

Sec. 22a-449(c)-101. Identification and listing of hazardous waste

(a) Incorporation by Reference

(1) 40 CFR 261 is incorporated by reference in its entirety except as provided in subdivision (2) of this subsection and except for the provisions of this subdivision which are not incorporated:

(A) 40 CFR 261.2(a)(2)(iv) (which relates to military munitions);

(B) 40 CFR 261.4(a)(16) (which relates to comparable/syngas fuels);

(C) 40 CFR 261.4(b)(6) (which relates to certain chromium waste);

(D) 40 CFR 261.4(b)(11) (which relates to certain groundwater reinjected through an underground injection well);

(E) 40 CFR 261.4(g) (which relates to dredged material);

(F) 40 CFR 261.38 (which relates to comparable/syngas fuel).

(2) The provisions of this subdivision are incorporated by reference with the specified changes:

(A) 40 CFR 261.1 (a)

—delete “265” and replace with “266”

(B) 40 CFR 261.1(c)(8)

— delete the first sentence and replace with the following: “Except as provided for in 40 CFR 266, subpart F, a material, not otherwise defined as a solid waste, is accumulated speculatively and becomes a solid waste if it is accumulated before being recycled. Materials are no longer accumulated speculatively, once they are removed from accumulation for recycling.”

— after “if” in the second sentence add “(1) The material is accumulating in a unit exempt from regulation under 40 CFR 261.4(c), or (2)”

— delete “— during the calendar year (commencing on January 1) — the amount of material that is recycled, or transferred to a different site for recycling, equals at least 75 percent by weight or volume of the amount of that material accumulated at the beginning of the period. In calculating the percentage of turnover, the 75 percent requirement is to be applied to each material of the same type (e.g., slags from a single smelting process) that is recycled in the same way (i.e., from which the same material is recovered or that is used in the same way). Materials accumulating in units that would be exempt from regulation under § 261.4(c) are not to be included in making the calculation. (Materials that are already defined as solid wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling, however” and replace with “all material is recycled within one year of the date on which accumulation of that material begins.”

(C) 40 CFR 261.2(a)(2)(iii)

— delete “; or” and replace with a “.”

(D) 40 CFR 261.2(c)(3)

— at the end of the paragraph add the following: “If, however, before being reclaimed, a person accumulates or stores a material not noted with an “*” in column 3 of Table 1, such person shall mark all containers and tanks holding these materials so that their contents are clearly identified and the date upon which each period of accumulation begins is clearly marked and visible for inspection. When marking the beginning of each period of

accumulation for materials accumulated or stored in tanks, the person accumulating or storing such materials does not have to mark the tank itself, but may maintain a written log noting the date upon which each period of accumulation begins, provided such log is maintained in the facility operating record and is available for inspection.”

(E) Table 1 in 40 CFR 261.2(c)

— add an asterisk (*) to column 4 for the category “Commercial Chemical Products listed in 40 CFR 261.33.”

(F) 40 CFR 261.2(e)

— add a new paragraph (3) as follows: “(3) Notwithstanding 40 CFR 261.2(e)(1), if materials being recycled are stored in tanks or containers before being used, reused, or returned to the original process from which they were generated, the person accumulating or storing such materials shall mark all containers and tanks holding these materials so that their contents are clearly identified and the date upon which each period of accumulation begins is clearly marked and visible for inspection. When marking the beginning of each period of accumulation for materials accumulated or stored in tanks, the person accumulating or storing such materials does not have to mark the tank itself, but may maintain a written log noting the date upon which each period of accumulation begins, provided such log is maintained in the facility operating record and is available for inspection.”

(G) 40 CFR 261.3(a)(2)(v)

— delete “Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Third Edition, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in appendix VIII of part 261 of this chapter).” and replace with “To rebut the presumption that the used oil has been mixed with the hazardous waste designated in 40 CFR 261.31(a) as F001 or F002, a person shall demonstrate by analysis or other means that none of the following halogenated hazardous waste constituents are present in the used oil at greater than 100 parts per million: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons, chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane and 1,1,2-trichloroethane. To rebut the presumption that the used oil has been mixed with any other hazardous waste listed in 40 CFR 261, Subpart D, (i.e., hazardous wastes other than F001 and F002) a person shall demonstrate by analysis or other means that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix VIII of 40 CFR 261). Unless and until a person has rebutted the presumption, a used oil containing more than 1,000 parts per million total halogens shall be considered a hazardous waste and shall be managed as such.”

(H) 40 CFR 261.3(c)(2)(i)

— delete “or leachate (but not including precipitation run-off)” and replace with “leachate or precipitation run-off, unless such precipitation run-off is from a treatment, storage or disposal facility registered under and in compliance with the terms and conditions of the general permit issued by the commissioner for the discharge of stormwater associated with

industrial activities.”

(I) 40 CFR 261.4(a)(1)(ii)

— at the end of the paragraph add “Any person claiming a mixture of domestic sewage and other wastes is not solid waste, pursuant 40 CFR 261.4(a)(1)(ii), shall comply with all applicable federal and state notification requirements including, but not limited to, those set forth in 40 CFR 268.7 and 40 CFR 403.12.”

(J) 40 CFR 261.4(a)(15)

— after “63.446(e)” add “provided such condensates are burned as a fuel at the mill where they are generated”

(K) 40 CFR 261.4(a)(17)(iii)

— delete “(a)(15)(iv)” and replace with “(a)(17)(iv)”

— in the last sentence delete “significant” and after “materials” add “and shall comply with all other applicable state requirements”

(L) 40 CFR 261.4(a)(17)(iv)

— in the second sentence delete “do not” and replace with “shall not”

— delete “The decision-maker must affirm that” and replace with “As part of any site-specific determination the commissioner must determine, among other things, that”

(M) 40 CFR 261.4(a)(17)(iv)(A)

— delete “decision-maker” and replace with the “commissioner”

(N) 40 CFR 261.4(a)(17)(v)

— delete “The owner or operator provides” and replace with “Thirty days before claiming any exemption under 40 CFR 261.4(a)(17), the person claiming such exemption shall provide”

— after “recycling process” in the last sentence add “and written notification of any such change shall be provided to the commissioner at least thirty days before any such change is made”

(O) 40 CFR 261.4(e)(3)(iii)

— delete “in the Region where the sample is collected”

(P) 40 CFR 261.5(a)

— after “in that month” add “provided that such waste does not include more than: (i) a total of one kilogram of acute hazardous wastes listed in 40 CFR sections 261.31, 261.32, or 261.33(e), or (ii) 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 40 CFR sections 261.31, 261.32, or 261.33(e), provided that there is no more than a total of one kilogram of acute hazardous waste contained in that residue, soil, waste or debris.”

(Q) 40 CFR 261.5(c)(6)

— delete “40 CFR 261.9 and”

— after “273” add “or section 22a-449(c)-113(b) of the Regulations of Connecticut State Agencies”

(R) 40 CFR 261.5(e)(2)

— after “or 261.33(e)” add “provided that there is no more than a total of one kilogram of acute hazardous waste contained in that residue, soil, waste or debris.”

(S) 40 CFR 261.5(f)(3)

— delete paragraphs (iv) to (vii), inclusive, and replace with the following: “

(iv) Permitted, licensed, or registered by a state other than Connecticut to manage municipal solid waste in a state other than Connecticut, and, if managed in a municipal solid waste landfill is subject to 40 CFR 258;

(v) Permitted, licensed, or registered by a state other than Connecticut to manage non-municipal non-hazardous waste in a state other than Connecticut and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 to 257.30, inclusive;

(vi) Licensed by the commissioner to store, bulk or consolidate household hazardous waste, provided such license specifically authorizes the licensee to store, bulk or consolidate hazardous waste generated by a conditionally exempt small quantity generator. For purposes of this subclause only, the term “facility” shall include an area used for the one-day collection of household hazardous waste;

(vii) 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

(viii) For universal waste managed under section 22a-449(c)-113 of the Regulations of Connecticut State Agencies, a universal waste handler or destination facility subject to the requirements under section 22a-449(c)-113 of the Regulations of Connecticut State Agencies.”

(T) 40 CFR 261.5(g)(2)

— delete “special”

— delete “between 100 kg and” and replace with “greater than”

(U) 40 CFR 261.5(g)(3)

— delete paragraphs (iv) to (vii), inclusive, and replace with the following: “

(iv) Permitted, licensed, or registered by a state other than Connecticut to manage municipal solid waste in a state other than Connecticut, and, if managed in a municipal solid waste landfill is subject to 40 CFR 258;

(v) Permitted, licensed, or registered by a state other than Connecticut to manage non-municipal non-hazardous waste in a state other than Connecticut and, if managed in a non-municipal non-hazardous waste disposal unit after January 1, 1998, is subject to the requirements in 40 CFR 257.5 to 257.30, inclusive;

(vi) Licensed by the commissioner to store, bulk or consolidate household hazardous waste, provided such license specifically authorizes the licensee to store, bulk or consolidate hazardous waste generated by a conditionally exempt small quantity generator. For purposes of this subclause only, the term “facility” shall include an area used for the one-day collection of household hazardous waste;

(vii) 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

(viii) For universal waste managed under section 22a-449(c)-113 of the Regulations of Connecticut State Agencies, a universal waste handler or destination facility subject to the

requirements under section 22a-449(c)-113 of the Regulations of Connecticut State Agencies.”

(V) 40 CFR 261.5(h)

— after “mixed with non-hazardous waste” delete “and” and replace with “but will not”

— after “reduced requirements” delete “even though” and replace with “if”

— delete “, unless the mixture meets any of the characteristics of hazardous waste identified in Subpart C” and replace with “. If the mixture exceeds such quantity limitations, the mixture is subject to full regulation under the state hazardous waste management regulations”

(W) 40 CFR 261.5(j)

— after “generator’s” add “hazardous”

— delete “part 279 of this chapter” and replace with “the state hazardous waste management regulations”

(X) 40 CFR 261.6(a)(3)(ii)

— after “scrap metal” add “which meets neither the characteristic of ignitability in 40 CFR 261.21 nor the characteristic of reactivity in 40 CFR 261.23”

(Y) 40 CFR 261.6(a)(4)

— after “. . . originally used)” add “and any oil which is no longer suitable for the services for which it was manufactured due to the presence of impurities or a loss of original properties and is then reused”

(Z) 40 CFR 261.6(c)(1)

— after “§ 261.6(d)” add “and any applicable provisions of state law, including but not limited to, section 22a-454 of the Connecticut General Statutes and the recyclable materials requirements of section 22a-449(c)-101(c) of the Regulations of Connecticut State Agencies.”

(AA) 40 CFR 261.9

— after “270 of this chapter” add “and section 22a-449(c)-11 of the Regulations of Connecticut State Agencies”

— after “273 of this chapter” add “or in the state hazardous waste management regulations”

— after “40 CFR part 273” add “or section 22a-449(c)-113(b) of the Regulations of Connecticut State Agencies”

(BB) 40 CFR 261.9(c)

— delete “and”

(CC) 40 CFR 261.9(d)

— delete the period and replace with “; and”

— add a new paragraph (e) as follows: “(e) Used electronics as described in section 22a-449(c)-113(b) of the Regulations of Connecticut State Agencies.”

(DD) 40 CFR 261.31(a)

— In the entry for FO39, after “F020, F021,” add “F023,”

(EE) 40 CFR 261.32

— in the column labeled “Industry and EPA Hazardous Waste No.,” in the subgroup “Organic Chemicals”, add the following Waste Streams in alphanumeric order:

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Industry and EPA Hazardous Waste No.	Hazardous Waste	Hazardous Code
***	*****	**
Organic Chemicals		
***	*****	**
K174.	Wastewater treatment sludges from the production of Ethylene Dichloride or Vinyl Chloride Monomer (including sludges that result from Commingled Ethylene Dichloride or Vinyl Chloride Monomer Wastewater and other wastewater).	T
K175	Wastewater treatment sludges from the production of Vinyl Chloride Monomer using Mercuric Chloride catalyst in an Acetylene-based process.	T

— in the entry for Secondary Lead, K069, delete the “.” after “smelting” and delete in its entirety the Note which follows and replace with “, except for sludge generated from secondary acid scrubber systems.”

— in the entry for K107, delete “1,1-Dimethyl-hydrazine (UDMH) from Carboxylic Acid Hydrazines” and replace with “1,1-Dimethylhydrazine from Carboxylic Acid Hydrazides” (FF) 40 CFR 261.35(b)(1)(iii)

— delete “preservations” and replace with “preservatives” (GG) 40 CFR 261 Appendix VII

— add the following wastestreams in alphanumeric order (by the first column):

EPA Hazardous Waste No.	Hazardous Constituent For Which Listed
***	*****
K174	1,2,3,4,6,7,8-HEPTACHLORODIBENZO-P-DIOXIN (1,2,3,4,6,7,8-HpCDD), 1,2,3,4,6,7,8-HEPTACHLORODIBENZOFURAN (1,2,3,4,6,7,8-HpCDF), 1,2,3,4,7,8,9-HEPTACHLORODIBENZOFURAN (1,2,3,6,7,8,9-HpCDF), HxCDDs (ALL HEXACHLORODIBENZO-P-DIOXINS), HxCDFs (ALL HEX-ACHLORODIBENZOFURANS), PECDDs (ALL PENTACHLORODI-BENZO-P-DIOXINS), OCDD (1,2,3,4,6,7,8,9-OCTACHLORODIBENZO-P-DIOXIN), OCDF (1,2,3,4,6,7,8,9-OCTA-CHLORODIBENZOFURAN), PeCDFs (ALL PENTACHLORODIBEN-ZOFURANS), TCDDs (ALL TETRACHLORODIBENZO-P-DIOXINS), TCDFs (ALL TETRACHLORODIBENZOFURANS).
K175	Mercury

(HH) 40 CFR 261 Appendix VIII

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— add the following entries in alphabetical order by common name:

COMMON NAME	CHEMICAL ABSTRACTS NAME	CHEMICAL ABSTRACTS NO.	HAZARDOUS WASTE NO.
* * *	* * * *	* *	* *
OC-TACHLORODI-BENZO-P-DIOXIN (OCDD)	1,2,3,4,6,7,8,9-OC-TACHLORODI-BENZO-P-DIOXIN	3268-87-9	...
OC-TACHLORODI-BENZO-FURAN (OCDF)	1,2,3,4,6,7,8,9-OC-TACHLORODI-BENZO-FURAN	39001-02-0	...
* * *	* * * *	* *	* *

(3) In addition to the provisions incorporated by reference in subdivisions (1) and (2) of this subsection, the provisions in subsections (b) and (c) of this section shall apply.

(b) Conditionally exempt small quantity generators

In addition to the requirements in 40 CFR 261.5, conditionally exempt small quantity generators shall:

(1) Not offer their hazardous waste to a transporter who does not have an EPA identification number issued pursuant to 40 CFR 263.11 and a current valid transporter permit issued by the commissioner pursuant to section 22a-449(c)-11 of the Regulations of Connecticut State Agencies or section 22a-454 of the Connecticut General Statutes; and

(2) Maintain records of any test results, waste analyses, or other determinations made in accordance with 40 CFR 262.11 for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

(c) Recyclable Materials

(1) Scrap metals which meet the characteristic of “ignitability” in 40 CFR 261.21 or the characteristic of “reactivity” in 40 CFR 261.23 and are being recycled or reclaimed are subject to regulation as a hazardous waste.

(2) Except as provided in subdivision (3) of this subsection, in addition to the requirements in 40 CFR 261.6(b) and (c)(2), a generator that recycles recyclable materials or the owner or operator of a facility that recycles recyclable materials without storing them is subject to the following requirements:

(A) Registration, which consists of the notification requirements under section 3010 of RCRA (42 USC 6930) and the filing of a completed recyclable materials registration on a form prescribed by the commissioner which shall include, but not be limited to, the information listed in 40 CFR 270.13. Said registration shall be submitted to the commissioner no later than thirty days prior to engaging in the recycling of recyclable materials; and

(B) The filing of a report every two years that satisfies all of the requirements of 40 CFR 264.75, including but not limited to, use of the prescribed form. Unless another time is prescribed by the commissioner in writing, such report shall be submitted to the commissioner no later than March 1 of each even numbered year.

For purposes of this subdivision, “recyclable materials” means hazardous wastes that are to be recycled, except for the recyclable materials listed in 40 CFR 261.6(a)(2) and (a)(3).

(3) The provisions of subdivision (2) of this subsection do not apply to:

(A) generators who recycle all of their hazardous wastes immediately upon generation only in:

- (i) recycling equipment that is an integral part of an industrial production process, or
- (ii) wastewater treatment units;

(B) recycling equipment on the site of a conditionally exempt small quantity generator, as defined in 40 CFR 261.5 as incorporated by subsection (a) of this section, which is used solely by such generator to recycle such generator’s waste; and

(C) owners or operators of facilities that store recyclable materials before they are recycled. (Such owners or operators are subject to regulation under 40 CFR 261.6(c)(1) and must obtain a storage permit.)

(4) In accordance with this subdivision, additional requirements may apply on a case-by-case basis to a person engaging in recycling activities, except that the provisions of this subdivision shall not apply to owners or operators subject to regulation under 40 CFR 261.6(c)(1). (Such owners or operators remain subject to regulation under 40 CFR 261.6(c)(1) and are required to obtain a storage permit.) As used in this subdivision, the term “recyclable materials” shall include all hazardous wastes awaiting recycling or being recycled, including the materials specified in 40 CFR 261.6(a)(2) and (a)(3), all materials in Table 1 of 40 CFR 261.2 including those that have and do not have an asterisk and all materials in 40 CFR 261.2(e).

(A) The commissioner may decide on a case-by-case basis that a person accumulating, treating or storing recyclable materials shall comply with additional provisions of sections 22a-449(c)-100 to 110, inclusive, of the Regulations of Connecticut State Agencies. The basis for imposing additional requirements may be that the materials are being accumulated, treated or stored in a manner that does not adequately protect human health and the environment because the materials or their toxic constituents have not been adequately contained, or because the materials being treated or stored together are incompatible, or because the materials have otherwise not been adequately managed. In making this decision, the commissioner will consider the following factors:

- (i) The types of materials accumulated, treated or stored and the amounts accumulated, treated or stored;
 - (ii) The method of accumulation, treatment or storage;
 - (iii) The length of time the materials have been accumulated, treated or stored before being recycled;
 - (iv) Whether any substance that can reasonably be expected to cause pollution of the waters of the state has been or may be released into the environment; and
 - (v) Other factors which the commissioner deems relevant.
- (B) Procedures for case-by-case regulation of recycling activities.

The commissioner will use the following procedures when establishing additional requirements with which persons who accumulate, treat or store recyclable materials shall comply:

(i) If the commissioner determines that a person must comply with additional requirements, the commissioner will send a notice by certified mail to the person to whom the additional requirements will apply setting forth the factual basis for the decision and the additional requirements which will apply. Such additional requirements shall become effective thirty days after mailing of the notice or as otherwise specified by the commissioner, unless the person requests a public hearing, within thirty days after the mailing of the notice, to challenge the decision. Upon receiving such a request, the commissioner will hold a public hearing. The commissioner will publish notice of the hearing in a newspaper having a substantial circulation in the affected area and allow public participation at the hearing. After the hearing, the commissioner shall affirm, modify, or revoke the prior decision. Such action by the commissioner shall not constitute a new notice and shall become effective thirty days after mailing or personal delivery, whichever is sooner, unless the commissioner specifies a later date.

(ii) If the commissioner determines that such additional requirements include the need to obtain a permit, the commissioner will send a notice by certified mail to the person accumulating, treating or storing recyclable materials stating that such person shall obtain a permit, for all the units specified, in accordance with all applicable provisions of section 22a-449(c)-110 of the Regulations of Connecticut State Agencies. Such person shall apply for a permit within no less than sixty days and no more than six months of notice, as specified in the notice, shall at all times use best efforts to obtain such permit, and shall not act in any manner so as to delay or obstruct the proceedings. Such person shall respond to all requests from the commissioner for additional information within the time period specified by the commissioner. If such person wishes to challenge the commissioner's decision imposing additional requirements, he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the commissioner's determination. The commissioner will accept comments on the commissioner's decision during the public comment period referenced under section 22a-449(c)-110 of the Regulations of Connecticut State Agencies, and in any subsequent hearing.

(C) Any requirement imposed pursuant to this subdivision shall be in addition to any other applicable requirement, including but not limited to, requirements in the state hazardous waste management regulations.

(Effective July 17, 1990; Amended October 31, 2001; Amended June 27, 2002)