emergency coordinator?	267-7	266-72	Standards for direct transfer	266-72
267-59	What are the roles of the emergency coordinator?	267-7	266-73	Standards for direct transfer	266-73
267-59	What are the roles of the emergency coordinator?	267-7	266-74	Standards for direct transfer	266-74
267-59	What are the roles of the emergency coordinator?	267-7	266-75	Standards for direct transfer	266-75
267-59	What are the roles of the emergency coordinator?	267-7	266-76	Standards for direct transfer	266-76
267-59	What are the roles of the emergency coordinator?	267-7	266-77	Standards for direct transfer	266-77
267-59	What are the roles of the emergency coordinator?	267-7	266-78	Standards for direct transfer	266-78
267-59	What are the roles of the emergency coordinator?	267-7	266-79	Standards for direct transfer	266-79
267-59	What are the roles of the emergency coordinator?	267-7	266-80	Standards for direct transfer	266-80
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paragraph (ii) above for hazardous wastes excluded from inclusion in a facility's schedule of hazardous waste, or otherwise, as a generator pursuant to § 261.5(c)(1)-(6) of this regulation.

3. Section 260.10 is amended by adding in alphabetical order the definition of "classification", to read as follows:

§ 260.10 Definitions.

Classification. For the purpose of complying with Section 261.4(a)(1)(2)(D) of this regulation, classification is a process conducted in an enclosed device or system designed and operated to process petroleum feedstocks, including oil-bearing hazardous secondary materials through a series of high-temperature distillation, thermal decomposition, limited oxidation, and gas cleaning to yield a synthesis gas composed primarily of hydrogen and carbon monoxide gas.

4. Section 260.11(c)(2)(vi) is amended to read as follows:

§ 260.11 References.

(a) When used in Sections 260 through 268 and 278 of this regulation, the following publications are incorporated by reference: *****
 (c) *****
 (3) *****
 (vii) Method 112 dated September 1994 and in Update III (BR approved for Section 261, appendix IX and 40 CFR 228.30(d)).

5. Section 260.20 (d), (e), and (f)(2) are amended to read as follows:

§ 260.20 General.

 (d) If the Commission initiates rulemaking procedures in response to a third-party petition, or upon the written request of any interested person, the Commission shall cause notice of the proposed regulation to be given as provided by 40 CFR Regulation No. 8, § 8.601-803, and shall hold a public hearing as required by Regulation No. 8, § 8.601-803.
 § 8.601-803.

(e) The Commission shall direct the promulgation of a third-party rule to comply or provide portions of the rulemaking record required by Regulation No. 8, § 8.601-803.

8. K14. In all cases the promulgation of a third-party rule shall prepare a proposed Statement of Basis and Purpose and Economic Statement required by Regulation No. 8, § 8.601-803, for the Commission's review prior to its final rulemaking decision.
 (f) (1) Prior to the close of the public comment period, the Department shall state its position on any proposed third-party proposal to change regulations in writing for the record.
 (2) The Department shall prepare its own proposed Statement of Basis and Purpose and Economic Statement at the close of the public comment period pursuant to the guidelines of Regulation No. 8, § 8.601-803, and shall prepare a record of the public comment period and its response to the comments.
 (3) Upon consideration of the petitioner's and the Department's positions and proposed Statements of Basis and Purpose and Economic Statements, the Commission may issue its final ruling, or order whatever rulemaking proceedings it deems appropriate, giving due regard to the right of the public to fair notice as provided by this regulation and Regulation No. 8.

Section 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

5. Section 261.2 (c)(1)(X) is amended by revising the reference to "Table 1" to read "Table 1" (i.e., revise the letter "1" to be the number "1").

§ 261.2 Definition of Solid Waste.

 (c) *****
 (1) *****
 (i) Materials noted with an "X" in Column 1 of Table 1 are solid wastes when they are: *****

6. Section 261.3 is amended by revising paragraphs (a)(2)(iv)(A), (a)(2)(iv)(B), (a)(2)(iv)(D), (a)(2)(iv)(F) and (a)(2)(iv)(G) to read as follows:

261.3 Definition of hazardous waste.

(a) *****
 (2) *****
 (iv) *****

Provisions of APC&EC Regulation No. 23 (Hazardous Waste Management), dated April 25, 2008, are amended as itemized below:

Section 3. AMENDMENT AND UPDATE OF REGULATION NO. 23 (HAZARDOUS WASTE MANAGEMENT)

1. Section 3(b) is amended to read as follows:

(b) Incorporations by Reference. The regulations listed immediately below, promulgated by the U.S. Environmental Protection Agency, are hereby adopted as provisions of this Chapter as though set forth herein line for line and word for word with the exception that all references herein to "Administrator", "Regional Administrator", "Director", or "State Director" shall be considered references to the "Director of the Arkansas Department of Environmental Quality", and all references to the "U.S. Environmental Protection Agency" or "EPA" shall be considered references to the "Arkansas Department of Environmental Quality". All references elsewhere in this chapter to any of the following regulations shall constitute a reference to the regulation as herein adopted, and provided that the effective date of provisions adopted herein by reference as provisions of this Regulation shall be the date such provisions are specified as being effective by the Commission in its rulemaking and the effective date of the federal regulations adopted herein shall have no bearing on the effective date of any provisions of this Regulation.

Title 40 Code of Federal Regulations:

(1) Appendix IX of Part 261 (with the exception of delisting decisions for Arkansas companies; for analogous provisions, see Reg. 23 § 261 Appendix IX);
 (2) Appendix IX of Part 266; and
 (3) Subpart A of Part 124 with the following exceptions: 124.1, 124.2, 124.3(b), 124.3(d), 124.3(e), 124.4, 124.5(b), 124.5(e), 124.5(g), 124.6(b), 124.9, 124.10(a)(1)(i), 124.10(a)(1)(iv), 124.10(a)(1)(v), 124.12(a)(9), 124.14, 124.15, 124.16, 124.18, 124.19, and 124.21 (see also APC&EC Regulation No. 8 (Administrative Procedures) for analogous provisions as referenced in § 270 of this Regulation).

(4) All as adopted as final rules (including "interim final rules" and "technical amendments") published in the Federal Register by the U.S. Environmental Protection Agency on or before March 30, 2009.

Hazardous Waste Management), dated April 25, 2008, are amended as itemized below:

Section 6. Fees

2. Section 6 is amended by removing and reserving paragraph (v), and moving and renumbering the provisions formerly listed at Section 25, and redesignating it as paragraph (aa) to read as follows:

 (v) *****
 (aa) Fees on the Generation of Hazardous Waste
 (A) On or before April 1 of each year:
 (1) On or before April 1 of each year:
 (i) Every person who generated hazardous waste in Arkansas during the preceding calendar year, and every person who accepted for treatment, storage, or disposal in Arkansas during the preceding calendar year, hazardous waste generated outside the State shall report the total amount of such hazardous wastes generated or accepted to the Director on forms prescribed by the Department. (Note: for facilities subject to the Arkansas Annual Report of Hazardous Waste at §§ 262.41, 262.75, and/or 265.75, submission of the annual report on or before March 1 fulfills this reporting requirement.)
 (ii) Every person required to report wastes pursuant to subsection (a) above shall be assessed a fee, based upon the combined total of such wastes, except as exempted at paragraph (3) below, and billed by the Department in accordance with restricted waste generation to be paid to the Department on or before July 1 of each year. These fees shall be calculated and paid according to the following schedule:

Category	Amount	Annual Fee
1	0 to 29,999	\$ 0.00
2	30,000 to 99,999	\$ 750.00
3	100,000 to 199,999	\$ 1,500.00
4	200,000 to 299,999	\$ 3,000.00
5	300,000 to 399,999	\$ 5,000.00
6	400,000 to 499,999	\$ 7,500.00
7	500,000 and above	\$10,000.00

(iii) No fee shall be assessed pursuant to

ulate the weekly average concentration of these chemicals accurately. If the Director rejects the sampling and analysis plan or if the Director finds that the facility is not following the sampling and analysis plan, the Director shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected. or

(D) A discarded hazardous waste, commercial chemical product, or chemical intermediate listed in § 261.31 through 261.33, arising from de minimis losses of these materials

For purposes of this paragraph (a)(2)(iv)(D), de minimis losses are inadvertent releases to a wastewater treatment system including those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials), minor leaks of process equipment, storage tanks or containers; leaks from well maintained pump packings and seals; sample purging; relief device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinseate from empty containers or from containers that are rendered empty by that rinsing. Any manufacturing facility that claims an exemption for de minimis quantities of wastes listed in subsection D of this section must either have eliminated the discharge of wastewaters or have included in its Clean Water Act permit application or submission to its pretreatment control authority the constituents for which each waste was listed (in Section 261, Appendix VII) of this Regulation; and the constituents in the table -- Treatment Standards for Hazardous Wastes -- in § 268.40 of this Regulation for which each waste has a treatment standard (i.e., Land Disposal Restriction constituents). A facility is eligible to claim the exemption once the permit writer or control authority has been notified of possible de minimis re-

leases via the Clean Water Act permit application or the pretreatment control authority submission. A copy of the Clean Water permit application or the submission to the pretreatment control authority must be placed in the facility's on-site files, or

(F) One or more of the following wastes listed in § 261.32 of this Regulation -- wastewaters from the production of carboxamides and carbonyl oximes (EPA Hazardous Waste No. K157) -- Provided that the maximum weekly usage of formaldehyde, methyl chloride, methylene chloride, and triethylamine (including all amounts that cannot be demonstrated to be recycled in the process, destroyed through treatment, or is recovered, i.e., what is discharged or volatilized) divided by the average weekly flow of process wastewater prior to any dilution into the headworks of the facility's wastewater treatment system does not exceed a total of 5 parts per million by weight OR the total measured concentration of these chemicals entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act, as amended, at 40 CFR Parts 60, 61, or 63, or at facilities subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions), does not exceed 1 part per million on an average weekly basis. Any facility that uses benzene as a solvent and claims this exemption must use an accredited biological wastewater treatment system and must use only lined storage impoundments or tanks prior to secondary clarification in the wastewater treatment system. Facilities that choose to measure concentrations levels must file a copy of their sampling and analysis plan with the Director, as the context requires, or an authorized representative ("Director" as defined in § 270.2 of this Regulation). A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once they receive confirmation that the sampling and analysis plan has been received by the Director. The Director may reject the sampling and analysis plan if he/she finds that the sampling and analysis plan fails to include the above information, or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Director rejects the sampling and analy-

sis plan or if the Director finds that the facility is not following the sampling and analysis plan, the Director shall notify the facility to cease the use of the direct monitoring option until such time as the bases for rejection are corrected, or

(B) One or more of the following spent solvents listed in § 261.31 -- methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, ortho-xylene, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents, 2-ethoxyethanol, or the scrubber waters derived from the combustion of these spent solvents -- Provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed 25 parts per million. OR the total measured concentration of these solvents entering the headworks of the facility's wastewater treatment system (at facilities subject to regulation under the Clean Air Act, as amended, at 40 CFR parts 60, 61, or 63, or at facilities subject to an enforceable limit in a federal operating permit that minimizes fugitive emissions), does not exceed 25 parts per million on an average weekly basis. Facilities that choose to measure concentration levels must file a copy of their sampling and analysis plan with the Director or an authorized representative ("Director" as defined in § 270.2). A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once they receive confirmation that the sampling and analysis plan has been received by the Director. The Director may reject the sampling and analysis plan if he/she finds that the sampling and analysis plan fails to include the above information, or the plan parameters would not enable the facility to calcu-

of compliance with any condition, it may apply to the Director for reinstatement. The Director may reinstate the exclusion upon finding that the plant has returned to compliance with all conditions and that the violations are not likely to recur.

(12)(y) Oil-bearing hazardous secondary materials (i.e., sludges, byproducts, or spent materials) that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911—including, but not limited to, distillation, catalytic cracking, fractionation, **gasification** as defined in § 260.10) or thermal cracking units (i.e., cokers) unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this paragraph, provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery, and still be excluded under this provision. Except as provided in paragraph (a)(12)(i) of this section, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this section. Residuals generated from processing or recycling materials excluded under this paragraph (a)(12)(x), where such materials as generated would have otherwise met a listing under Subsection D of this Section, are designated as F037 listed wastes when disposed or intended for disposal.

(a) ***
(2) Lined cathodic tank tubes (CRTs)

(i) Lined CRTs as defined in § 260.10 of this regulation are not solid wastes within the United States unless they are disposed of, unless they are specifically listed, accumulated, as defined in § 261.11(c)(1)(b), CRT collectors or class processes.

(ii) Lined CRTs as defined in § 260.10 of this regulation are not solid wastes when exported for recycling provided that they meet the requirements of Sec. 261.46.

(iii) Used, broken CRTs as defined in § 260.10 of this regulation are not solid wastes provided that they meet the requirements of § 261.39.

(iv) Glass removed from CRTs is not a solid waste provided that it meets the requirements of § 261.39(c).

(b) ***
(6) ***
(f) ***
Specific wastes which

meet the standard in paragraphs (b)(6)(i) (A), (B), and (C) (so long as they do not fail the test for the toxicity characteristic for any other constituent) and do not exhibit any other characteristics are:

(D) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: Hair pulp, chrome tan/retan/wet finish, hair save, chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and steaming.

(E) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: Hair pulp chrome tan/retan/wet finish, hair save, chrome tan/retan/wet finish, retan/wet finish, and through-the-blue.

(9) Solid waste which consists of discarded arsenical-treated wood or wood products which fails the test for the Toxicity Characteristic for Hazardous Waste Codes D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

(15) After November 21, 2003, leachate or gas condensate from K176, K177, and K178 is no longer exempt if stored or managed in surface impoundment prior to discharge. After February 26, 2007, leachate or gas

(e) ***
(2) ***
(vi) The generator reports the information required under paragraph (e)(2)(v)(C) of this section in its annual report.

(9) The facility prepares and submits a report to the Director by March 15 of each year, that includes the following information for the previous calendar year:

8. Section 261.5 is amended by removing the period at the end of paragraph (c)(6) and adding in its place a semicolon.

sters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Director rejects the sampling and analysis plan or if the Director finds that the facility is not following the sampling and analysis plan, the Director shall notify the facility to cease the use of the direct monitoring option until such time as the basis for rejection are corrected.

(G) Wastewaters derived from the treatment of one or more of the following wastes listed in § 261.32 of this Regulation – organic waste (including heavy ends, still bottoms, light ends, spent solvents, filtrates, and decantates) from the production of carbonates and carbonyl oxides (EPA Hazardous Waste No. K156).—Provided, that the maximum concentration of formaldehyde, methyl chloride, methylene chloride, and triethylamine prior to any dilutions into the headworks of the facility's wastewater treatment system does not exceed a total of 5 milligrams per liter OR the total measured concentration of these chemicals entering the headworks of the facility's wastewater treatment system at facilities subject to regulation under the Clean Air Act as amended, at 40 CFR Parts 60, 61, or 63, or at facilities subject to an enforceable limit in a local operating permit that minimizes fugitive emissions, does not exceed 5 milligrams per liter on an average weekly basis. Facilities that choose to measure concentration levels must file the copy of their sampling and analysis plan with the Director, as the context requires, or an authorized representative ("Director") as defined in § 260.21. A facility must file a copy of a revised sampling and analysis plan only if the initial plan is rendered inaccurate by changes in the facility's operations. The sampling and analysis plan must include the monitoring point location (headworks), the sampling frequency and methodology, and a list of constituents to be monitored. A facility is eligible for the direct monitoring option once they receive confirmation that the sampling and analysis plan has been accepted by the Director. The Director may reject the sampling and analysis plan if he/she finds that the sampling and analysis plan fails to include the

above information, or the plan parameters would not enable the facility to calculate the weekly average concentration of these chemicals accurately. If the Director rejects the sampling and analysis plan or if the Director finds that the facility is not following the sampling and analysis plan, the Director shall notify the facility to cease the use of the direct monitoring option until such time as the basis for rejection are corrected.

7. Section 261.4 is revised as follows:

- a. In paragraph (a)(9)(iii)(E) to read as follows:
- b. by revising paragraph (a)(12)(i) to read as follows:
- c. Adding a new paragraph (a)(22), to read as follows:
- d. In paragraph (b)(6)(ii) introductory text, revise "Specific waste" to read "Specific wastes";
- e. In paragraph (b)(6)(iii)(D), revise "chrome" to read "chrome";
- f. In paragraph (b)(6)(ii)(F), revise "sludges" to read "sludges", and revise the word "chrometian" to read "chrome hat";
- g. In paragraph (b)(9), revise "and wood product" to read "and wood product";
- h. Amend paragraph (b)(15)(v) by changing "As of" to read "After";
- i. In paragraph (e)(2)(v), revise the citation "(e)(v)(C)" to read "(e)(2)(v)(C)";
- j. In paragraph (f)(9) introductory text to read as follows:

§ 261.4 Exclusions.

(a) ***
(9) ***
(iii) ***

(E) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records.

and closure of the facility. The exclusion applies so long as the plant meets all of the conditions. If the plant goes out

be determined at atmospheric temperature and pressure.

The method of sampling and test procedures shall be acceptable to the Bureau of Explosives and approved by the Director, Pipeline and Hazardous Materials Technology, U.S. Department of Transportation (see Note 2).

(B) Using the Bureau of Explosives' Flame Protection Apparatus (see Note 1), the flame protects more than 18 inches beyond the ignition source with valve opened fully, or the flame flashes back and burns at the valve with any degree of valve opening.

(C) Using the Bureau of Explosives' Open Drum Apparatus (see Note 1), there is any significant propagation of flame away from the ignition source.

(D) Using the Bureau of Explosives' Closed Drum Apparatus (see Note 1), there is any explosion in the vapor-air mixture in the drum.

(4) It is an oxidizer. An oxidizer for the purpose of this subchapter is a substance such as a chlorate, permanganate, inorganic peroxide, or a nitrate, that yields oxygen readily to stimulate the combustion of organic matter (see Note 3).

(b) An organic compound containing the bivalent -O-O- structure, and which may be considered a derivative of hydrogen peroxide where one or more of the hydrogen atoms have been replaced by organic radicals must be classed as an organic peroxide unless:

(A) The material meets the definition of a Class A explosive or a Class B explosive, as defined in § 261.23 (a)(8), in which case it must be classed as an explosive. (B) The material is forbidden to be offered for transportation according to 49 CFR 172.101 and 49 CFR 173.21. (C) It is determined that the predominant hazard of the material containing an organic peroxide is other than that of an organic peroxide, or (D) According to data on file with the Pipeline and Hazardous Materials Safety Administration in the U.S. Department of Transportation (see Note 3), it has been determined that the material does not present a hazard in transportation.

NOTE 1: A description of the Bureau of Explosives' Flame Protection Apparatus, Open Drum Apparatus, Closed Drum Apparatus, and method of use may be obtained from the

Bureau of Explosives.
NOTE 2: At the office of the U.S. Department of Transportation (DOT), Transportation, the Office of Hazardous Materials Technology (OHMT), which was the office listed in the 1996 edition of 49 CFR 173.209 for the purposes of approval, sampling and test procedures for a flammable gas, was succeeded on February 20, 2005. OHMT programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

NOTE 3: At the office of the U.S. Department of Transportation (DOT), Transportation, the Research and Special Programs Administration (RSPA), which was the office listed in the 1996 edition of 49 CFR 173.213 for the purposes of determining that a material does not present a hazard in transportation, was succeeded on February 20, 2005. RSPA programs have moved to the Pipeline and Hazardous Materials Safety Administration (PHMSA) in the DOT.

NOTE 4: The DOT's definition of an oxidizer was contained in § 173.151 of 49 CFR, and the definition of an organic peroxide was contained in paragraph 173.151m. An organic peroxide is a type of oxidizer.

12. In Section 261.24, amend paragraph (b) by revising the reference to "Table 1" to read "Table 1" (i.e., replace the letter "1" with the number "1").

§ 261.24 Toxicity characteristic.

(b) A solid waste that exhibits the characteristic of toxicity has the EPA Hazardous Waste Number specified in Table 1, which corresponds to the toxic contaminant causing it to be hazardous.

13. Section 261.31 is amended as follows:

a. In the table in paragraph (a) by revising the entry for F019:

F019 Wastewater treatment sludges from the chemical conversion coating of aluminum except from zinc/iron phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process. Waste water treatment sludges from the manufacturing of motor vehicles. Waste water treatment sludges from the manufacturing of motor vehicles. The point of generation if the waste are not released outside on the land prior to shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill and that is equipped with a static electric liner and is permitted, licensed or otherwise authorized by the state, or disposed in a landfill unit subject to, or otherwise meeting the landfill requirements in § 258.40, § 254.201 or § 255.201. For the purpose of this listing, motor vehicle manufacturing is defined in paragraph (b)(4)(ii) of this section and (b)(4)(iii) of this section describes the recordkeeping requirements for motor vehicle manufacturing facilities.

b. Amend the Table in § 261.31 (a) by adding a footnote at the bottom to read as follows: "(17) should be used to specify mixtures that are ignitable and contain toxic constituents."

c. By adding paragraph (b)(4).

and by adding paragraph (c)(7) to read as follows:

§ 261.5 Special requirements for hazardous waste generated by conditionally exempt small quantity generators.

(c) ***
(7) Is a hazardous waste that is an unused commercial chemical product (Section 261.10, subsection D or exhibiting one or more characteristics in Section 261, subsection C of this regulation) that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity pursuant to § 262.213. For purposes of this provision, the term "eligible academic entity" shall have the meaning as defined in § 262.200 of Section 262.

9. Section 261.6 is amended as follows:

a. In paragraph (a)(2)(ii), remove the parenthetical phrase "(subsection C)" and add "(Section 266, subsection C)" in its place;
b. In paragraph (a)(2)(iii), remove the parenthetical phrase "(subsection H)" and add "(Section 266, subsection H)" in its place;
c. In paragraph (a)(2)(iv), remove the parenthetical phrase "(subsection F)" and add "(Section 266, subsection F)" in its place;
d. In paragraph (a)(2)(v), remove the parenthetical phrase "(subsection G)" and add "(Section 266, Subsection G)" in its place;
e. In paragraph (c)(2), revise the word "recycled" to read "recycled".

§ 261.6 Requirements for recyclable materials.

(a) ***
(2) ***
(i) Recyclable materials used in a manner constituting disposal of a hazardous waste (Section 266, subsection C).
(ii) Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under subsection O of section 264 or 265 of this regulation (Section 266, subsection H).
(iii) Recyclable materials from which precious metals are reclaimed (Section 266, subsection D).
(iv) Spent lead-acid batteries that are being reclaimed (Section 266, subsection C).

(c) ***

(2) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in paragraph (a) of this section:

10. Section 261.7(a)(1) is revised to read as follows.

§ 261.7 Residues of hazardous waste in empty containers.

(a)(1) Any hazardous waste remaining in either (i) an empty container; or (ii) an inner liner removed from an empty container, as defined in paragraph (b) of this section, is not subject to regulation under sections 261 through 265, 267, 268, 270 of this Regulation or 40 CFR 274, or to the notification requirements of section 1010 of RCRA.

11. Section 261.21 is amended by revising paragraphs (a)(3) and (a)(4) and adding notes 1 through 4 in the end of the section to read as follows:

§ 261.21 Characteristic of ignitability.

(a) ***
(3) It is an ignitable compressed gas.
(i) The term "compressed gas" shall designate any material or mixture having in the container an absolute pressure exceeding 40 p.s.i. at 70 degrees F. or, regardless of the pressure at 70 degrees F., having an absolute pressure exceeding 104 p.s.i. at 30 degrees F. or any liquid flammable material having a vapor pressure exceeding 40 p.s.i. absolute at 100 degrees F. as determined by ASTM Test D-372.
(ii) A compressed gas shall be characterized as ignitable if any one of the following occurs:
(A) Either a mixture of 1.3 percent or less (by volume) with air forms a flammable mixture or the flammable range with air is wider than 12 percent regardless of the lower limit. These limits shall

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TENTATIVE AGENDA
LEGISLATIVE TASK FORCE ON SICKLE CELL DISEASE

Wednesday, March 17, 2010
10:00 a.m.
Room 272
State Capitol
Little Rock, Arkansas

- A. Call to Order
- B. Comments by Chairman, Mr. Germaine Johnson
- C. Consideration to approve Minutes of January 20, 2010

Report on Annual Sickle Cell Disease Symposium

- E. Requested information on sickle cell outpatient visits (12/18/09 meeting)
- Ms. Kimberly Hayman
- F. Report of Strategic Plan Focus Groups:
 - 1. Evidence-based clinical care - Dr. David Becton
 - 2. Education - Ms. Kimberly Hayman
 - 3. Supportive services - Mr. Germaine Johnson
 - 4. Registry - Dr. Bob West
 - 5. Research infrastructure - Mr. David Deere
 - 6. Marketing - Ms. Robin Lockhart

Other Business

- H. Adjournment
-

?? Discussion on palliative care for patients and families - Dr. Becton was to meet with Dr. Laura Hutchins, Dr. Jo Ann Wood and Dr. Sarah Harrington prior to the February meeting. (He asked, during the December meeting, that they be invited to the January or February meeting.)

?? Requested information on needs of sickle cell patients and families (12/18/09 meeting)

Ms. Angela Mull, Sickle Cell Specialty Nurse, Arkansas Children's Hospital ?
Dr. Becton's 1/20/10 email asked if he could invite Ms. Mull to an upcoming meeting)

Hematologist - (11/18/09 mtg) - Dr. Becton advised that a local adult hematologist expressed an interest in speaking with the Task Force and you advised you would give Dr. Becton contact info. for a physician that treats sickle cell patients. Is this a pending agenda topic?

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