

Document No. \_\_\_\_\_  
**DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**  
**CHAPTER 61**

Statutory Authority: S.C. Code Ann. Section 44-56-10 *et seq.*

R. 61-79 Hazardous Waste Management Regulations

**Preamble:**

1. The U.S. Environmental Protection Agency (EPA) promulgated amendments to 40 CFR 260, 261, 264, and 266 during the previous calendar year. Recent federal amendments affect three Final Rules promulgated between July 1, 2007 and June 30, 2008. The adoption of these three rules is optional to states. The Department proposes to amend R.61-79 to adopt these three rules to maintain conformity with federal regulations. These amendments will be less stringent than the previous federal equivalent and will modify the current state regulations. Legislative review of the three rules is required because, while the changes in these rules will not make South Carolina less stringent than federal initiatives, the changes will be less stringent than current South Carolina regulations. The three rules proposed for adoption are as follows:

Rule (1) The Regulation of Oil-Bearing Hazardous Secondary Materials Processed in a Gasification System to Produce Synthesis Gas. This rule was published in the *Federal Register* at 73 FR 57 on January 2, 2008. See Discussion of changes below and the Statement of Need and Reasonableness herein.

Rule (2) National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments (NESHAP): Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II). This amendment was published in the *Federal Register* at 73 FR 18970 on April 8, 2008. See Discussion of changes below and the Statement of Need and Reasonableness herein.

Rule (3) Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019. This amendment was published in the *Federal Register* at 73 FR 31756 on June 4, 2008. See Discussion of changes below and the Statement of Need and Reasonableness herein.

2. Site Specific Inspection Checklist: The Department is also proposing to amend R.61-79 to reinsert a state requirement under R.61-79.270 Subpart B Permit Application, at 270.10 - General Application Requirements pursuant to 40 CFR 270. This regulation requires a site-specific inspection checklist for use in compliance inspections. See Discussion of changes below and the Statement of Need and Reasonableness herein.

3. The Federal Manifest System (FMS), for shipping of hazardous waste. The FMS was adopted by South Carolina on June 27, 2007, pursuant to 40 CFR 262 which requires a national manifest for shipping hazardous waste. The Department is also proposing to amend section 262 of R.61-79 by removing the reference to the *Federal Register* for the specifics of the manifest instructions and replacing it with the actual federal language of the requirements for obtaining and filing official copies of the national manifest. See Discussion of changes below and the Statement of Need and Reasonableness herein.

A Notice of Drafting initiating the statutory process to amend R.61-79 was published in the *State Register* on November 28, 2008. Notice was also published on the Department's Regulatory Information Internet site in its monthly *DHEC Regulation Development Update*, as well as on the DHEC Land and Waste Management Internet site.

## Section-by-Section Discussion of Proposed Revisions

R.61-79.

260.10 Definitions. Add in alphabetical order the definition of “Gasification” to provide a definition for the process of regulating oil-bearing hazardous secondary materials in the petroleum refining industry to produce synthesis gas.

261.4 - Revise 261.4(a)(12)(i) by adding gasification in alphabetical order to the list of Exclusions under the Identification and listing of hazardous waste section that starts with the words: “...including, but not limited to, distillation, catalytic cracking, fractionation, gasification (as defined in 40 CFR 260.10) thermal cracking units (i.e., cokers)...”

261.31(a)/Table - Amend (a)/Table by revising the entry for F019. This is a table of hazardous waste from nonspecific sources.

261.31(b)(4) - Add paragraph (b)(4) and (b)(4)(i)-(ii) - to establish the requirements for the F019 listing of wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process. 261.31(b)(4)(i) is added to clarify the definition of motor vehicle manufacturing for the purposes of the F019 exclusion. 261.31(b)(4)(ii) is added to clarify record keeping requirements and retention schedules in the F019 rule.

262.21 Introductory paragraph remains. Remove “Reserved status” for (a) through (f). Remove 262.21 Note. Add sections 262.21(a)-(f) to provide specific information on filling out a manifest. (g) remains the same. Add (h) through (m). This rule on the national Manifest has already been adopted into the SC regulations but the specific instructions that were referenced in the *Federal Register* are being added to the regulation verbatim to aid inspectors in the field rather than referencing the *Federal Register* that finalized this rule.

264.340(b)(1) and (3) and (5) - Revise paragraphs (b)(1) and (b)(3) to clarify several compliance and monitoring provisions and to correct omissions in the NESHAP rule promulgated October, 2005. Remove paragraph (b)(5) to avoid duplication. Since paragraph (b)(5) is removed, the language in (b)(1) must be changed to reflect the deletion of paragraph (b)(5). Language is added to (b)(3) for clarification. Sections (b)(2) and (b)(4) remain the same.

266.100(b)(3)(ii) Redesignate the second paragraph (b)(3)(ii) as (b)(3)(iii) to correct a typographical error.

270.10(m) Insert a State specific inspection checklist. This checklist requirement was overwritten by a federal requirement under the NESHAP rule adopted in June 2007, effectively deleting the state required checklist. The requirement for the checklist is being put back into the regulations for inspectors. It was originally at 270.10(l) but since there is now a federal requirement at 270.10(l), the checklist will be reinserted at 270.10(m)

### **Notice of Staff Informational Forum and Public Comment Period Pursuant to S.C. Code Ann. Section 1-23-110:**

Staff of the Department of Health and Environmental Control invites interested members of the public and regulated community to attend a staff conducted informational forum to be held on Tuesday, August 25, 2009, at 10:00 a.m. in Room 1041 at the Stern Building at 8911 Farrow Road Suite 106. The purpose

of the forum is to answer questions and to receive public comments from interested persons on the proposed amendment of R.61-79.

Interested persons are also provided an opportunity to submit written comments on the proposed regulation at the forum or during a public comment period by writing to Richard Haynes, Director, Division of Waste Management, 2600 Bull Street, Columbia, SC 29201. To be considered, written comments must be received no later than 5:00 p.m. on August 25, 2009, the close of the public comment period. Comments received by the deadline date shall be considered by staff in formulating the final proposed regulation for public hearing before the Board as noticed below.

Information or copies of the proposed text for public notice and comment may be obtained at the Department's *Regulation Development Update* under the Land and Waste Category at <http://www.scdhec.gov/regulatory.htm>, or at the Land and Waste website at: <http://www.scdhec.gov/lwm/html/public.html> or by calling Carolyn McLaughlin at (803) 896-4254.

Relevant public comments received at the Forum and during the public comment period above-noticed shall be submitted to the Board of Health and Environmental Control in a Summary of Public Comments and Department Responses for consideration at the public hearing as noticed below.

**Notice of Public Hearing and Opportunity for Public Comment Pursuant to S.C. Code Sections 1-23-110 and 1-23-111:**

Interested members of the public and regulated community are invited to make oral or written comments on the proposed amendment of R.61-79 at a public hearing to be conducted by the Board of Health and Environmental Control at its regularly scheduled meeting on October 8, 2009. The public hearing will be held in the Board Room of the Commissioner's Suite, Third Floor, Aycock Building of the Department of Health and Environmental Control at 2600 Bull Street, Columbia, S.C. The Board meeting commences at 10:00 a.m. at which time the Board will consider items on its agenda in the order presented. The Board's agenda will be published by the Department 24 hours in advance of the meeting. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes and, as a courtesy, are asked to provide written comments of their presentations for the record.

**Preliminary Fiscal Impact Statement:**

There will be minimal cost to the state and its political subdivisions. See Statement of Need and Reasonableness below.

**Statement of Need and Reasonableness:**

This Statement of Need and Reasonableness complies with SC Code Ann. Section 1-23-115(c)(1)-(3) and (9)-(11)

DESCRIPTION OF REGULATION: Proposed amendment of R.61-79, Hazardous Waste Management Regulations.

Purpose: The purpose of this amendment is to maintain State consistency with regulations of the United States Environmental Protection Agency (EPA), which promulgated amendments to 40 CFR 260 through 266, between July 1, 2007 and June 30 2008. The Department also proposes to reinsert a State required checklist for use by inspectors and verbatim instructions for the use of a national manifest, replacing the reference to the *Federal Register* that provided the instructions.

Legal Authority: South Carolina Hazardous Waste Management Act, 1976 S. C. Code Ann. Section 44-56-10, *et seq.*.

Plan for Implementation: Upon final approval by the Board of Health and Environmental Control, approval by the South Carolina General Assembly and publication in the *State Register* as a final regulation, amended regulations will be provided in hard copy and electronic formats to the community at cost through the Department's Freedom of Information Office and at the Bureau web site.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION  
BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

1. The U.S. EPA promulgated amendments to 40 CFR 260, 261, 264 and 266 during the previous calendar year. Recent federal amendments affect three Final Rules promulgated between July 1, 2007 and June 30, 2008. The adoption of these three rules is optional to states. The Department proposes to amend R.61-79 to adopt these three rules to maintain conformity with federal regulations. The new rules will be less stringent than current state regulation. The determination of need and reasonableness for the three rules is as follows:

Rule (1). The Regulation of Oil-Bearing Hazardous Secondary Materials Processed in a Gasification System to Produce Synthesis Gas. This was published in the *Federal Register* at 73 FR 57 on January 2, 2008. EPA amended an existing exclusion from the definition of solid waste for oil-bearing hazardous secondary materials when they are processed in a gasification system at a petroleum refinery for the production of synthesis gas. The rationale behind the rule is to capture as much energy from a barrel of oil as possible to maximize production efficiencies at petroleum refineries in an energy-constrained world. The final rule revises this exclusion to add gasification to the list of recognized petroleum refinery processes into which oil-bearing hazardous secondary materials can be legitimately recycled.

Rule (2). National Emission Standards for Hazardous Air Pollutants: Standards for Hazardous Waste Combustors; Amendments (NESHAP): Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II). This amendment was published in the *Federal Register* at 73 FR 18970 on April 8, 2008. This rule amends the federal National Emission Standards for Hazardous Air Pollutants (NESHAP) final rule for typographical errors and clarification of compliance monitoring provisions and finalizes amendments to NESHAP. EPA is finalizing amendments to NESHAP for hazardous waste combustors, which EPA promulgated on October 12, 2005 and SC adopted in June 2007. The amendments in this rule to the October 2005 final rule are designed to clarify several compliance and monitoring provisions and correct several omissions and typographical errors in the final rule. This amendment is to finalize the amendments to facilitate compliance and improve understanding of the first rule requirements.

Rule (3). Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019. This amendment was published in the *Federal Register* at 73 FR 31756 on June 4, 2008. EPA is amending the list of hazardous wastes from non-specific sources (F-wastes) by modifying the scope of the Hazardous Waste F019 listing to exempt wastewater treatment sludges from zinc phosphating when such phosphating is used in the motor vehicle manufacturing process, provided the wastes are not placed outside on the land prior to shipment to a landfill for disposal and the wastes are placed in landfill units that have specified liners. 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 the waste meets the conditions of the listing.

2. Site Specific Inspection Checklist: A state developed checklist for inspectors was overwritten by a federal NESHAP rule. The State intends to reinsert the checklist requirements into the regulation to assist with compliance inspections. The location of the checklist will be at 270.10(m) since the federal provision was adopted at 270.10(l). This section will not introduce any new requirements, only replace a checklist that had previously been adopted and was overwritten by mistake.

3. The Federal Manifest System (FMS): The Manifest rule was adopted by the state to maintain federal compliance. The rule that was adopted into SC Hazardous Waste Management regulation changes the manifest process from a state initiative to a nationally standardized manifest. This rule was adopted to meet federal compliance and was not optional. The action in this package is to put the federal language into the state regulation verbatim instead of referencing the *Federal Register* in which the final rule was published. This will provide inspectors and the regulated community access to the requirements within the state regulations. No changes to the rule will be made.

#### DETERMINATION OF COSTS AND BENEFITS:

1. The U.S. EPA promulgated amendments to 40 CFR 260, 261, 264 and 266 during the previous calendar year. Recent federal amendments affect three Final Rules promulgated between July 1, 2007 and June 30, 2008. The adoption of these three rules is optional to states. The Department proposes to amend R.61-79 to adopt these three rules to maintain conformity with federal regulations. The new rules will be less stringent than current state regulation. The determination of costs and benefits for each rule is as follows:

Rule (1). Petroleum refinery-based gasification units are currently in limited use in the US but this rule is an effort to develop positive economic returns. The process will use oil-bearing hazardous secondary materials, which achieves the resource recovery goals of RCRA without jeopardizing human health and the environment. Gasification is a recognized petroleum refining process and ensures a more efficient processing of crude oil. The process enables the petroleum refining industry to maximize the production of fuels and other commodities from crude oil while minimizing the waste products by capturing as much energy from a barrel of oil as possible to maximize production efficiencies at petroleum refineries in an energy constrained world. According to EPA, the savings that could be realized by the implementation of this rule depends on the savings petroleum refineries would experience by diverting oil-bearing hazardous secondary materials to gasification, thus avoiding waste management costs, which is the most significant share of the benefits of the rule. The other two benefits would be the use of these materials as a feedstock in the gasification system and indirect third party costs resulting from the use of virgin fuel. By using oil-bearing hazardous secondary materials, less virgin fuel would be required to produce the same amount of usable fuel. Approximately 342,300 tons of oil bearing hazardous secondary materials are generated by 152 refineries that would qualify for the exclusion annually. Of this quantity, approximately 205,5000 tons are sent offsite for disposal or recycling. The remaining 118,800 tons are processed onsite. The estimate is that between 123,300 and 177,000 tons are likely to be excluded each year from the waste stream, representing approximately 38 to 55 percent of the material eligible for the exclusion. This could yield between \$46.4 million and 48.7 million a year in net social benefits per year according to the EPA. Avoided waste management costs make up the most significant share of the benefits of this rule.

Rule (2). This NESHAP rule is an amendment to the October 2005 final rule and clarifies several compliance and monitoring provisions and corrects several omissions and typographical errors in the final rule. This rule is to facilitate compliance and improve understanding of the rule. The rule being clarified was adopted into the SC Hazardous Waste Management regulation and made final in June 2008. Only two corrections are being made to the SC Hazardous Waste Management regulation. The other corrections all relate to the air regulations.

Rule (3). This rule is proposing an exemption of F019, which is a wastewater sludge, generated from zinc phosphating used in the automobile and light truck assembly process. The exemption is specific to the motor vehicle manufacturing industry that incorporates aluminum into vehicle parts and bodies for the purpose of making them lighter weight and thus more capable of increasing gas mileage. By removing the regulatory controls under RCRA, EPA is facilitating the use of aluminum in motor vehicles. The incorporation of aluminum helps the environment because lighter weight vehicles are capable of increased fuel economy and decreased exhaust air emissions. This exemption will not affect any other wastewater treatment sludges. The wastes cannot be placed outside on the land prior to shipment to a landfill for disposal and the waste must be disposed of in a landfill unit meeting certain liner requirements. The generator is also required to maintain records on site to show that the waste meets the conditions of the listing. Because the sludge would no longer require RCRA Subtitle C management, costs savings would be realized by generators of this waste.

2. Site Specific Inspection Checklist: This checklist provides facilities a self-inspection/audit tool that is reviewed and approved by the Department, increasing the likelihood of the facility being compliant with the regulations and permit requirements. This process streamlines the inspection process because each facility will know in advance what will be inspected and will make the process more efficient for both the facilities and the inspectors, saving each significant time. Each facility is different and best equipped to know about its facility. When the inspector comes, this checklist serves to save time and resources because the facility has the opportunity in advance to see if the facility meets the criteria set forth on the checklist.

3. The Federal Manifest System (FMS): This rule has already been adopted for federal compliance and the insertion of the verbatim language is for the convenience of inspectors. The SC Hazardous Waste Management Regulation referred to the language as published in the *Federal Register* but inserting the verbatim language saves inspectors time by having all the information in the regulation. This rule was not optional but this amendment should make the verifying of the requirements more efficient and thus, saving departmental resources during an inspection.

UNCERTAINTIES OF ESTIMATES: No known uncertainties.

#### EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

1. The U.S. EPA promulgated amendments to 40 CFR 260, 261, 264 and 266 during the previous calendar year. Recent federal amendments affect three Final Rules promulgated between July 1, 2007 and June 30, 2008. The adoption of these three rules is optional to states. The Department proposes to amend R.61-79 to adopt these three rules to maintain conformity with federal regulations. The new rules will be less stringent than current state regulation. The effect on the environment for the three rules is as follows:

Rule (1). The gasification process provides refineries with the ability to recycle materials generated in the refining of crude oil and provides for the recovery of additional hydrocarbons, which could be considered as an additional process in crude oil refining as a production operation rather than a waste treatment process. This would get the most benefit out of crude oil while maintaining environmental protections. The intent of RCRA would be met in that it would recover benefits of wastewater sludges that would otherwise be waste that has to be treated prior to disposal. There would be less residual waste and more resource recovery from one barrel of oil.

Rule (2). The NESHAP rule is for clarification and corrections to a previously adopted rule. The adoption of this rule would make sure the original rule is written as intended to promote the achievement of NESHAP.

Rule (3) The F019 exemption from wastewater sludge generated in the auto and light truck assembly process would benefit the environment by allowing the use of aluminum in the production of cars and light trucks, making them lighter, more fuel efficient and ultimately promoting cleaner air. There are environmental controls that would prevent the waste from being stored or disposed of in landfills without proper liners and the generators would be required to document their handling of this wastewater treatment sludge.

2. Site Specific Inspection Checklist: This checklist has been a tool for inspectors since 1993 when the state specific requirement was inserted into the SC Hazardous Waste Management Regulation. It was inadvertently removed, taking away a useful tool for inspections that streamlines the inspection process for both the facility and the Department to assure the facility is in compliance with the requirements that have been deemed necessary to protect the environment.

3. The Federal Manifest System (FMS): This is a federally mandated rule that is already in the regulation but the adding of the verbatim language assists inspectors in the field to assure facilities are complying with the Federal Manifest System.

#### DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

1. The U.S. EPA promulgated amendments to 40 CFR 260, 261, 264 and 266 during the previous calendar year. Recent federal amendments affect three Final Rules promulgated between July 1, 2007 and June 30, 2008. The adoption of these three rules is optional to states. The Department proposes to amend R.61-79 to adopt these three rules to maintain conformity with federal regulations. The new rules will be less stringent than current state regulation. The detrimental effect on the environmental and public health if the regulations are not implemented is as follows:

Rule (1). If the gasification rule is not adopted, usable fuel from the wastewater sludges would be treated as waste and disposed of rather than extracting every bit of usable fuel out of a barrel of oil.

Rule (2). If the corrections to this previously adopted NESHAP rule is not adopted, there is room for misunderstanding of the intention of the original rule that is already part of the regulation, thus making a rule designed to protect the environment ineffective.

Rule (3). The exclusion of F019 as a waste treatment sludge makes it easier for the auto industry to use aluminum in the production of lighter weight autos and small trucks.

2. Site Specific Inspection Checklist: If this rule is not adopted, a tool that streamlines the inspection process and has been used since 1993 would no longer be available to inspectors, thus making the inspection process much more difficult and drawn out. The inspector would have to gather the information at the time of the inspection rather than having the facility as a partner in the inspection process.

3. The Federal Manifest System (FMS): This rule has already been adopted as part of the federally mandated Manifest System. If the verbatim language is not adopted, the inspection process is more complicated, leading to inspection oversights.

#### STATEMENT OF RATIONALE:

The three rules promulgated by EPA during the RCRA 18 time frame of July 2007 to June 2008 are all optional for the states to adopt. The Department has chosen to adopt all three because of the environmental benefits and protections. The gasification rule will potentially maximize the utilization of a barrel of oil in an oil stressed economy. The NESHAP rule is part of a previously adopted rule included for corrections and clarification of the earlier rule. The F019 waste exemption will promote a technology that could benefit the environment by providing a means to the auto industry to make more fuel-efficient vehicles. The auto industry has already expressed support for this rule.

The other two items in this package include the insertion of the specific language for use of the national manifest system, which serves as a useful tool for inspectors and the regulated community. The last item is the reinsertion of the state specific requirement for a checklist, which was overwritten by a federal NESHAP provision. The reinsertion will provide inspectors with a tool for evaluating facilities.

See Statement of Need and Reasonableness above.

**Text of Proposed Amendment for Public Comment:**

The following sections have been added, deleted, or revised. All other sections of R.61-79 will remain. Deleted text is indicated by ~~strikeout~~; new text is indicated by underlining.

**260.10 Definitions. Add in alphabetical order the following definition:**

“Gasification” For the purpose of complying with 40 CFR 261.4(a)(12)(i), gasification is a process, conducted in an enclosed device or system, designed and operated to process petroleum feedstock, including oil-bearing hazardous secondary materials through a series of highly controlled steps utilizing thermal decomposition, limited oxidation, and gas cleaning to yield a synthesis gas composed primarily of hydrogen and carbon monoxide gas.

**Revise 261.4(a)(12)(i) to include gasification alphabetically in the list of Exclusions under the Identification and listing of hazardous waste:**

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 40 CFR 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)(ii) of this section, ...

**261.31(a)/Table Amend paragraph (a) by revising table entry for F019 as follows:**

Industry and EPA hazardous waste No.	Hazardous waste	Hazard code

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F019.....	<p>Wastewater treatment sludges from the chemical conversion coating of aluminum except from zirconium phosphating in aluminum can washing when such phosphating is an exclusive conversion coating process.(revised 12/93) <u>Wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process will not be subject to this listing at the point of generation if the wastes are not placed outside on the land prior to shipment to a landfill for disposal and are either: disposed in a Subtitle D municipal or industrial landfill unit that is equipped with a single clay 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, 264.301 or 265.301. For the purposes of this listing, motor vehicle manufacturing is defined in paragraph (b)(4)(i) of this section and (b)(4)(ii) of this section describes the recordkeeping requirements for motor vehicle manufacturing facilities.</u></p>	(T)
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**261.31 Add paragraph (b)(4) and (4)(i)-(ii) to read as follows:**

(4) For the purposes of F019 listing, the following apply to wastewater treatment sludges from the manufacturing of motor vehicles using a zinc phosphating process.

(i) Motor vehicle manufacturing is defined to include the manufacture of automobiles and light trucks/utility vehicles. Facilities must be engaged in manufacturing complete vehicles or chassis only.

(ii) Generators must maintain records, to prove that the exempted sludges meet the conditions of the listing. Records must include: volume of waste generated and disposed off site; when the wastes were generated and sent off site; name and address of receiving facility; documentation confirming receipt. Generators must maintain these documents no less than three years. Retention period for documentation is automatically extended during an enforcement action or as requested by the Regional Administrator or state regulatory authority.

**262.21 Section heading remains the same. Introductory paragraph remains. Remove “Reserved status” for (a) through (f). Note that follows [Reserved] remains the same. Delete the reference to the *Federal Register*. Add sections 262.21(a)-(f) to provide specific information on filling out a manifest. (g) remains the same. Add (h) through (m).**

The manifest shall be on a form designated in 262.20(a), shall be completed as required by the instructions, and must contain all of the following information: ~~(a) through (f) [Reserved]~~. 262.21 Note: Generators are required to use EPA forms from a registered source. ~~See Federal Register Vol. 70 No. 42, Friday March 4, 2005, page 10815 for details and printing instructions.~~

(a)(1) A registrant may not print, or have printed, the manifest for use or distribution unless it has received approval from the EPA Director of the Office of Solid Waste to do so under paragraphs (c) and (e) of this section.

(2) The approved registrant is responsible for ensuring that the organizations identified in its application are in compliance with the procedures of its approved application and the requirements of this section. The registrant is responsible for assigning manifest tracking numbers to its manifests.

(b) A registrant must submit an initial application to the EPA Director of the Office of Solid Waste that contains the following information:

(1) Name and mailing address of registrant;

(2) Name, telephone number and email address of contact person;

(3) Brief description of registrant's government or business activity;

(4) EPA identification number of the registrant if applicable;

(5) Description of the scope of the operations that the registrant plans to undertake in printing, distributing, and using its manifests, including:

(i) A description of the printing operation. The description should include an explanation of whether the registrant intends to print its manifests in-house (i.e., using its own printing establishments) or through a separate (i.e., unaffiliated) printing company. If the registrant intends to use a separate printing company to print the manifest on its behalf, the application must identify this printing company and discuss how the registrant will oversee the company. If this includes the use of intermediaries (e.g., prime and subcontractor relationships), the role of each must be discussed. The application must provide the name and mailing address of each company. It also must provide the name and telephone number of the contact person at each company.

(ii) A description of how the registrant will ensure that its organization and unaffiliated companies, if any, comply with the requirements of this section. The application must discuss how the registrant will ensure that a unique manifest tracking number will be pre-printed on each manifest. The application must describe the internal control procedures to be followed by the registrant and unaffiliated companies to ensure that numbers are tightly controlled and remain unique. In particular, the application must describe how the registrant will assign manifest tracking numbers to its manifests. If computer systems or other infrastructure will be used to maintain, track, or assign numbers, these should be indicated. The application must also indicate how the printer will pre-print a unique number on each form (e.g., crash or press numbering). The application also must explain the other quality procedures to be followed by each establishment and printing company to ensure that all required print specifications are consistently achieved and that printing violations are identified and corrected at the earliest practicable time.

(iii) An indication of whether the registrant intends to use the manifests for its own business operations or to distribute the manifests to a separate company or to the general public (e.g., for purchase).

(6) A brief description of the qualifications of the company that will print the manifest. The registrant may use readily available information.

(7) Proposed unique three-letter manifest tracking number suffix. If the registrant is approved to print the manifest, the registrant must use this suffix to pre-print a unique manifest tracking number on each manifest.

(8) A signed certification by a duly authorized employee of the registrant that the organizations and companies in its application will comply with the procedures of its approved application and the requirements of this section and that it will notify the EPA Director of OSW of any duplicated manifest tracking numbers as soon as it becomes known.

(c) EPA will review the application submitted under paragraph (b) of this section.

(d)(1) Upon EPA approval of application, EPA will provide registrant an electronic file of manifest, continuation sheet, and manifest instructions and ask registrant to submit three manifests and continuation sheet samples, except as noted in paragraph (d)(3) of this section. The registrant's samples must meet all of the specifications in paragraph (f) of this section and be printed by the company that will print the manifest as identified in the application approved under paragraph (c).

(2) Registrant must submit a description of the manifest samples as follows:

(i) Paper type;

(ii) Paper weight of each copy;

(iii) Ink color of the manifest's instructions. If screening of the ink was used, the registrant must indicate the extent of the screening; and

(iv) Method of binding copies.

(3) The registrant need not submit samples of the continuation sheet if it is printed on same paper and uses same ink and binding as manifest samples.

(e) EPA will evaluate the forms and either approves the registrant to print as proposed or request information or modification. EPA will notify the registrant of decision by mail. The registrant cannot use or distribute forms until EPA approves them. An approved registrant must print the manifest and continuation sheet according to its application approved under paragraph (c) and the manifest specifications in paragraph (f). It also must print using the approved paper type, ink color, and binding method.

(f) Paper manifests and continuation sheets must be printed according to the following specifications:

(1) The manifest and continuation sheet must be printed with the exact format and appearance as EPA Forms format. However, information required to complete manifest may be pre-printed.

(2) A unique tracking number assigned w/ EPA approved numbering system must be pre-printed in Item 4. It must have a unique three-letter suffix following nine digits.

(3) The manifest and continuation sheet must be printed on durable 8.5x11 in. white paper.

(4) The manifest and continuation sheet must be printed in black ink except marginal words indicating copy distribution in red ink.

(5) The manifest and continuation sheet must be printed as six copy forms. Copy-to-copy registration must be w/in 1/32<sup>nd</sup> of an in. Handwritten and typed impressions must be legible on all copies. Copies must be bound together by one or more common stubs.

(6) Each copy of the manifest and continuation sheet must indicate how the copy must be distributed as follows:

(i) Page 1: "Designated facility to destination State (if required)"

(ii) Page 2: "Designated facility to generator state (if required)".

(iii) Page 3: “Designated facility to generator”.

(iv) Page 4: “Designated facility’s copy”

(v) Page 5: “Transporter’s copy”.

(vi) Page 6: “Generator’s initial copy”

(7) The instructions in the appendix to part 262 must appear legibly on the back of the copies of the manifest and continuation sheet as provided in this paragraph (f). The instructions must not be visible through the front of the copies when photocopied or faxed.

(i) Manifest Form 8700-22

(A) The “Instructions for Generators” on Copy 6;

(B) The “Instructions for International Shipment Block” and “Instructions for Transporters” on Copy 5; and

(C) The “Instructions for Treatment, Storage, and Disposal Facilities” on Copy 4

(ii) Manifest Form 8700-22A

(A) The “Instructions for Generators” on Copy 6;

(B) The “Instructions for Transporters” on Copy 5; and

(C) The “Instructions for Treatment, Storage, and Disposal Facilities” on Copy 4

(g)(1) A generator may use manifests printed by any source so long as the source of the printed form has received approval from EPA to print the manifest. A registered source may be a:

(i) State agency;

(ii) Commercial printer;

(iii) Hazardous waste generator, transporter or TSDF; or

(iv) Hazardous waste broker or other preparer.

(2) A generator must determine whether the generator state or consignment state regulates any additional wastes. They must also determine whether the consignment or generator state requires the generator to submit any copies of the manifest to these states. In these cases the generator is responsible for supplying photocopies.

(h)(1) If an approved registrant would like to update information provided in application, the registrant must revise the application and submit to the EPA Director of OSW along with an indication or explanation of update ASAP. If the Agency denies revision, it will explain the reasons and contact registrant for modification.

(2) If registrant would like a new tracking number suffix, he must submit a proposed suffix to the EPA Director of OSW and a reason for requesting it. The Agency will approve or deny and provide an explanation.

(3) If a registrant would like to change paper type or weight, or ink color, or binding method of manifest or continuation sheet, then he must submit three samples of the revised form for EPA review. If the approved registrant would like to use a new printer, he must submit three manifest samples printed by the new printer and a brief description of the printer's qualifications. EPA will either approve or request additional information or modification. EPA will notify the registrant of decisions by mail. The registrant cannot distribute revised forms until EPA approves.

(i) If, subsequent to approval, a registrant typesets its manifest or continuation sheet instead of using the electronic file of the forms provided by EPA, it must submit three samples of the manifest or continuation sheet to the registry for approval. EPA will either approve or request additional information or modification. EPA will notify the registrant of its decision by mail. The registrant cannot distribute forms until EPA approves them.

(j) EPA may exempt a registrant from the requirement to submit form samples if the Agency is persuaded that a separate review of the registrant's forms would serve little purpose in informing an approval decision. A registrant may request an exemption from EPA by indicating why it is warranted.

(k) An approved registrant must notify EPA by phone or email as soon as it becomes aware that it has duplicated tracking numbers on any manifests that have been used or distributed

(l) If, subsequent to approval of a registrant, EPA becomes aware that the approved paper type, weight, ink color or binding method of registrant's forms is unsatisfactory, EPA will contact the registrant and require modifications.

(m)(1) EPA may suspend and revoke printing privileges if we find that the registrant:

(i) Has used or distributed forms that deviate from approved form samples; or

(ii) Exhibits a continuing pattern of behavior in using or distributing manifests that contain duplicate tracking numbers.

(2) EPA will send a warning letter to the registrant that specifies the date by which it must come into compliance with the requirements. If the registrant does not come into compliance by the specified date, EPA will send a second letter notifying the registrant that EPA has suspended or revoked its printing privileges. An approved registrant must provide information on its printing activities to EPA if requested.

**Amend paragraphs 264.340 (b)(1) to read:**

(b)(1) Except as provided by paragraphs (b)(2) through ~~(b)(5)~~-(b)(4) of this section, the standards of this part do not apply to a new hazardous waste incineration unit that becomes subject to RCRA permit requirements after October 12, 2005; or no longer apply when an owner or operator of an existing hazardous waste incineration unit demonstrates compliance with the maximum achievable control technology (MACT) requirements of 40 CFR part 63, Subpart EEE, by conducting a comprehensive performance test and submitting to the Department a Notification of Compliance under 40 CFR 63.1207(j) and 63.1210(d) documenting compliance with the requirements of part 63, subpart EEE.

**Amend paragraph 264.340 (b)(3) to read:**

(3) The particulate matter standard of 264.343(c) remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard under 40 CFR 63.1206(b)(14) and 63.1219(e).

**Remove paragraph 264.340 (b)(5) to avoid duplication.**

~~(5) The particulate matter standard of 264.343(c) remains in effect for incinerators that elect to comply with the alternative to the particulate matter standard of 40 CFR part 63.1206(b)(14) and 40 CFR part 63.1219(e).~~

**266.100(b)(3)(ii) Redesignate the second paragraph (b)(3)(ii) as (b)(3)(iii)**

- (i) 266.105-Standards to control particulate matter;
- (ii) 266.106-Standards to control metals emissions, except for mercury; and
- ~~(ii)~~ (iii) 266.107-Standards to control hydrogen chloride and chlorine gas.

**Insert 270.10(m) to read:**

(m) A copy of a site specific inspection checklist shall be prepared by the applicant. The checklist shall be approved by the Department for use by the Department in conducting compliance inspections and shall include all applicable requirements of 261 through 270. An amended checklist shall be submitted to the Department for approval each time a permit modification is requested. The amended checklist shall accompany the permit modification request.