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ending 3 years from the completion date of each treatability study.

(9) The facility prepares and submits a report to the Regional Administrator, or State Director (if located in an authorized State), by March 15 of each year that estimates the number of studies and the amount of waste expected to be used in treatability studies during the current year, and includes the following information for the previous calendar year:

(i) The name, address, and EPA identification number of the facility conducting the treatability studies;

(ii) The types (by process) of treatability studies conducted;

(iii) The names and addresses of persons for whom studies have been conducted (including their EPA identification numbers);

(iv) The total quantity of waste in storage each day;

(v) The quantity and types of waste subjected to treatability studies;

(vi) When each treatability study was conducted;

(vii) The final disposition of residues and unused sample from each treatability study.

(10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under §261.3 and, if so, are subject to parts 261 through 268, and part 270 of this chapter, unless the residues and unused samples are returned to the sample originator under the §261.4(e) exemption.

(11) The facility notifies the Regional Administrator, or State Director (if located in an authorized State), by letter when the facility is no longer planning to conduct any treatability studies at the site.

(g) *Dredged material that is not a hazardous waste.* Dredged material that is subject to the requirements of a permit that has been issued under 404 of the Federal Water Pollution Control Act (33 U.S.C.1344) or section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413) is not a hazardous waste. For this paragraph (g), the following definitions apply:

(1) The term *dredged material* has the same meaning as defined in 40 CFR 232.2;

(2) The term *permit* means:

(i) A permit issued by the U.S. Army Corps of Engineers (Corps) or an approved State under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

(ii) A permit issued by the Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413); or

(iii) In the case of Corps civil works projects, the administrative equivalent of the permits referred to in paragraphs (g)(2)(i) and (ii) of this section, as provided for in Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).

[45 FR 33119, May 19, 1980]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §261.4, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

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

(a) A generator is a conditionally exempt small quantity generator in a calendar month if he generates no more than 100 kilograms of hazardous waste in that month.

(b) Except for those wastes identified in paragraphs (e), (f), (g), and (j) of this section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under parts 262 through 266, 268, and parts 270 and 124 of this chapter, and the notification requirements of section 3010 of RCRA, provided the generator complies with the requirements of paragraphs (f), (g), and (j) of this section.

(c) When making the quantity determinations of this part and 40 CFR part 262, the generator must include all hazardous waste that it generates, except hazardous waste that:

(1) Is exempt from regulation under 40 CFR 261.4(c) through (f), 261.6(a)(3), 261.7(a)(1), or 261.8; or

(2) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities as defined in 40 CFR 260.10; or

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(3) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under 40 CFR 261.6(c)(2); or

(4) Is used oil managed under the requirements of 40 CFR 261.6(a)(4) and 40 CFR part 279; or

(5) Is spent lead-acid batteries managed under the requirements of 40 CFR part 266, subpart G; or

(6) Is universal waste managed under 40 CFR 261.9 and 40 CFR part 273.

(d) In determining the quantity of hazardous waste generated, a generator need not include:

(1) Hazardous waste when it is removed from on-site storage; or

(2) Hazardous waste produced by on-site treatment (including reclamation) of his hazardous waste, so long as the hazardous waste that is treated was counted once; or

(3) Spent materials that are generated, reclaimed, and subsequently reused on-site, so long as such spent materials have been counted once.

(e) If a generator generates acute hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acute hazardous waste are subject to full regulation under parts 262 through 266, 268, and parts 270 and 124 of this chapter, and the notification requirements of section 3010 of RCRA:

(1) A total of one kilogram of acute hazardous wastes listed in §§ 261.31, 261.32, or 261.33(e).

(2) A total of 100 kilograms of any residue or contaminated soil, waste, or other debris resulting from the clean-up of a spill, into or on any land or water, of any acute hazardous wastes listed in §§ 261.31, 261.32, or 261.33(e).

[Comment: "Full regulation" means those regulations applicable to generators of greater than 1,000 kg of non-acutely hazardous waste in a calendar month.]

(f) In order for acute hazardous wastes generated by a generator of acute hazardous wastes in quantities equal to or less than those set forth in paragraph (e)(1) or (2) of this section to be excluded from full regulation under this section, the generator must comply with the following requirements:

(1) Section 262.11 of this chapter;

(2) The generator may accumulate acute hazardous waste on-site. If he accumulates at any time acute hazardous

wastes in quantities greater than those set forth in paragraph (e)(1) or (e)(2) of this section, all of those accumulated wastes are subject to regulation under parts 262 through 266, 268, and parts 270 and 124 of this chapter, and the applicable notification requirements of section 3010 of RCRA. The time period of § 262.34(a) of this chapter, for accumulation of wastes on-site, begins when the accumulated wastes exceed the applicable exclusion limit;

(3) A conditionally exempt small quantity generator may either treat or dispose of his acute hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility, either of which, if located in the U.S., is:

(i) Permitted under part 270 of this chapter;

(ii) In interim status under parts 270 and 265 of this chapter;

(iii) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under part 271 of this chapter;

(iv) Permitted, licensed, or registered by a State to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to Part 258 of this chapter;

(v) Permitted, licensed, or registered by a State to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in §§ 257.5 through 257.30 of this chapter; or

(vi) A facility which:

(A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or

(B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or

(vii) For universal waste managed under part 273 of this chapter, a universal waste handler or destination facility subject to the requirements of part 273 of this chapter.

(g) In order for hazardous waste generated by a conditionally exempt small quantity generator in quantities of less than 100 kilograms of hazardous waste during a calendar month to be excluded from full regulation under this section, the generator must comply with the following requirements:

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- (1) Section 262.11 of this chapter;
- (2) The conditionally exempt small quantity generator may accumulate hazardous waste on-site. If he accumulates at any time more than a total of 1000 kilograms of his hazardous wastes, all of those accumulated wastes are subject to regulation under the special provisions of part 262 applicable to generators of between 100 kg and 1000 kg of hazardous waste in a calendar month as well as the requirements of parts 263 through 266, 268, and parts 270 and 124 of this chapter, and the applicable notification requirements of section 3010 of RCRA. The time period of §262.34(d) for accumulation of wastes on-site begins for a conditionally exempt small quantity generator when the accumulated wastes exceed 1000 kilograms;
- (3) A conditionally exempt small quantity generator may either treat or dispose of his hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage or disposal facility, either of which, if located in the U.S., is:
 - (i) Permitted under part 270 of this chapter;
 - (ii) In interim status under parts 270 and 265 of this chapter;
 - (iii) Authorized to manage hazardous waste by a State with a hazardous waste management program approved under part 271 of this chapter;
 - (iv) Permitted, licensed, or registered by a State to manage municipal solid waste and, if managed in a municipal solid waste landfill is subject to Part 258 of this chapter;
 - (v) Permitted, licensed, or registered by a State to manage non-municipal non-hazardous waste and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in §§257.5 through 257.30 of this chapter; or
 - (vi) A facility which:
 - (A) Beneficially uses or reuses, or legitimately recycles or reclaims its waste; or
 - (B) Treats its waste prior to beneficial use or reuse, or legitimate recycling or reclamation; or
 - (vii) For universal waste managed under part 273 of this chapter, a universal waste handler or destination facility subject to the requirements of part 273 of this chapter.

(h) Hazardous waste subject to the reduced requirements of this section may be mixed with non-hazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this section, unless the mixture meets any of the characteristics of hazardous waste identified in subpart C.

(i) If any person mixes a solid waste with a hazardous waste that exceeds a quantity exclusion level of this section, the mixture is subject to full regulation.

(j) If a conditionally exempt small quantity generator's wastes are mixed with used oil, the mixture is subject to part 279 of this chapter. Any material produced from such a mixture by processing, blending, or other treatment is also so regulated.

[51 FR 10174, Mar. 24, 1986, as amended at 51 FR 28682, Aug. 8, 1986; 51 FR 40637, Nov. 7, 1986; 53 FR 27163, July 19, 1988; 58 FR 26424, May 3, 1993; 60 FR 25541, May 11, 1995; 61 FR 34278, July 1, 1996; 63 FR 24968, May 6, 1998; 63 FR 37782, July 14, 1998; 68 FR 44665, July 30, 2003]

§ 261.6 Requirements for recyclable materials.

(a)(1) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of paragraphs (b) and (c) of this section, except for the materials listed in paragraphs (a)(2) and (a)(3) of this section. Hazardous wastes that are recycled will be known as "recyclable materials."

(2) The following recyclable materials are not subject to the requirements of this section but are regulated under subparts C through O of part 266 of this chapter and all applicable provisions in parts 270 and 124 of this chapter:

(i) Recyclable materials used in a manner constituting disposal (subpart C);

(ii) Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under subpart O of part 264 or 265 of this chapter (subpart H);

(iii) Recyclable materials from which precious metals are reclaimed (subpart F);