STATE OF MICHIGAN
JOCELYN BENSON, SECRETARY OF STATE
DEPARTMENT OF STATE
LANSING

July 27, 2020

NOTICE OF FILING

ADMINISTRATIVE RULES

To: Secretary of the Senate
Clerk of the House of Representatives
Joint Committee on Administrative Rules
Michigan Office of Administrative Hearings and Rules (Administrative Rule #2018-012-EQ)
Legislative Service Bureau (Secretary of State Filing #19-07-05)
Department of Environment, Great Lakes, and Energy

In accordance with the provisions of Section 46 of Act No. 306 of the Public Acts of 1969, being MCL 24.246, and paragraph 16 of Executive Order 1995-6, this is to advise you that the Michigan Department of Technology, Management and Budget and the State Office of Regulatory Reinvention filed Administrative Rule #2019-012-EQ (Secretary of State Filing #19-07-05) on this date at 11:21 A.M. for the Department of Environment, Great Lakes, and Energy entitled, "Hazardous Waste Materials"

These rules take effect 7 days after filing with the Secretary of State.

Sincerely,

Jocelyn Benson
Secretary of State

Melissa Malerman /CK
Melissa Malerman, Departmental Supervisor
Office of the Great Seal

Enclosure

STATE OF MICHIGAN
GRETCHEN WHITMER
GOVERNOR
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ORLENE HAWKS
DIRECTOR

Mar 13, 2020

Joint Committee on Administrative Rules
Boji Tower; 3rd Floor - 124 W. Allegan
P.O. 30036
Lansing, Michigan 48909-7536

Dear JCAR Staff:

On behalf of the Michigan Office of Administrative Hearings and Rules, I hereby submit the following rule set for consideration by the Joint Committee on Administrative Rules:

(2018-12 EQ) Hazardous Waste Management

Enclosed, you will find copies of the following:

1. 1 copy of the Request for Rulemaking.
2. 1 copy of the LSB formal certificate.
3. 1 copy of the MOAHR legal certificate.
4. 1 copy of the Regulatory Impact Statement.
5. 1 copy of the draft rules.
6. 1 copy of the JCAR Agency Report.

Please let MOAHR know if there are any questions.
Thanks.

Sincerely,

Michigan Office of Administrative Hearings and Rules

enclosures

GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF
ENVIRONMENT, GREAT LAKES, AND ENERGY
LANSING

LIESL EICHLER CLARK
DIRECTOR

CERTIFICATE OF ADOPTION

I, Liesl Eichler Clark, Director of the Department of Environment, Great Lakes, and Energy, do formally adopt the attached administrative rules, by amending R 299.9101, R 299.9102, R 299.9103, R 299.9104, R 299.9105, R 299.9106, R 299.9107, R 299.9108, R 299.9109, R 299.9202, R 299.9204, R 299.9206, R 299.9213, R 299.9214, R 299.9226, R 299.9228, R 299.9232, R 299.9301, R 299.9302, R 299.9303, R 299.9304, R 299.9305, R 299.9306, R 299.9307, R 299.9308, R 299.9309, R 299.9310, R 299.9311, R 299.9312, R 299.9313, R 299.9401, R 299.9404, R 299.9405, R 299.9409, R 299.9413, R 299.9503, R 299.9511, R 299.9513, R 299.9519, R 299.9601, R 299.9608, R 299.9610, R 299.9612, R 299.9627, R 299.9801, R 299.9803, R 299.9804, R 299.9808, R 299.9809, R 299.9902, R 299.11001, R 299.11003, R 299.11004, and R 299.11005 of the Michigan Administrative Code; adding R 299.9314, R 299.9315, and R 299.9316; and rescinding R 299.9205.

These rules are adopted pursuant to Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, and Executive Order 1995-18, as amended by Executive Order 2019-6.

March 23, 2020
Date

Liesl Eichler Clark, Director

MOAHR 2018-012 EQ

STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

LEGAL CERTIFICATION OF RULES

I certify that I have examined the attached administrative rules, dated March 3, 2020, in which the Department of Environment, Great Lakes, and Energy proposes to modify a portion of the Michigan Administrative Code entitled **"Hazardous Waste Management"** by:

- Amending R 299.9101, R 299.9102, R 299.9103, R 299.9104, R 299.9105, R 299.9106, R 299.9107, R 299.9108, R 299.9109, R 299.9202, R 299.9204, R 299.9206, R 299.9213, R 299.9214, R 299.9226, R 299.9228, R 299.9232, R 299.9301, R 299.9302, R 299.9303, R 299.9304, R 299.9305, R 299.9306, R 299.9307, R 299.9308, R 299.9309, R 299.9310, R 299.9311, R 299.9312, R 299.9313, R 299.9401, R 299.9404, R 299.9405, R 299.9409, R 299.9413, R 299.9503, R 299.9511, R 299.9513, R 299.9519, R 299.9601, R 299.9608, R 299.9610, R 299.9612, R 299.9627, R 299.9801, R 299.9803, R 299.9804, R 299.9808, R 299.9809, R 299.9902, R 299.11001, R 299.11003, R 299.11004, and R 299.11005.
- Adding R 299.9314, R 299.9315, and R 299.9316.
- Rescinding R 299.9205.

The Legislative Service Bureau has approved the proposed rules as to form, classification, and arrangement.

I approve the rules as to legality pursuant to the Administrative Procedures Act, MCL 24.201 *et seq.* and Executive Order No. 2019-6. In certifying the rules as to legality, I have determined that they are within the scope of the authority of the agency, do not violate constitutional rights, and are in conformity with the requirements of the Administrative Procedures Act.

Dated: 3/12/2020

Michigan Office of Administrative Hearings and Rules

By: Katie Wienczewski

Katie Wienczewski,
Attorney

THIS COPY TO BE FILED
WITH
SECRETARY OF STATE

LEGISLATIVE SERVICE BUREAU
Since 1941

Legal Division

Kevin H. Studebaker, Director

CERTIFICATE OF APPROVAL

On behalf of the Legislative Service Bureau, and as required by section 45 of the Administrative Procedures Act of 1969, 1969 PA 306, MCL 24.245, I have examined the attached proposed rules of the Department of Environment, Great Lakes, and Energy, dated March 3, 2020, amending R 299.9101, R 299.9102, R 299.9103, R 299.9104, R 299.9105, R 299.9106, R 299.9107, R 299.9108, R 299.9109, R 299.9202, R 299.9204, R 299.9206, R 299.9213, R 299.9214, R 299.9226, R 299.9228, R 299.9232, R 299.9301, R 299.9302, R 299.9303, R 299.9304, R 299.9305, R 299.9306, R 299.9307, R 299.9308, R 299.9309, R 299.9310, R 299.9311, R 299.9312, R 299.9313, R 299.9401, R 299.9404, R 299.9405, R 299.9409, R 299.9413, R 299.9503, R 299.9511, R 299.9513, R 299.9519, R 299.9601, R 299.9608, R 299.9610, R 299.9612, R 299.9627, R 299.9801, R 299.9803, R 299.9804, R 299.9808, R 299.9809, R 299.9902, R 299.11001, R 299.11003, R 299.11004, and R 299.11005, adding R 299.9314, R 299.9315, and R 299.9316, and rescinding R 299.9205 of the Department's rules entitled "Hazardous Waste Management." I approve the rules as to form, classification, and arrangement.

Dated: March 9, 2020

LEGISLATIVE SERVICE BUREAU

By Elizabeth R Edberg

Elizabeth R. Edberg,
Legal Counsel

Michigan Legislature
124 W. Allegan Street, 3rd Floor • P.O. Box 30036 • Lansing, MI 48909-7536 • (517) 373-9425 • Fax: (517) 373-5642

DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

MATERIALS MANAGEMENT DIVISION

HAZARDOUS WASTE MANAGEMENT

Filed with the secretary of state on July 27, 2020

These rules take effect 7 days after filing with the secretary of state.

(By authority conferred on the director and the department of environment, great lakes, and energy by sections 11127, 11128, 11132a, and 11140 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11127, 324.11128, 324.11132a, and 324.11140, and Executive Reorganization Order Nos. 1995-16, 2009-31, and 2011-1, MCL 324.99903, 324.99919, and 324.99921)

R 299.9101, R 299.9102, R 299.9103, R 299.9104, R 299.9105, R 299.9106, R 299.9107, R 299.9108, R 299.9109, R 299.9202, R 299.9204, R 299.9206, R 299.9213, R 299.9214, R 299.9226, R 299.9228, R 299.9232, R 299.9301, R 299.9302, R 299.9303, R 299.9304, R 299.9305, R 299.9306, R 299.9307, R 299.9308, R 299.9309, R 299.9310, R 299.9311, R 299.9312, R 299.9313, R 299.9401, R 299.9404, R 299.9405, R 299.9409, R 299.9413, R 299.9503, R 299.9511, R 299.9513, R 299.9519, R 299.9601, R 299.9608, R 299.9610, R 299.9612, R 299.9627, R 299.9801, R 299.9803, R 299.9804, R 299.9808, R 299.9809, R 299.9902, R 299.11001, R 299.11003, R 299.11004, and R 299.11005 of the Michigan Administrative Code are amended, R 299.9314, R 299.9315, and R 299.9316 are added, and R 299.9205 is rescinded, as follows:

PART 1. GENERAL PROVISIONS

R 299.9101 Definitions; A, B.

Rule 101. As used in these rules:

(a) "Aboveground tank" means a device that meets the definition of "tank" in this part and that is situated so that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface bottom and can be visually inspected.

(b) "Act" means the natural resources and environmental protection act, 1994 PA 451, MCL 324.101 to 324.90106.

(c) "Act 138" means the hazardous materials transportation act, 1998 PA 138, MCL 29.471 to 29.480.

(d) "Act 181" means the motor carrier safety act of 1963, 1963 PA 181, MCL 480.11 to 480.25.

(e) "Act 207" means the fire prevention code, 1941 PA 207, MCL 29.1 to 29.33.

(f) "Act 218" means sections 3101 and 3102 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 and 500.3102.

(g) "Act 236" means the revised judicature act of 1961, 1961 PA 236, MCL 600.101 to 600.9947.

(h) "Act 300" means the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923.

(i) "Act 306" means the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(j) "Act 368" means the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(k) "Act 399" means the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(l) "Active life" means the period from the initial receipt of hazardous waste at a facility until the

director receives certification of final closure.

(m) "Active portion" means that portion of a facility where treatment, storage, or disposal operations are being, or have been, conducted after November 19, 1980, and that is not a closed portion. (See also "closed portion" and "inactive portion.")

(n) "Active range" means a military range that is currently in service and being regularly used for range activities.

(o) "Acute hazardous waste" means hazardous waste that meets the listing criteria in R 299.9209(1) and is either listed in table 203a of the rules with the assigned hazard code of (H) or is listed in table 205a of the rules.

(p) "Administrator" means the administrator of the EPA or the administrator's designee.

(q) "Aerosol can" means a non-refillable receptacle containing a gas compressed, liquefied, or dissolved under pressure, the sole purpose of which is to expel a liquid, paste, or powder and fitted with a self-closing release device allowing the contents to be ejected by the gas.

(r) "Aerosol can processing" means the puncturing, draining, or crushing of aerosol cans.

(s) "AES filing compliance date" means the date that the EPA announces in the Federal Register, on or after which exporters of hazardous waste and exporters of CRTs for recycling are required to file EPA information in the Automated Export System or its successor system, under the International Trade Data System, ITDS, platform.

(t) "Agent," when used in conjunction with the term United States importer, means an employee of the United States importer or a legally recognized representative of the United States importer who has been authorized in a lawfully executed written document, such as a power of attorney, to act on the United States importer's behalf.

(u) "Agreement state" means a state that has entered into an agreement with the NRC under section 274(b) of the atomic energy act of 1954, 42 USC 2021, as amended, to assume responsibility for regulating within its borders byproduct, source, or special nuclear material in quantities not sufficient to form a critical mass.

(v) "Ampule" means an airtight vial made of glass, plastic, metal, or any combination of these materials.

(w) "Ancillary equipment" means any device, including, but not limited to, such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to storage or treatment tanks, between hazardous waste storage and treatment tanks to a point of disposal on site, or to a point of shipment for disposal off site.

(x) "Antifreeze" means a mixture containing ethylene glycol or propylene glycol for use as a heat transfer or dehydration fluid for the purposes of regulation as a universal waste under R 299.9228.

(y) "Aquifer" means a geologic formation, group of formations, or part of a formation that is capable of yielding a significant amount of groundwater to wells or springs.

(z) "Associated organic chemical manufacturing facility" means a facility that meets all of the following requirements:

(i) The primary SIC code at the facility is 2869 but operations may also include SIC codes 2821, 2822, and 2865.

(ii) The facility is physically co-located with a petroleum refinery.

(iii) The petroleum refinery to which the oil that is being recycled is returned also provides hydrocarbon feedstocks to the facility.

(aa) "ASTM" means the ASTM International.

(bb) "Authorized representative" means the person who is responsible for the overall operation of a facility or an operational unit, such as the plant manager, superintendent, or person who has equivalent responsibilities.

(cc) "Battery" means a device that consists of 1 or more electrically connected electrochemical cells and that is designed to receive, store, and deliver electric energy. An electrochemical cell is a system that consists of an anode, a cathode, an electrolyte, and any connections that are needed to allow the

cell to deliver or receive electrical energy. The term battery also includes an intact, unbroken battery from which the electrolyte has been removed.

(dd) "Boiler" means an enclosed device that uses controlled flame combustion and that is either determined by the director to be a boiler based on the standards and procedures in 40 CFR 260.32 and 260.33, which are adopted by reference in R 299.11003, or that has all of the following characteristics:

(i) The unit has physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases.

(ii) The unit's combustion chamber and primary energy recovery section or sections are of an integral design. To be of an integral design, the combustion chamber and the primary energy recovery section or sections, such as waterfalls and superheats, must be physically formed into 1 manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section or sections are joined only by ducts or connections carrying flue gas is not integrally designed; however, secondary energy recovery equipment, such as economizers or air preheaters, need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of an integral design:

(A) Process heaters or units that transfer energy directly to a process stream.

(B) Fluidized bed combustion units.

(iii) While in operation, the unit maintains a thermal energy recovery efficiency of not less than 60% calculated in terms of the recovered energy compared with the thermal value of the fuel.

(iv) The unit exports and utilizes not less than 75% of the recovered energy calculated on an annual basis. In this calculation, credit must not be given for recovered heat that is used internally in the same unit, such as for the preheating of fuel or combustion air and for the driving of induced or forced draft fans or feedwater pumps.

(ee) "Burner" means an owner or operator of a facility that burns either used oil fuel or hazardous waste fuel.

(ff) "By-product" means a material that is not 1 of the primary products of a production process and that is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a coproduct that is produced for the general public's use and that is ordinarily used in the form in which it is produced by the process.

R 299.9102 Definitions; C, D.

Rule 102. As used in these rules:

(a) "Carbon regeneration unit" means an enclosed thermal treatment device used to regenerate spent activated carbon.

(b) "Carbon dioxide stream" means carbon dioxide that has been captured from an emission source such as a power plant, including incidental associated substances derived from the source materials and the capture process, and any substances added to the stream to enable or improve the injection process.

(c) "Cathode ray tube" or "CRT" means a vacuum tube, composed primarily of glass, that is the visual or video display component of an electronic device. A used, intact CRT is a CRT whose vacuum has not been released. A used, broken CRT means glass removed from its housing or casing whose vacuum has been released.

(d) "Central accumulation area" means any onsite hazardous waste accumulation area that has been designated for accumulating hazardous wastes in units subject to R 299.9306 or R 299.9307. Central accumulation area also includes an onsite hazardous waste accumulation area at an eligible academic entity that chooses to participate under R 299.9315 and is subject to 40 CFR 262.211 when accumulating unwanted material or hazardous waste.

(e) "CERCLA" means the comprehensive environmental response, compensation, and liability act of 1980, 42 USC 9601 to 9675.

(f) "Certification" means a statement of professional opinion based upon knowledge or belief.

(g) "Certified delivery" means certified mail with return receipt requested, or equivalent courier service or other means, that provides the sender with a receipt confirming delivery.

(h) "CFR" means the Code of Federal Regulations.

(i) "Chemical agents and munitions" means chemical agents and munitions as defined in 50 USC section 1521(j)(1).

(j) "Closed portion" means the portion of a facility that an owner or operator has closed pursuant to the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion.")

(k) "Combustion zone" means the portion of the internal capacity of an incinerator where the gas temperatures of the materials being burned are within 100 degrees Celsius of the specified operating temperature.

(l) "Commingling" means the transfer of hazardous wastes between containers or vehicles by a transporter during transportation that results in the waste being mixed or repackaged.

(m) "Component" means either the tank or the ancillary equipment of a tank system.

(n) "Condition for exemption" means any requirement in R 299.9304 to R 299.9307, R 299.9315, R 299.9316, or R 299.9503(1)(c) that states an event, action, or standard that must occur or be met to obtain an exemption from any applicable requirements under parts 5 to 8 of the rules, or from the requirement for notification under section 3010 of RCRA, 42 USC 6930.

(o) "Confined aquifer" means an aquifer that is bounded above and below by impermeable beds or by beds that have a distinctly lower permeability than that of the aquifer itself. It is an aquifer that contains confined groundwater.

(p) "Consignee" means the ultimate treatment, storage, or disposal facility in a receiving country to which the hazardous waste will be sent.

(q) "Consolidation" means the transfer of containers of hazardous wastes between transport vehicles by a transporter during transportation without the containers holding the wastes being opened and without the wastes being repackaged.

(r) "Constituent" or "hazardous waste constituent" means a constituent that caused the administrator to list the hazardous waste in 40 CFR part 261, subpart D, a constituent that is listed in table 1 of 40 CFR 261.24, or a constituent that is listed in table 202 or 205c of these rules.

(s) "Consumer electronics" means devices containing an electronic circuit board, liquid crystal display, or plasma display such as those commonly found in homes and offices and these devices when used in other settings.

(t) "Contained" as it relates to hazardous secondary materials that are legitimately recycled under R 299.9232, means held in a unit, including a land-based unit, that meets all of the following criteria:

(i) The unit is in good condition, with no leaks or other continuing or intermittent unpermitted releases of the hazardous secondary materials to the environment, and is designed, as appropriate for materials, to prevent releases of the materials to the environment. Unpermitted releases are releases that are not covered by a permit, such as a permit to discharge to water or air, and may include releases through surface transport by precipitation runoff, releases to the soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic failures.

(ii) The unit is properly labeled or otherwise has a system, such as a log, to immediately identify the hazardous secondary materials in the unit.

(iii) The unit holds hazardous secondary materials that are compatible with other hazardous secondary materials placed in the unit and is compatible with the materials used to construct the unit and addresses any potential risks of fires or explosions.

(iv) Hazardous secondary materials in units that meet the applicable requirements of part 6 of these rules are presumptively contained.

(u) "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

(v) "Contingency plan" means a document that sets out an organized, planned, and coordinated course of action to be followed in case of a fire, explosion, or release of hazardous waste or hazardous waste constituents that could threaten human health or the environment.

(w) "Corrective action management unit" or "CAMU" means an area within a facility that is used only for managing remediation waste, in the case of grandfathered corrective action management units, or corrective action management unit-eligible waste, as further explained in R 299.9635(2) and (3), in implementing corrective action or cleanup at the facility.

(x) "Corrective action management unit-eligible waste" or "CAMU-eligible waste" means all wastes and hazardous wastes and all media, including groundwater, surface water, soils, sediments, and debris, that are managed for implementing cleanup. As-generated wastes from ongoing industrial operations at a site are not CAMU-eligible. Notwithstanding this subdivision and where appropriate, as-generated non-hazardous waste may be placed in a corrective action management unit if the waste is being used to facilitate treatment or the performance of the corrective action management unit. Wastes that would otherwise meet the definition of a CAMU-eligible waste are not CAMU-eligible wastes if either of the following apply:

(i) If the wastes are hazardous wastes found during a cleanup in intact or substantially intact containers, tanks, or other non-land-based units found above ground, unless the wastes are first placed in the tanks, containers or non-land-based units as part of the cleanup, or the containers or tanks are excavated during the cleanup.

(ii) If the director, or the director's designee, uses the authority in R 299.9635 to prohibit the wastes from management in a corrective action management unit.

(y) "Corrosion expert" means a person who, by reason of his or her knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks. The person shall be certified as being qualified by the National Association of Corrosion Engineers or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

(z) "CRT collector" means a person who receives used, intact CRTs for recycling, repair, resale, or donation.

(aa) "CRT exporter" means any person in the United States who initiates a transaction to send used CRTs outside the United States or its territories for recycling or reuse, or any intermediary in the United States arranging for the export.

(bb) "CRT glass manufacturer" means an operation or part of an operation that uses a furnace to manufacture CRT glass.

(cc) "CRT processing" means conducting all of the following activities:

(i) Receiving broken or intact CRTs.

(ii) Intentionally breaking intact CRTs or further breaking or separating broken CRTs.

(iii) Sorting or otherwise managing glass removed from CRT monitors.

(dd) "Designated facility" means a hazardous waste treatment, storage, or disposal facility that has received a permit or has interim status under 40 CFR parts 124 and 270; that has a license, permit, or interim status from a state that is authorized under section 3006 of the solid waste disposal act of 1965, 42 USC 6926, which, if located in this state, has an operating license that is issued under part 111 of the act, MCL 324.11101 to 324.11153, has a legally binding agreement with the director that authorizes operation, or is subject to the requirements of section 11123(7) and (8) of the act, MCL 324.11123; or that is regulated under R 299.9206(1)(c) or R 299.9803; and that has been designated on the manifest by the generator under R 299.9309. If the waste is destined for a facility in an authorized state that has not yet obtained authorization to regulate the particular waste as

hazardous, then the designated facility shall be a facility that is allowed by the receiving state to accept the waste. A designated facility may also mean a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste pursuant to R 299.9608.

(ee) "Destination facility" means a facility that treats, disposes of, or recycles a particular category of universal waste, except for the management activities described in 40 CFR 273.13(a) and (c) and 273.33(a) and (c). A facility at which a particular category of universal waste is only accumulated is not a destination facility for purposes of managing that category of universal waste.

(ff) "Dike" means an embankment or ridge that consists of either natural or man-made materials and that is used to prevent the movement of liquids, sludges, solids, or other materials.

(gg) "Dioxins and furans (D/F)" means tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

(hh) "Director" means the director of the department of environment, great lakes, and energy.

(ii) "Discharge" or "hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of hazardous waste into or on any land or water.

(jj) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any hazardous waste into or on land or water in a manner that the hazardous waste or a constituent of the hazardous waste might enter the environment, be emitted into the air, or discharged into water, including groundwater.

(kk) "Disposal facility" means a facility or a part of a facility at which hazardous waste, as defined by these rules, is intentionally placed into or on any land or water and at which hazardous waste will remain after closure. The term "disposal facility" does not include a corrective action management unit into which remediation wastes are placed.

(ll) "Displacement" means the relative movement of any two sides of a fault measured in any direction.

(mm) "DOD" means the United States Department of Defense.

(nn) "DOE" means the United States Department of Energy.

(oo) "DOT" means the United States Department of Transportation.

(pp) "Do-it-yourselfer used oil collection center" means any site or facility that accepts or aggregates and stores used oil collected only from household do-it-yourselfers.

(qq) "Drip pad" means an engineered structure that consists of a curbed, free-draining base, which is constructed of nonearthen materials, and which is designed to convey preservative kick-back or drippage from treated wood, precipitation, and surface water run-on to an associated collection system at wood preserving plants.

R 299.9103 Definitions; E, F.

Rule 103. As used in these rules:

(a) "Electronic import-export reporting compliance date" means the date that the EPA announces in the Federal Register, on or after which exporters, importers, and receiving facilities are required to submit certain export and import related documents to the EPA using the EPA's Waste Import Export Tracking System, or its successor system.

(b) "Electronic manifest" or "e-manifest" means the electronic format of the hazardous waste manifest that is obtained from the EPA's national e-manifest system and transmitted electronically to the system, and that is the legal equivalent of EPA Forms 8700-22 and 8700-22A.

(c) "Electronic manifest system" or "e-manifest system" means the EPA's national information technology system through which the electronic manifest may be obtained, completed, transmitted, and distributed to users of the electronic manifest and to regulatory agencies.

(d) "Element" means any part of a unit or any group of parts of a unit that are assembled to perform a specific function, for example, a pump seal, pump, kiln liner, or kiln thermocouple.

(e) "Elementary neutralization unit" means a device that is following both of the following requirements:

(i) Is used for neutralizing wastes that are hazardous wastes only because they exhibit the corrosivity characteristic defined in R 299.9212 or are listed in R 299.9213 or R 299.9214 only because they exhibit the corrosivity characteristic.

(ii) Is in compliance with the definition of "tank," "tank system," "container," "transport vehicle," or "vessel" as specified in this part.

(f) "Eligible NARM waste" means NARM waste that is eligible for the transportation and disposal conditional exemption under R 299.9823 of the rules. It is a NARM waste that contains hazardous waste, meets the waste acceptance criteria of, and is allowed by state NARM regulations to be disposed of at a low-level radioactive waste disposal facility licensed under 10 CFR part 61 or NRC agreement state equivalent regulations.

(g) "Enforceable document" means an order, a plan, or other document issued by the department either in place of an operating license for the postclosure period, or as a source of alternative requirements for hazardous waste management units, as provided under these rules. An enforceable document may include, but is not limited to, a corrective action order under part 111 of the act, MCL 324.11101 to 324.11153, a CERCLA remedy, or a closure or postclosure plan. An enforceable document must be issued under an authority that has available all of the following remedies:

(i) The authority to sue in courts of competent jurisdiction to enjoin any threatened or continuing violation of the requirements of these documents.

(ii) The authority to compel compliance with the requirements for corrective action or other emergency response measures deemed necessary to protect human health and the environment.

(iii) The authority to assess or sue to recover in court civil penalties, including fines, for violations of the requirements of these documents.

(h) "EPA" means the United States Environmental Protection Agency.

(i) "EPA acknowledgment of consent" or "EPA AOC" means the letter EPA sends to the exporter documenting the specific terms of the country of import's consent and the country or countries of transit's consent. The AOC meets the definition of an export license in the U.S. Census of Bureau regulations in 15 CFR 30.1.

(j) "EPA region" means the states and territories found in any of the 10 EPA regions identified in 40 CFR 260.10.

(k) "Episodic event" means an activity or activities, either planned or unplanned, that does not normally occur during generator operations and that results in an increase in the generation of hazardous wastes that exceeds the calendar month quantity limits for the generator's usual category.

(l) "Equivalent method" means any testing or analytical method that is approved by the director under R 299.9215.

(m) "Excluded scrap metal" means processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal.

(n) "Exempted radioactive waste" means a waste that meets the eligibility criteria and all of the conditions in R 299.9822, or meets the eligibility criteria and complies with all of the conditions in R 299.9823. The waste is conditionally exempted from the regulatory definition of hazardous waste in R 299.9203.

(o) "Existing facility" means a treatment, storage, or disposal facility that either received all necessary state-issued environmental permits or licenses before January 1, 1980, or for which approval of construction was received from the air pollution control commission before November 19, 1980. Existing facilities also include those treatment, storage, or disposal facilities that were operating before January 1, 1980, under existing authority and that did not require state-issued environmental permits or licenses.

(p) "Existing portion" means the land surface area of an existing waste management unit previously authorized and included in the original part A permit application to the EPA on which wastes have

been placed before the issuance of a permit under RCRA or an operating license under these rules, whichever is sooner.

(q) "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced, on or before July 14, 1986. Installation has commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either of the following provisions applies:

(i) A continuous on-site physical construction or installation program has begun.

(ii) The owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for physical construction of the site of installation of the tank system to be completed within a reasonable time.

(r) "Explosives or munitions emergency" means a situation involving the suspected or detected presence of unexploded ordnance, damaged or deteriorated explosives or munitions, an improvised explosive device, other potentially explosive material or device, or other potentially harmful military chemical munitions or device, that creates an actual or potential imminent threat to human health, including safety, or the environment, including property, as determined by an explosives or munitions emergency response specialist. Situations may require immediate and expeditious action by an explosives or munitions emergency specialist to control, mitigate, or eliminate the threat.

(s) "Explosives or munitions emergency response" means all immediate response activities by an explosives or munitions emergency response specialist to control, mitigate, or eliminate the actual or potential threat encountered during an explosives or munitions emergency. An explosives or munitions emergency response may include in-place render-safe procedures, treatment or destruction of the explosives or munitions or transporting those items to another location to be rendered safe, treated, or destroyed. Any reasonable delay in the completion of an explosives or munitions emergency response caused by a necessary, unforeseen, or uncontrollable circumstance does not terminate the explosives or munitions emergency. Explosives and munitions emergency responses may occur on either public or private lands and are not limited to responses at RCRA facilities.

(t) "Explosives or munitions emergency response specialist" means an individual trained in chemical or conventional munitions or explosives handling, transportation, render-safe procedures, or destruction techniques. Explosives or munitions emergency response specialists include DOD emergency explosive ordnance disposal, technical escort unit, and DOD-certified civilian or contractor personnel; and other federal, state, or local government or civilian personnel similarly trained in explosives or munitions emergency responses.

(u) "Exporter", also known as "primary exporter" on the manifest, means any person domiciled in the United States who is required to originate the movement document under R 299.9309 or the manifest for a shipment of hazardous waste under these rules, which specifies a foreign receiving facility to which the hazardous waste will be sent, or any recognized trader who proposes export of the hazardous waste for recovery or disposal operations in the country of import.

(v) "Facility" means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous waste, or for managing hazardous secondary materials before reclamation. A facility may consist of several treatment, storage, or disposal operational units, such as 1 or more landfills or surface impoundments, or combinations of operational units. For the purpose of implementing corrective action under part 111 of the act, MCL 324.11101 to 324.11153, "facility" includes all contiguous property under the control of the owner or operator. Notwithstanding the definition of the term "facility" as it relates to corrective action, a remediation waste management site is not a facility that is subject to corrective action under R 299.9629, but is subject to the corrective action requirements of part 111 of the act, MCL 324.11101 to 324.11153, and these rules if the site is located within such a facility.

(w) "Facility mailing list" means the mailing list for a facility that is maintained by the department under 40 CFR 124.10(c)(1)(ix).

(x) "Fault" means a fracture along which rocks on 1 side have been displaced with respect to rocks on the other side.

(y) "Federal agency" means any department, agency, or other instrumentality of the federal government; any independent agency or establishment of the federal government, including any government corporation; and the United States Government Publishing Office.

(z) "Federal clean air act" means the clean air act, 42 USC 7401 to 7671q.

(aa) "Federal water pollution control act," 33 USC 1251 to 1388, commonly known as the clean water act.

(bb) "Federal hazardous materials transportation act" means the hazardous materials transportation authorization act of 1994, 49 USC 5101 to 5128.

(cc) "Federal resource conservation and recovery act" means the resource conservation and recovery act of 1976, 42 USC 6901 to 6992k.

(dd) "Federal safe drinking water act" means the safe drinking water act, 42 USC 300f to 300j-27.

(ee) "FIFRA" means the federal insecticide, fungicide, and rodenticide act, 7 USC 136 to 136y.

(ff) "Final closure" means the closure of all hazardous waste management units at the facility under all applicable closure requirements so that hazardous waste management activities under parts 5 and 6 of these rules are no longer conducted at the facility, unless the activities are subject to R 299.9305 to R 299.9307.

(gg) "Flood" means a flood that has a 1% chance of being equaled or exceeded in any given year.

(hh) "Floodplain" means any land area that is subject to a 1% or greater chance of flooding in any given year from any source.

(ii) "Food chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

(jj) "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained in the tank or surface impoundment dike.

(kk) "Free liquids" means liquids that readily separate from the solid portion of a waste at ambient temperature and pressure.

(ll) "Fugitive emissions" means air contaminant emissions that emanate from non-point emission sources or sources other than stacks, ducts, or vents.

(mm) "Functionally equivalent element" means an element that performs the same function or measurement and that meets or exceeds the performance specifications of another element.

R 299.9104 Definitions; G to I.

Rule 104. As used in these rules:

(a) "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in part 2 of these rules or whose act first causes a hazardous waste to become subject to regulation.

(b) "Geologist" means a person who, by reason of his or her knowledge of geology, mathematics, and the physical and life sciences, acquired by education and experience, is equipped to practice geology.

(c) "Groundwater" means water below the land surface in a zone of saturation.

(d) "Hazardous secondary material" means a secondary material such as a spent material, by-product, or sludge that, when discarded, would be identified as hazardous waste under part 2 of these rules.

(e) "Hazardous secondary material generator" means a person whose act or process produces hazardous secondary materials at the generating facility. For the purpose of this definition, a generating facility includes all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.

(f) "Hazardous waste" means a hazardous waste as defined in R 299.9203.

(g) "Hazardous waste fuel" means hazardous waste burned for energy recovery in any boiler or

industrial furnace that is not regulated as an incinerator or fuel produced from hazardous waste for this purpose by processing, blending, or other treatment.

(h) "Hazardous waste management unit" means a contiguous area of land on or in which hazardous waste is placed or is the largest area in which there is a significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include all of the following:

(i) A surface impoundment.

(ii) A waste pile.

(iii) A land treatment area.

(iv) A landfill cell.

(v) An incinerator.

(vi) A tank and its associated piping and underlying containment system.

(vii) A container storage area. A container alone does not constitute a unit. The unit includes containers and the land or pad upon which they are placed.

(viii) A miscellaneous unit.

(i) "Hazardous waste number" means the code number that is used to identify a particular type of hazardous waste.

(j) "Holocene" means the most recent epoch of the quaternary period extending from the end of the Pleistocene to the present.

(k) "Home scrap metal means scrap metal as generated by steel mills, foundries, and refineries such as turnings, cuttings, punchings, and borings.

(l) "Household do-it-yourselfer used oil" means oil that is derived from households, such as used oil generated by individuals through the maintenance of their personal vehicles.

(m) "Household do-it-yourselfer used oil generator" means an individual who generates household do-it-yourselfer used oil.

(n) "Import" means the act of bringing hazardous waste into the United States from a foreign country.

(o) "Inactive portion" means that portion of a facility that is not operated after November 19, 1980. (See also "active portion" and "closed portion.")

(p) "Inactive range" means a military range that is not currently being used, but that is still under military control and considered by the military to be a potential range area, and that has not been put to a new use that is incompatible with range activities.

(q) "Incinerator" means an enclosed device that satisfies either of the following criteria:

(i) Uses controlled flame combustion, does not meet the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, and is not listed as an industrial furnace.

(ii) Meets the definition of an infrared incinerator or plasma arc incinerator.

(r) "Incompatible waste" means a hazardous waste that is unsuitable for either of the following:

(i) Placement in a particular device or facility because it may cause the corrosion or decay of containment materials, for example, container inner liners or tank walls.

(ii) Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure; fire or explosion; a violent reaction; toxic dusts, mists, fumes, or gases; or flammable fumes or gases. Examples of incompatible wastes are described in 40 CFR part 264, appendix V, and part 265, appendix V.

(s) "Independent requirement" means a requirement in part 3 of the rules that states an event, action, or standard that must occur or be met, and that applies without relation to, or irrespective of, the purpose of obtaining a conditional exemption from the operating license, interim status, and operating standards under R 299.9304 to R 299.9307, R 299.9315, or R 299.9316.

(t) "Individual generation site" means the contiguous site at or on which 1 or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have 1 or more sources of hazardous waste, but is considered a single or individual generation site if the site or

property is contiguous.

(u) "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish the recovery of materials or energy:

(i) Cement kilns.

(ii) Lime kilns.

(iii) Aggregate kilns.

(iv) Phosphate kilns.

(v) Coke ovens.

(vi) Blast furnaces.

(vii) Smelting, melting, and refining furnaces, including pyrometallurgical devices, such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces.

(viii) Titanium dioxide chloride process oxidation reactors.

(ix) Methane reforming furnaces.

(x) Pulping liquor recovery furnaces.

(xi) Combustion devices that are used in the recovery of sulfur values from spent sulfuric acid.

(xii) Halogen acid furnaces for the production of acid from halogenated hazardous waste generated by chemical production facilities where the furnace is located on the site of a chemical production facility, the acid product has a halogen acid content of at least 3%, the acid product is used in a manufacturing process, and, except for hazardous waste burned as a fuel, hazardous waste fed to the furnace has a minimum halogen content of 20% as-generated.

(xiii) Other devices that the administrator may, after notice and comment, add to this subdivision on the basis of 1 or more of the following factors:

(A) The design and use of the device primarily to accomplish the recovery of material products.

(B) The use of the device to burn or reduce raw materials to make a material product.

(C) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials in processes using raw materials as principal feedstocks.

(D) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product.

(E) The use of the device in common industrial practice to produce a material product.

(F) Other factors, as appropriate.

(v) "Infrared incinerator" means any enclosed device that uses electric powered resistance heaters as a source of radiant heat followed by an afterburner using controlled flame combustion and that is not listed as an industrial furnace.

(w) "In-ground tank" means a device that satisfies the definition of "tank" specified in R 299.9108(a) and that has a portion of its wall situated, to any degree, within the ground, thereby preventing visual inspection of the external surface area of the device that is in the ground.

(x) "Injection well" means a well into which fluids are injected. (See also "underground injection.")

(y) "Inner liner" means a continuous layer of material that is placed inside a tank or container and that protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

(z) "In operation" means that a facility is treating, storing, or disposing of hazardous waste.

(aa) "Installation inspector" means a person who, by reason of his or her knowledge of the physical sciences and the principles of engineering acquired by a professional education and related practical experience, is qualified to supervise the installation of tank systems

(bb) "Intermediate facility" means any facility that stores hazardous secondary materials for more than 10 days, other than a hazardous secondary material generator or reclaimer of the material.

(cc) "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

R 299.9105 Definitions; L to N.

Rule 105. As used in these rules:

(a) "Lamp" means the bulb or tube portion of a lighting device specifically designed to produce radiant energy, most often in the ultraviolet, visible, and infrared regions of the electromagnetic spectrum. Examples of common lamps include incandescent, fluorescent, high intensity discharge, sodium vapor, mercury vapor, and neon lamps.

(b) "Land-based unit" means an area where hazardous secondary materials are placed in or on the land before recycling. This definition does not include land-based production units.

(c) "Land disposal" means placement in or on the land and includes, but is not limited to, placement in any of the following:

(i) A landfill.

(ii) A surface impoundment.

(iii) A waste pile.

(iv) An injection well.

(v) A land treatment facility.

(vi) A salt dome formation.

(vii) A salt bed formation.

(viii) An underground mine or cave.

(ix) A concrete vault or bunker intended for disposal purposes.

"Land disposal" also means placement in or on the land by means of open detonation and open burning where the residues continue to exhibit 1 or more of the characteristics of hazardous waste. "Land disposal" does not include ocean disposal.

(d) "Land disposal restriction treatment standards" means the treatment standards under 40 CFR part 268 that a hazardous waste must meet.

(e) "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land. "Landfill" does not include any of the following:

(i) A pile.

(ii) A land treatment facility.

(iii) A surface impoundment.

(iv) An underground injection well.

(v) A salt dome formation.

(vi) A salt bed formation.

(vii) An underground mine or cave.

(viii) A corrective action management unit.

(f) "Landfill cell" means a discrete volume of a hazardous waste landfill that uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

(g) "Land treatment facility" means a treatment facility or part of a treatment facility at which hazardous waste is applied onto or incorporated into the soil surface. The facilities are disposal facilities if the waste will remain after closure.

(h) "Large quantity generator" means a generator who generates any of the following amounts in a calendar month:

(i) Greater than or equal to 1000 kilograms of non-acute hazardous waste.

(ii) Greater than 1 kilogram of acute hazardous waste.

(iii) Greater than 1 kilogram of severely toxic hazardous waste.

(iv) Greater than 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste or severely toxic hazardous waste.

(i) "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

(j) "Leak detection system" means a system capable of detecting the failure of either the primary or secondary containment structure or the presence of a release of hazardous waste or accumulated liquid in the secondary containment structure. The system must employ operational controls, such as daily visual inspections for releases into the secondary containment system or aboveground tanks, or consist of an interstitial monitoring device designed to continuously and automatically detect the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

(k) "Lift" means a layer of placed materials, including a layer of compacted clay in a landfill liner or cap, or a layer of waste in a landfill.

(l) "Liner" means a continuous layer of natural or man-made materials beneath or on the sides of a surface impoundment, landfill, or landfill cell that restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

(m) "Low-level mixed waste" or "LLMW" means a waste that contains both LLRW and hazardous waste.

(n) "Low-level radioactive waste" or "LLRW" means a radioactive waste that contains source, special nuclear, or byproduct materials, and that is not classified high-level radioactive waste, transuranic waste, spent nuclear fuel, or byproduct materials as defined in section 11(e)(2) of the atomic energy act of 1954, 42 USC 2014(e)(2).

(o) "Management" or "hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

(p) "Manifest" means the shipping document EPA Form 8700-22, including, if necessary, EPA Form 8700-22A, or the electronic manifest, in accordance with the applicable requirements of parts 3, 4, and 6 of these rules.

(q) "Manifest tracking number" means the alphanumeric identification number which is preprinted in item 4 of the manifest by a registered source.

(r) "Method of treatment or disposal" means 1 of the major categories of treatment or disposal used for hazardous waste, including any of the following:

(i) Landfill.

(ii) Land treatment.

(iii) Thermal treatment.

(iv) Chemical treatment.

(v) Physical treatment.

(vi) Biological treatment.

(s) "Military" means the DOD, the United States Armed Services, Coast Guard, National Guard, DOE, or other parties under contract or acting as agent for any of the parties, who handle military munitions.

(t) "Military munitions" means all ammunition products and components produced or used by or for the DOD or the United States Armed Services for national defense and security, including military munitions under the control of the DOD, the United States Coast Guard, the DOE, and National Guard personnel. The term military munitions includes any of the following: confined gaseous, liquid, and solid propellants, explosives, pyrotechnics, chemical and riot control agents, smokes, and incendiaries used by DOD components, including bulk explosives and chemical warfare agents, chemical munitions, rockets, guided and ballistic missiles, bombs, warheads, mortar rounds, artillery ammunitions, small arms ammunitions, grenades, mines, torpedoes, depth charges, cluster munitions and dispensers, demolitions charges, and devices and components thereof. Military munitions do not include wholly inert items, improvised explosive devices, and nuclear weapons, nuclear devices, and nuclear components thereof. However, the term military munitions does include nonnuclear components of nuclear devices, managed under the DOE's nuclear weapons program after all required

sanitization operations under the atomic energy act of 1954, 42 USC 2011 to 2296b-7, as amended, have been compiled.

(u) "Military range" means designated land and water areas set aside, managed, and used to conduct research on, develop, test, and evaluate military munitions and explosives, other ordnance, or weapon systems, or to train military personnel in their use and handling. Ranges include firing lines and positions, maneuver areas, firing lanes, test pads, detonation pads, impact areas, and buffer zones with restricted access and exclusionary areas.

(v) "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit that is removed to gain access to the deposit and is then used for reclamation of a surface mine.

(w) "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of. "Miscellaneous unit" does not include any of the following:

(i) A container.

(ii) A tank.

(iii) A surface impoundment.

(iv) A pile.

(v) A land treatment unit.

(vi) A landfill.

(vii) An incinerator.

(viii) A boiler.

(ix) An industrial furnace.

(x) An underground injection well with appropriate technical standards pursuant to 40 CFR part 146.

(xi) A unit that is eligible for a temporary operating license for research under R 299.9501.

(xii) A corrective action management unit.

(xiii) A staging pile.

(x) "Movement" means that hazardous waste transported to a facility in an individual vehicle.

(y) "Mixed waste" means a waste that contains both hazardous waste and source, special nuclear, or byproduct material subject to the atomic energy act of 1954, 42 USC 2011 to 2296b-7, as amended.

(z) "Naturally occurring and/or accelerator-produced radioactive material" or "NARM" means radioactive material that is regulated by a state under state law, or by the DOE, as authorized by the atomic energy act of 1954, 42 USC 2011 to 2296b-7, as amended, under DOE orders, and meets either of the following requirements:

(i) Is radioactive material that is naturally occurring and is not source, special nuclear, or byproduct material as defined by the atomic energy act of 1954, 42 USC 2011 to 2296b-7, as amended.

(ii) Is radioactive material that is produced by an accelerator.

(aa) "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986. For purposes of 40 CFR 264.193(g)(2) and 265.193(g)(2), a new tank system is one for which construction commences after July 14, 1986.

(bb) "NFPA" means the National Fire Protection Association.

(cc) "No free liquids" as used in R 299.9204, means that solvent-contaminated wipes may not contain free liquids as determined by Method 9095B, the Paint Filter Liquids Test, included in Test Methods for Evaluating Solid Waste, Physical/Chemical Methods, EPA publication SW-846 or by another standard or test method approved by the director, and that there is no free liquid in the container holding the wipes.

(dd) "Non-acute hazardous waste" means all hazardous waste that are not acute hazardous waste or severely toxic hazardous waste as defined in these rules.

(ee) "NRC" means the United States Nuclear Regulatory Commission.

(ff) "NRC license" or "NRC agreement state license" means a license issued by the NRC, or NRC agreement state, to users that manage radionuclides regulated by the NRC, or NRC agreement states, under the authority of the atomic energy act of 1954, 42 USC 2011 to 2296b-7, as amended.

R 299.9106 Definitions; O to Q.

Rule 106. As used in these rules:

(a) "On-ground tank" means a device that satisfies the definition of "tank" in R 299.9108(a) and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

(b) "On-site" means on the same or geographically contiguous property, which may be divided by a public or private right-of-way if the entrance and exit between the pieces of property are at a crossroads intersection and access is by crossing, rather than going along, the right-of-way. Noncontiguous pieces of property owned by the same person but connected by a right of way that the owner controls and that the public does not have access is also considered on-site property.

(c) "On-site treatment facility" means a facility that is for the treatment of hazardous waste in tanks or containers, that is located on the site of generation of the wastes, and that does not do either of the following:

(i) Include equipment for incineration.

(ii) Accept hazardous wastes from other generators.

(d) "Open burning" means the combustion of any material without any of the following characteristics:

(i) Control of combustion air to maintain adequate temperature for efficient combustion.

(ii) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion.

(iii) Control of the emission of the gaseous combustion products. (See also "incineration" and "thermal treatment.")

(e) "Operating license" means a license to construct a new facility or expand, enlarge, or alter an existing facility, or to operate a facility pursuant to the authority of part 111 of the act, MCL 324.11101 to 324.11153.

(f) "Operator" means the person responsible for the overall operation of a facility.

(g) "Owner" means the person who owns a treatment, storage, or disposal facility, or part of a facility, including the titleholder of the land on which the facility is located.

(h) "Partial closure" means the closure of a hazardous waste management unit pursuant to the applicable closure requirements of 40 CFR part 265 and part 6 of these rules at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank, including its associated piping and underlying containment systems, a landfill cell, surface impoundment, waste pile, or other hazardous waste management units while other units of the same facility continue to operate.

(i) "Person" means any of the following entities:

(i) An individual.

(ii) A partnership.

(iii) The state.

(iv) A trust.

(v) A firm.

(vi) A joint stock company.

(vii) A federal agency.

(viii) A corporation, including a government corporation.

(ix) An association.

(x) A municipality

(xi) A commission.

(xii) A political subdivision of a state.
(xiii) Any interstate body.
(xiv) Any other public body created by or under state law.

(j) "Personnel" or "facility personnel" means all persons who work at, or oversee the operations of, a hazardous waste facility and whose actions or failure to act might result in noncompliance with part 111 of the act, MCL 324.11101 to 324.11153, or these rules.

(k) "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, or intended for use as a plant regulator, defoliant, or desiccant, other than any article that meets any of the following criteria:

(i) Is a new animal drug under section 201(v) of the federal food, drug, and cosmetic act, 21 USC 321(v).

(ii) Is an animal drug that has been determined by regulation of the secretary of health and human services not to be a new animal drug.

(iii) Is an animal feed under section 201(w) of the federal food, drug, and cosmetic act, 21 USC 321(w), that bears or contains any substances identified in paragraph (i) or (ii) of this subdivision.

(l) "Petrochemical recovered oil" means oil that has been reclaimed from secondary materials from normal organic chemical manufacturing processes and oil recovered from organic chemical manufacturing processes.

(m) "Petroleum refining facility" means an establishment that is primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, and lubricants through fractionation, straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking, or other processes.

(n) "Pharmaceutical" means a drug intended for use in the diagnosis, cure, mitigation, treatment, therapy, or prevention of disease in humans or animals.

(o) "Pile" means any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage.

(p) "Planned episodic event" means an episodic event that the generator planned and prepared for, including regular maintenance, tank cleanouts, short-term projects, and removal of excess chemical inventory.

(q) "Plasma arc incinerator" means any enclosed device which uses a high intensity electrical discharge or arc as a source of heat followed by an afterburner using controlled flame combustion and which is not listed as an industrial furnace.

(r) "Point source" means any discernible, confined, and discrete conveyance, including any of the following from which pollutants are or might be discharged:

(i) A pipe.
(ii) A ditch.
(iii) A channel.
(iv) A tunnel.
(v) A conduit.
(vi) A well.
(vii) A discrete fissure.
(viii) A container.
(ix) Rolling stock.
(x) A concentrated animal feeding operation.
(xi) A vessel or other floating craft.

"Point source" does not include return flows from irrigated agriculture.

(s) "Primary monitoring parameter" means indicator parameters, for example, specific conductance, total organic carbon, or total organic halogen; hazardous waste constituents; or reaction products which provide a reliable indication of the presence of hazardous constituents in groundwater and

which, when specified in a facility operating license, are subject to all of the requirements of 40 CFR part 264, subpart F.

(t) "Processed scrap metal" means scrap metal which has been manually or physically altered to either separate it into distinct materials to enhance economic value or to improve the handling of materials. Processed scrap metal includes, but is not limited to, scrap metal which has been baled, shredded, sheared, chopped, crushed, flattened, cut, melted, or separated by metal type and fines, drosses, and related materials which have been agglomerated. Shredded circuit boards being sent for recycling are not considered processed scrap and are covered under the exclusion from the definition of waste for shredded circuit boards that are being recycled in R 299.9204.

(u) "Processing" means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes all of the following:

(i) Blending used oil with virgin petroleum products.

(ii) Blending used oils to meet fuel specifications.

(iii) Filtration.

(iv) Simple distillation.

(v) Chemical or physical separation.

(vi) Re-refining.

(v) "Prompt scrap metal" means scrap metal as generated by the metal working and fabrication industries. Prompt scrap metal, which is also known as "industrial" or "new" scrap metal, includes all of the following:

(i) Turnings.

(ii) Cuttings.

(iii) Punching.

(iv) Borings.

(w) "Publicly owned treatment works", known as "POTW," means any device or system which is used in the treatment, including recycling and reclamation, of municipal sewage or industrial wastes of a liquid nature and which is owned by a "state" or "municipality," as defined by section 502(4) of the federal clean water act, 33 USC 1362(4). This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

(x) "Qualified groundwater scientist" means a scientist or engineer who has received a baccalaureate or post-graduate degree in the natural sciences or engineering, and has sufficient training and experience in groundwater hydrology and related fields as may be demonstrated by state registration, professional certifications, or completions of accredited university courses that enable that individual to make sound professional judgments regarding groundwater monitoring and contaminant fate and transport.

R 299.9107 Definitions; R, S.

Rule 107. As used in these rules:

(a) "RCRA" means the solid waste disposal act, as amended by the resource conservation and recovery act of 1976, as amended, 42 USC 6901 to 6992k.

(b) "Reclamation" means either processing to recover a usable product or regeneration, such as in the recovery of lead values from spent batteries and the regeneration of spent solvents. For the purpose of R 299.9204(1)(aa) and (bb), smelting, melting, and refining furnaces are considered to be solely engaged in metals reclamation if the metal recovery from the hazardous secondary materials meets the same requirements as those specified for metals recovery from hazardous waste of 40 CFR 266.100(d)(1)-(3), and if the residuals meet the requirements of R 299.9808.

(c) "Recognized trader" means a person domiciled in the United States, by site of business, who acts to arrange and facilitate transboundary movements of wastes destined for recovery or disposal operations, either by purchasing from and subsequently selling to United States and foreign facilities,

or by acting under arrangements with a United States waste facility to arrange for the export or import of the wastes.

(d) "Recreational property" means all lands that are predominately intended to provide outdoor recreational activities under the control and operation of a governmental agency, such as outdoor parks, preserves, campgrounds, and wildlife refuges.

(e) "Recycle" means use, reuse, or reclamation. Material is used or reused if it is either of the following:

(i) Employed as an ingredient in an industrial process to make a product, unless distinct components of the material are recovered as separate end products, such as when metals are recovered from metal-containing secondary materials.

(ii) Employed in a particular function or application as an effective substitute for a commercial product, such as spent pickle liquor used as phosphorus precipitant and sludge conditioner in wastewater treatment.

(f) "Recyclable material" means hazardous waste that is recycled.

(g) "Re-refining distillation bottoms" means the heavy fraction produced by vacuum distillation of filtered and dehydrated used oil. The composition of still bottoms varies with column operation and feedstock.

(h) "Regional administrator" means the regional administrator or his or her designee for the EPA region in which the facility is located.

(i) "Regulated unit" means a surface impoundment, waste pile, land treatment unit, or landfill that received hazardous waste after July 26, 1982.

(j) "Remanufacturing" means processing higher-value secondary material to manufacture a product that serves a similar functional purpose as the original commercial-grade material. For the purpose of this definition, a hazardous secondary material is considered higher-value if it was generated from the use of a commercial-grade material in a manufacturing process and can be remanufactured into a similar commercial-grade material.

(k) "Remedial action plan" or "RAP" means a special form of an operating license that a facility owner or operator may obtain instead of an operating license issued under part 5 of these rules. The RAP shall authorize the treatment, storage, or disposal of hazardous remediation waste at a remediation waste management site.

(l) "Remediation waste" means all wastes and hazardous wastes, and all media, including groundwater, surface water, soils, and sediments, and debris, that are managed for implementing cleanup.

(m) "Remediation waste management site" means a facility where an owner or operator is or will be treating, storing, or disposing of hazardous remediation wastes. A remediation waste management site is not a facility that is subject to corrective action under R 299.9629, but is subject to the corrective action requirements of part 111 of the act, MCL 324.11101 to 324.11153, and these rules if the site is located in such a facility.

(n) "Representative sample" means a sample of a universe or whole that can be expected to exhibit the average properties of the universe or whole.

(o) "Retention time" means the minimum time hazardous waste is subjected continuously to a required combustion zone temperature in an incinerator.

(p) "Run-off" means any rainwater, leachate, or other liquid that drains over land from any part of a facility.

(q) "Run-on" means any rainwater, leachate, or other liquid that drains over land onto any part of a facility.

(r) "Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

(s) "Scrap metal" means bits and pieces of metal parts, such as bars, turnings, rods, sheets, wire, or metal pieces, that may be combined together with bolts or by soldering, such as radiators, scrap automobiles, and railroad car boxes, and that, when worn or superfluous, may be recycled.

(t) "Secondary monitoring parameter" means ions such as calcium, sodium, magnesium, iron, chloride, sulfate, bicarbonate, and carbonate; waste constituents; reaction products; or other parameters that provide an indication of the presence of hazardous constituents in groundwater and which are not subject to the requirements of 40 CFR part 264, subpart F.

(u) "Severely toxic hazardous waste" means a waste that exhibits the characteristic of severe toxicity by containing 1 part per million or more of a severely toxic substance listed in table 202 of these rules.

(v) "Sham recycling" means recycling that is not legitimate recycling as outlined in R 299.9232. A hazardous secondary material found to be sham recycled is considered discarded and a waste.

(w) "Site identification number" means the number that is assigned by the EPA or the EPA's designee to each generator, transporter, and treatment, storage, or disposal facility. If a generator, transporter, or treatment, storage, or disposal facility manages wastes that are hazardous under these rules, but are not hazardous under RCRA, then "site identification number" means an equivalent number that is assigned by the director.

(x) "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, exclusive of the treated effluent from a wastewater treatment plant.

(y) "Sludge dryer" means any enclosed thermal treatment device that is used to dehydrate sludge and that has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 BTU per pound of sludge treated on a wet-weight basis.

(z) "Small quantity generator" means a generator who generates the following amounts in a calendar month:

(i) Greater than 100 kilograms but less than 1,000 kilograms of non-acute hazardous waste.

(ii) Less than or equal to 1 kilogram of acute hazardous waste.

(iii) Less than or equal to 1 kilogram of severely toxic hazardous waste.

(iv) Less than or equal to 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste or severely toxic hazardous waste.

(aa) "Sole source aquifer" means an aquifer designated pursuant to section 1424(e) of the federal safe drinking water act, 42 USC 300h-3(e).

(bb) "Solvent-contaminated wipe" means a wipe that, after use or after cleanup of a spill, meets any of the following criteria:

(i) Contains 1 or more of the F001 through F005 solvents listed in R 299.9220 or the corresponding P- or U-listed solvents found in R 299.9224, R 299.9225, or R 299.9226.

(ii) Exhibits a hazardous characteristic as defined in R 299.9212 and that characteristic results from a solvent listed in part 2 of these rules.

(iii) Exhibits only the hazardous characteristic of ignitability as defined in R 299.9212 due to the presence of 1 or more solvents that are not listed in part 2 of these rules.

Solvent-contaminated wipes that contain listed hazardous wastes other than solvents, or exhibit the characteristic of toxicity, corrosivity, or reactivity due to contaminants other than solvents, are not eligible for the exclusions in R 299.9204(1)(z) and (2)(q).

(cc) "Sorb" means to adsorb or absorb, or both.

(dd) "Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both.

(ee) "Speculative accumulation" means accumulation before recycle. A material is not accumulated speculatively if the person accumulating the material shows that all of the following requirements are met:

(i) That the material is potentially recyclable and has a feasible means of being recycled.

(ii) That during the calendar year commencing on January 1, the amount of material that is recycled or transferred to a different site for recycling equals not less than 75% 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% requirement is to be applied to each material of the same type that is recycled in the same way. Materials accumulating in units which would be exempt from regulation under R 299.9204(3)(a) or which are already defined as wastes shall not be included in making the calculation. Materials are no longer in this category once they are removed from accumulation for recycling.

(iii) For hazardous secondary materials being to be recycled under R 299.9232, R 299.9233, or R 299.9234, the material is placed in a storage unit with a label indicating the first date that the material began to be accumulated. If placing a label on the storage unit is not practicable, the accumulation period shall be documented through an inventory log or other appropriate method.

(ff) "Spent material" means any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing.

(gg) "Staging pile" means an accumulation of solid, non-flowing remediation waste that is not a containment building and that is used only during remedial operations for temporary storage at a facility. Staging piles must be designated by the director under R 299.9638.

(hh) "State" means any of the following:

(i) The several states.

(ii) The District of Columbia.

(iii) The Commonwealth of Puerto Rico.

(iv) The Virgin Islands.

(v) Guam.

(vi) American Samoa.

(vii) The Commonwealth of the Northern Mariana Islands.

(ii) "Storage" means the holding of hazardous waste for a temporary period at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.

(jj) "Sump" means any pit or reservoir which satisfies the definition of "tank" in R 299.9108 and those troughs or trenches connected to it that serve to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities. When used in conjunction with the regulation of a landfill, surface impoundment, and waste pile, a sump means any lined pit or reservoir that serves to collect liquids drained from a leachate collection and removal system or leak detection system for later removal from the system.

(kk) "Surface impoundment" or "impoundment" means a treatment, storage, or disposal facility or part of a treatment, storage, or disposal facility that is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, that is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and that is not an injection well. Examples of surface impoundments are holding, storage, settling and aeration pits, ponds, and lagoons.

(ll) "Surface water" means a body of water whose top surface is exposed to the atmosphere and includes the Great Lakes, their connecting waters, all inland lakes and ponds, rivers and streams, impoundments, open drains, and other watercourses, except for drainage ways and ponds used solely for wastewater conveyance, treatment, or control.

R 299.9108 Definitions; T.

Rule 108. As used in these rules:

(a) "Tank" means a stationary device that is designed to contain an accumulation of hazardous waste and that is constructed primarily of nonearthen materials, such as wood, concrete, steel, or plastic, that provide structural support.

(b) "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

(c) "TEQ" means toxicity equivalence, the international method of relating the toxicity of various dioxin/furan congeners to the toxicity of 2,3,7,8-tetrachlorodibenzo-p-dioxin.

(d) "Thermal treatment" means the treatment of hazardous waste in a device that uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. All of the following are examples of thermal treatment processes:

(i) Incineration.

(ii) Molten salt.

(iii) Pyrolysis.

(iv) Calcination.

(v) Wet air oxidation.

(vi) Microwave discharge.

(e) "Thermostat" means a temperature control device that contains metallic mercury in an ampule attached to a bimetal sensing element and includes mercury-containing ampules that have been removed from the temperature control devices in compliance with the requirements of 40 CFR 273.13(c)(2) or 273.33(c)(2).

(f) "Title II of the solid waste disposal act" means the sections of Public Law 89-272 specified in the act.

(g) "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste that is directly connected to an industrial production process and that is constructed and operated in a manner that prevents the release of any hazardous waste or any constituent of a hazardous waste into the environment during treatment. An example is a pipe in which waste acid is neutralized.

(h) "Transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas, and other similar areas, where shipments of hazardous waste or hazardous secondary materials are held during the normal course of transportation.

(i) "Transportation" means the movement of hazardous waste by air, rail, highway, or water.

(j) "Transport vehicle" means a motor vehicle or railcar that is used for the transportation of cargo by any mode. Each cargo-carrying body, such as a trailer or railroad freight car, is a separate transport vehicle.

(k) "Transporter" means a person who is engaged in the off-site transportation of hazardous waste by air, rail, highway, or water.

(l) "Treatability study" means a study in which a hazardous waste is subjected to a treatment process to determine any of the following:

(i) Whether the waste is amenable to the treatment process.

(ii) What pretreatment, if any, is required.

(iii) The optimal process conditions needed to achieve the desired treatment.

(iv) The efficiency of a treatment process for a specific waste or wastes.

(v) The characteristics and volumes of residuals from a particular treatment process. Also included in this definition for the purposes of the exemptions specified in R 299.9204(7), (8), and (9) are liner compatibility, corrosion, and other material compatibility studies and toxicological and health effects studies. A treatability study is not a means to commercially treat or dispose of hazardous waste.

(m) "Treatment" means any method, technique, or process, including neutralization, that is designed to change the physical, chemical, or biological character or composition of any hazardous waste to neutralize the waste, to recover energy or material resources from the waste, or to render the waste nonhazardous or less hazardous, safer to transport, store, or dispose of, amenable to recovery or storage, or reduced in volume. Treatment includes any activity in processing that is designed to change the physical form or chemical composition of hazardous waste to render it nonhazardous.

(n) "Treatment facility" means a facility or part of a facility at which hazardous waste, as defined by

these rules, is subject to treatment.

(o) "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

(p) "Trial burn" means a test that is conducted under the requirements of an operating license to determine if the design of an incinerator or other thermal treatment device is satisfactory.

(q) "Trial operation" means an incinerator test that is conducted under the requirements of an operating license to determine if the operation of the incinerator or other thermal treatment device is satisfactory.

R 299.9109 Definitions; U to Z.

Rule 109. As used in these rules:

(a) "Underground injection" or "well injection" means the subsurface emplacement of fluids through a bored, drilled, or driven well or through a dug well where the depth of the dug well is greater than the largest surface dimension.

(b) "Underground tank" means a device that satisfies the definition of "tank" specified in R 299.9108 and that has its entire surface area below the surface of, and covered by, the ground.

(c) "Unexploded ordnance" means military munitions that have been primed, fused, armed, or otherwise prepared for action, and have been fired, dropped, launched, projected, or placed in such a manner that constitutes a hazard to operations, installation, personnel, or material and remain unexploded either by malfunction, design, or any other cause.

(d) "Unfit for use tank system" means a tank system that has been determined, through an integrity assessment or other inspection, to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

(e) "United States" means any of the following:

(i) The 50 states.

(ii) The District of Columbia.

(iii) The Commonwealth of Puerto Rico.

(iv) The United States Virgin Islands.

(v) Guam.

(vi) American Samoa.

(vii) The Commonwealth of the Northern Mariana Islands.

(f) "United States importer" means a person who has lawfully recognized resident status within the United States and who brings in, or arranges for the entry of, a shipment of hazardous waste into the United States from a foreign country. A United States importer may be any of the following persons:

(i) The person who is liable for primary payment of any United States customs duties on the hazardous waste.

(ii) An agent as defined in R 299.9101.

(iii) The treatment, storage, or disposal facility designated on the manifest.

(iv) The importer of record as designated on the United States customs entry documents.

(v) The transporter who carries the hazardous waste at the point of entry.

(vi) The consignee.

(g) "Universal waste" means any of the hazardous wastes that are identified in R 299.9228(1) and managed under R 299.9228.

(h) "Universal waste handler" means a generator of universal waste or the owner or operator of a facility, including all contiguous property, that receives universal waste from other universal waste handlers, accumulates universal waste, and sends universal waste to another universal waste handler, a destination facility, or a foreign destination. The term universal waste handler does not include either of the following:

(i) A person who treats, disposes of, or recycles universal waste, except as provided for in 40 CFR 273.13(a), (c), or (e) or 273.33(a), (c), or (e).

(ii) A person engaged in the off-site transportation of universal waste by air, rail, highway, or water, including a universal waste transfer facility.

(i) "Universal waste large quantity handler" means a universal waste handler who accumulates 5,000 kilograms or more total of universal waste at any time.

(j) "Universal waste small quantity handler" means a universal waste handler who does not accumulate 5,000 kilograms or more total of universal waste at any time.

(k) "Universal waste transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas, and other similar areas, where shipments of universal waste are held during the normal course of transportation for 10 days or less.

(l) "Universal waste transporter" means a person engaged in the off-site transportation of universal waste by air, rail, highway, or water.

(m) "Unplanned episodic event" means an episodic event that the generator did not plan or reasonably did not expect to occur, including production process upsets, product recalls, accidental spills, or "acts of nature," such as a tornado, hurricane, or flood.

(n) "Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

(o) "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer and includes lower aquifers that are hydraulically interconnected with the aquifer within the facility's property boundary.

(p) "USC" means the United States Code.

(q) "USGS" means the United States Geological Survey.

(r) "USPS" means the United States Postal Service.

(s) "Used oil" means any oil which has been refined from crude oil, or any synthetic oil, which has been used and which as a result of the use, is contaminated by physical or chemical impurities.

(t) "Used oil aboveground tank" means a tank that is used to store or process used oil and that is not an underground storage tank as defined in 40 CFR 280.12.

(u) "Used oil aggregation point" means any site or facility that accepts, aggregates, or stores used oil that is collected only from other used oil generation sites owned or operated by the same owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of not more than 55 gallons. Used oil aggregation points may also accept used oil from household do-it-yourselfers.

(v) "Used oil burner" means a facility where off-specification used oil, as defined in R 299.9809(1)(f), is burned for energy recovery in the devices identified in R 299.9814.

(w) "Used oil collection center" means any site or facility that has provided written notification of used oil management activities to the department and that accepts or aggregates and stores used oil collected from either of the following:

(i) Used oil generators regulated under R 299.9810 who transport used oil to the collection center in shipments of not more than 55 gallons under 40 CFR 279.24.

(ii) Household do-it-yourselfers.

(x) "Used oil existing tank" means a tank that is used for the storage or processing of used oil and that is in operation, or for which installation has commenced, on or before October 15, 1996, the effective date of the amendments to these rules that establish the state's used oil program under RCRA. Installation commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the tank and if either of the following provisions applies:

(i) A continuous on-site physical installation program has begun.

(ii) The owner or operator has entered into contractual obligations, that cannot be cancelled or modified without substantial loss, for installation of the tank system to be completed within a reasonable time.

(y) "Used oil fuel" means any fuel that is produced from used oil through processing, blending, or other treatment.

(z) "Used oil fuel marketer" means any person who conducts either of the following activities:

(i) Directs a shipment of off-specification used oil from his or her facility to a used oil burner.

(ii) First claims that the used oil that is to be burned for energy recovery meets the used oil specifications set forth in R 299.9809(1)(f).

(aa) "Used oil generator" means any person, by site, whose act or process produces used oil or whose act first causes the used oil to become subject to regulation.

(bb) "Used oil new tank" means a tank that is used for the storage or processing of used oil and for which installation has commenced after, October 15, 1996, the effective date of amendments to these rules that establish the state's used oil program under RCRA.

(cc) "Used oil processor/re-refiner" means a facility that processes used oil.

(dd) "Used oil tank" means a stationary device that is designed to contain an accumulation of used oil and that is constructed primarily of nonearthen materials, such as wood, concrete, steel, or plastic, that provide structural support.

(ee) "Used oil transfer facility" means any transportation-related facility, including loading docks, parking areas, storage areas, and other areas, where shipments of used oil are held for more than 24 hours and not more than 35 days during the normal course of transportation or before an activity performed under R 299.9813(1) or (2). Transfer facilities that store used oil for more than 35 days are subject to regulation under R 299.9813.

(ff) "Used oil transporter" means any person who transports used oil, any person who collects used oil from more than 1 generator and transports the collected oil, and owners and operators of used oil transfer facilities. Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation, but with the following exception, may not process used oil. Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation but that are not designed to produce, or make more amenable for the production of, used oil derived products or used oil fuel.

(gg) "User of the electronic manifest system" means a generator, a transporter, an owner or operator of a hazardous waste or recycling facility, or any other person that is required to use a manifest to comply with any federal or state requirement to track the shipment, transportation, and receipt of either hazardous waste or other waste material that is shipped from the site of generation to an off-site designated facility for treatment, storage, recycling, or disposal, or rejected hazardous wastes or regulated container residues that are shipped from a designated facility to an alternative facility or returned to the generator and satisfies 1 or both of the following requirements:

(i) Elects to use the electronic manifest system to obtain, complete, and transmit an electronic manifest format supplied by the system.

(ii) Elects to use the paper manifest form and submits to the electronic manifest system for data processing purposes a paper copy of the manifest, or the data from the paper copy, in accordance with 40 CFR 264.71(a)(2)(v) or 265.71(a)(2)(v). These paper copies are submitted for data exchange purposes only and are not the official copies of record for legal purposes.

(hh) "Vehicle" means each separate conveyance used in the transportation of hazardous waste that is 1 of the following:

(i) A railcar as defined in 49 CFR 171.8.

(ii) A semitrailer, truck, or trailer as defined in act 300.

(iii) A truck tractor as defined in act 300, only if the hazardous waste is actually transported in the cab of the vehicle.

(ii) "Very small quantity generator" means a generator who generates less than or equal to the following amounts in a calendar month:

(i) 100 kilograms of non-acute hazardous waste.

(ii) 1 kilogram of acute hazardous waste.

(iii) 1 kilogram of severely toxic hazardous waste.

(iv) 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous waste or severely toxic hazardous waste.

(jj) "Vessel" means a watercraft that is used or is capable of being used as a means of transportation on the water.

(kk) "Washout" means the movement of hazardous waste from the active portion of the facility as a result of flooding.

(ll) "Waste" means material that is defined as waste in R 299.9202.

(mm) "WIETS" means the EPA's Waste Import Export Tracking System.

(nn) "Waste management area" means the limit projected in the horizontal plane of the area on which waste will be placed during the active life of a regulated unit and includes horizontal space taken up by any liner, dike, or other barrier that is designed to contain waste in a regulated unit. If the facility contains more than 1 regulated unit, then the waste management area is described by an imaginary line circumscribing the several regulated units.

(oo) "Wastewater treatment unit" means a device that satisfies all of the following requirements:

(i) Is part of a wastewater treatment facility that is subject to regulation-under either section 402 or 307(b) of the federal clean water act, 33 USC 1342 or 1317(b).

(ii) Receives and treats or stores an influent wastewater that is a hazardous waste as defined in R 299.9203, generates and accumulates a wastewater treatment sludge that is a hazardous waste as defined in R 299.9203, or treats or stores a wastewater treatment sludge that is a hazardous waste as defined in R 299.9203.

(iii) Meets the definition of "tank" or "tank system" specified in R 299.9108.

(pp) "Water (bulk shipment)" means the bulk transportation of hazardous waste that is loaded or carried on board a vessel without containers or labels.

(qq) "Well" means any shaft or pit that is dug or bored into the earth, that is generally of a cylindrical form, and that is often walled with bricks or tubing to prevent the earth from caving in.

(rr) "Wetland" means the areas defined as wetlands in part 303 of the act, MCL 324.30301 to 324.30328.

(ss) "Wipe" means a woven or non-woven shop towel, rag, pad, or swab made of wood pulp, fabric, cotton, polyester blends, or other material.

(tt) "Zone of engineering control" means an area that is under the control of the owner or operator and that, upon detection of a hazardous waste release, can be readily cleaned up before the release of hazardous waste or hazardous constituents to groundwater or surface water.

PART 2. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

R 299.9202 "Waste" explained.

Rule 202. (1) A waste is any discarded material that is not excluded by R 299.9204 or that is not excluded by a variance granted under subrules (6) and (7) of this rule. A discarded material is any material that is any of the following:

(a) A material that is abandoned by being disposed of; burned or incinerated; accumulated, stored, or treated, but not recycled, before or instead of being abandoned by being disposed of, burned, or incinerated; or sham recycled.

(b) A material that is recycled, or accumulated, stored, or treated before recycling, and that meets 1 of the following criteria:

(i) It is a material listed in subrule (2) of this rule and is used in a manner constituting disposal by being either of the following:

(A) Applied to or placed on the land in a manner that constitutes disposal.

(B) Used to produce products that are applied to or are placed on the land or are otherwise contained in products that are applied to or placed on the land, in which cases the product itself remains a waste. A commercial chemical product listed in R 299.9214 is not a waste if it is applied to the land and that is its ordinary manner of use.

(ii) It is a material listed in subrule (2) of this rule and it is burned to recover energy, is used to produce a fuel, or is otherwise contained in fuels, in which cases the fuel itself remains a waste. A commercial chemical product listed in R 299.9214 is not a waste if it is itself a fuel.

(iii) It is a material listed in subrule (2)(a), (b), or (c) of this rule and it undergoes reclamation, except as provided for in R 299.9204(1)(v), (aa), (bb), and (cc).

(iv) It is a material listed in subrule (2)(a), (b), (c), or (d) of this rule and it undergoes speculative accumulation.

(v) It is an inherently waste-like material, having a hazardous waste number of F020, F021, F022, F023, F026, or F028, or is another waste determined by the administrator based on both of the following criteria:

(A) The materials are ordinarily disposed of, burned, or incinerated or the materials contain toxic constituents that are listed in 40 CFR part 261, appendix VIII, and that are not ordinarily found in raw materials or products for which the materials substitute or are found in raw materials or products in smaller concentrations, and that are not used or reused during the recycling process.

(B) The material might pose a substantial hazard to human health and the environment when recycled.

(vi) It is an inherently waste-like material that is a secondary material, that is fed to a halogen acid furnace, and that exhibits a characteristic of a hazardous waste or is listed as a hazardous waste under to part 2 of these rules, except for brominated material that meets all of the following criteria:

(A) The material contains a bromine concentration of not less than 45%.

(B) The material contains less than a total of 1% of the toxic organic compounds listed in 40 CFR part 261, appendix VIII.

(C) The material is processed continually on-site in the halogen acid furnace by direct conveyance such as hard piping.

(c) It is a military munition identified as a waste under R 299.9817.

(2) Any of the following materials may be wastes under subrule (1) of this rule:

(a) Spent materials.

(b) Sludges and by-products listed in R 299.9220 to R 299.9222.

(c) Scrap metal that is not excluded under R 299.9204.

(d) Sludges and by-products that exhibit a characteristic of hazardous waste.

(e) Commercial chemical products listed in R 299.9214.

(3) Except as provided in subrule (4) of this rule, materials are not wastes if they can be shown to be recycled by any of the following means:

(a) By being used or reused as ingredients in an industrial process to make a product if the materials are not being reclaimed.

(b) By being used or reused as effective substitutes for commercial products.

(c) By being returned to the original process from which they are generated without first being reclaimed or placed on the land. The material must be returned as a substitute for feedstock materials. If the original process to which the material is returned is a secondary process, then the materials must be managed so that they are not placed on the land.

If the materials are generated and reclaimed within the primary mineral processing industry, the conditions of the exclusion under R 299.9204(1)(v) apply rather than this subrule.

(4) All of the following materials are wastes, even if the recycling involves use, reuse, or return to the original process described in subrule (3) of this rule:

(a) Materials used in a manner constituting disposal or used to produce products that are applied to the land.

(b) Materials burned for energy recovery, used to produce a fuel, or contained in fuels.
(c) Materials accumulated speculatively.
(d) Inherently waste-like materials listed in subrule (1)(b)(v) and (vi) of this rule.
(5) Respondents in actions to enforce regulations implementing part 111 of the act, MCL 324.11101 to 324.11153, who raise a claim that a certain material is not waste or is conditionally exempt from regulation shall demonstrate that there is a known market or disposition for the material and that the respondent meets the terms of exclusion or exemption. In doing so, the respondent shall provide appropriate documentation, such as contracts showing that a second person uses the material as an ingredient in a production process, to demonstrate that the material is not a waste or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials shall show that they have the necessary equipment for recycling the materials.
(6) The director may determine, on a case-by-case basis, that the following recycled materials are not wastes:
(a) Materials that are accumulated speculatively without sufficient amounts being recycled, as defined in R 299.9107.
(b) Materials that are reclaimed and then reused within the original production process in which they were generated.
(c) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered.
(d) Hazardous secondary materials that are reclaimed in a continuous industrial process.
(e) Hazardous secondary materials that are indistinguishable in all relevant aspects from a product or intermediate.
(7) The director shall use the standards, criteria, and procedures outlined in 40 CFR 260.31, 260.33, and 260.34 for making determinations under subrule (6) of this rule.
(8) Persons receiving a variance or determination under subrule (6) of this rule shall comply with the notification requirements of 40 CFR 260.42.
(9) 40 CFR 260.31, 260.33, 260.34, 260.42, 261.31, 261.32, and 261.33 are adopted by reference in R 299.11003, with the exception that "director" replaces "regional administrator" and "administrator," "waste" replaces "solid waste," "R 299.9202" replaces references to "261.2," "R 299.9204" replaces references to "264.4," "R 299.9204(1)(aa)" replaces references to "261.4(a)(24)," and "Michigan site identification form, form EQP5150" replaces references to "EPA Form 8700-12."

R 299.9204 Exclusions.
Rule 204. (1) The following materials are not wastes for the purpose of part 111 of the act, MCL 324.11101 to 324.11153, and these rules:
(a) Domestic sewage and any mixture of domestic sewage and other wastes that passes through a sewer system to a publicly owned treatment works for treatment. Domestic sewage means untreated sanitary wastes that pass through a sewer system.
(b) Industrial wastewater discharges that are point source discharges subject to regulation under section 402 of the federal clean water act, 33 USC 1342, as amended, except for discharges to injection wells.
(c) Irrigation return flows.
(d) Source, special nuclear, or by-product material as defined by the atomic energy act of 1954, 42 USC 2011 to 2296b-7, as amended.
(e) Materials that are subjected to in-situ mining techniques and that are not removed from the ground as part of the extraction process.
(f) Pulping liquors that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless the liquors are accumulated speculatively, as defined in R 299.9107.
(g) Spent sulfuric acid that is used to produce virgin sulfuric acid provided it is not accumulated speculatively, as defined in R 299.9107.

(h) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated and where they are reused in the production process, if all of the following provisions apply:

(i) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance.

(ii) The reclamation does not involve controlled flame combustion, such as occurs in boilers, industrial furnaces, or incinerators.

(iii) The secondary materials are not accumulated in the tanks for more than 12 months without being reclaimed.

(iv) The reclaimed material is not used to produce a fuel and is not used to produce products that are used in a manner that constitutes disposal.

(i) Spent wood preserving solutions that have been reclaimed and that are reused for their original intended purpose.

(j) Wastewaters from the wood preserving process that have been reclaimed and that are reused to treat wood.

(k) Nonwastewater splash condenser dross residue from the treatment of K061 in high temperature metals recovery units, if the residue, if shipped, is shipped, in containers and is not land disposed before recovery.

(l) Oil-bearing hazardous secondary materials such as sludges, by-products, and spent materials, that are generated at a petroleum refinery (SIC code 2911) and are inserted into the petroleum refining process (SIC code 2911), including distillation, catalytic cracking, fractionation, or thermal cracking units, unless the material is placed on the land, or accumulated speculatively before being so recycled. Materials inserted into thermal cracking units are excluded under this subdivision if the coke product does not exhibit a characteristic of a hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated, or sent directly to another refinery, and still be excluded under this subdivision. Except as provided for in subdivision (m) of this subrule, oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry are not excluded under this subdivision. Residuals generated from processing or recycling materials excluded under this subdivision, where the materials as generated would have otherwise met a listing under R 299.9213 or R 299.9214, are designated as F037 wastes when disposed of or intended for disposal.

(m) Recovered oil that is recycled in the same manner and with the same conditions as described in subdivision (l) of this subrule. Recovered oil is oil that has been reclaimed from secondary materials, including wastewater, generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4789, 4922, 4923, 5171, and 5172). Recovered oil does not include oil-bearing hazardous wastes listed in part 2 of these rules. However, oil recovered from oil-bearing hazardous wastes listed in part 2 of these rules may be considered recovered oil. Recovered oil also does not include used oil as defined in R 299.9109.

(n) EPA hazardous waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148 and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in R 299.9212 when, after generation, the materials are recycled to coke ovens or to the tar recovery process as a feedstock to produce coal tar or are mixed with coal tar before the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point that the wastes are generated to the point that they are recycled to coke ovens or tar recovery or refining processes or are mixed with coal tar.

(o) Materials that are reclaimed from used oil and that are used beneficially if the materials are not burned for energy recovery or used in a manner that constitutes disposal of the materials.

(p) Excluded scrap metal that is being recycled.

(q) Shredded circuit boards that are being recycled if both of the following requirements are met:

(i) The shredded circuit boards are stored in containers sufficient to prevent a release to the environment before recovery.

(ii) The shredded circuit boards are free of mercury switches, mercury relays, and nickel-cadmium batteries and lithium batteries.

(r) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e). This exemption applies only to combustion at the mill generating the condensates.

(s) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, if both the following requirements are met:

(i) The oil is hazardous only because it exhibits the characteristic of ignitability as defined in R 299.9212 or toxicity for benzene as defined in R 299.9212 and R 299.9217.

(ii) The oil generated by the organic chemical manufacturing facility is not placed on the land or speculatively accumulated before being recycled into the petroleum refining process.

(t) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid unless the material is placed on the land or speculatively accumulated.

(u) Before reuse, the wood preserving wastewaters and spent wood preserving solutions described in subdivisions (i) and (j) of this subrule if all of the following requirements are met:

(i) The wood preserving wastewaters and spent wood preserving solutions are reused on site at water borne plants in the production process for their original intended use.

(ii) Before reuse, the wastewaters and spent wood preserving solutions are managed to prevent releases to either the land or groundwater or both.

(iii) Units used to manage wastewaters or spent wood preserving solutions before reuse can be visually or otherwise determined to prevent releases to either land or groundwater.

(iv) Drip pads used to manage the wastewaters or spent wood preserving solutions before reuse are in compliance with 40 CFR part 265, subpart W regardless of whether the plant generates a total of less than 1,000 kilograms per month of hazardous waste.

(v) Before operating under this exclusion, the plant owner or operator complies with all of the following requirements; otherwise the exclusion shall not apply:

(A) Submits a 1-time notification to the director 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 regulations."

(B) The owner or operator maintains a copy of the 1-time notification required under paragraph (v) of this subdivision in its on-site records until closure of the facility.

(C) If the plant voids the exclusion by not complying with the exclusion conditions and wishes to have its wastes excluded again, it shall apply to the director for reinstatement. The director may reinstate the exclusion upon finding that the plant has returned to compliance with all of the conditions and that violations are not likely to recur.

(v) Spent materials, other than hazardous waste listed under R 299.9213 or R 299.9214, that are generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation if all of the following requirements are met:

(i) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values.

(ii) The spent material is not speculatively accumulated.

(iii) Except as provided under paragraph (iv) of this subdivision, the spent material is stored in tanks, containers, or buildings that meet the following requirements as applicable:

(A) If using a building, the building must be an engineered structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support, except smelter buildings which may have partially earthen floors provided that the spent material is stored on the non-earthen portion, have a roof that is suitable for diverting rainwater away from the foundation, and be designed, constructed, and operated to prevent significant releases of the material to the environment.

(B) If using a tank, the tank must be free standing, not meet the definition of a surface impoundment, be manufactured of a material suitable for containment of its contents, be operated in a manner that controls fugitive dust if the tank contains any particulate that may be subject to wind dispersal, and be designed, constructed, and operated to prevent significant releases of the material to the environment.

(C) If using a container, the container must be free standing and be manufactured of a material suitable for containment of its contents, be operated in a manner that controls fugitive dust if the container contains any particulate that may be subject to wind dispersal, and be designed, constructed, and operated to prevent significant releases of the material to the environment.

(iv) The spent materials are placed on pads if all of the following requirements are met:

(A) The solid mineral processing spent materials do not contain any free liquid.

(B) The pad is designed, constructed, and operated to prevent significant releases of the spent material into the environment.

(C) The pad provides the same degree of containment afforded by non-RCRA tanks, containers, and buildings eligible for this exclusion.

(D) The pad is designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material.

(E) The pad is capable of withstanding physical stresses associated with placement and removal.

(F) The pad has run-on/run-off controls.

(G) The pad is operated in a manner that controls fugitive dust.

(H) The integrity of the pad is ensured through inspections and maintenance programs.

(I) The director makes a site-specific determination that the materials may be placed on a pad rather than in tanks, containers, or buildings. In making a determination, the director shall consider whether storage on a pad poses the potential for significant releases via groundwater, surface water, and air exposure pathways. When assessing the groundwater, surface water, and air exposure pathways, the director shall consider the volume and physical and chemical properties of the spent material, including its potential for migration off of the pad, the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway, and the possibility and extent of harm to human and environmental receptors via each exposure pathway. Before making a determination, the director shall provide notice and the opportunity for comment to all persons potentially interested in the determination. Notice may be accomplished by placing notice of the action in major local newspapers or broadcasting notice over local radio stations.

(v) The owner or operator provides notice to the director that provides the following information and is updated if there is a change in the type of materials recycled or the location of the recycling process:

(A) The types of materials to be recycled.

(B) The type and location of storage units and recycling processes.

(C) The annual quantities expected to be placed in land-based units.

(vi) For the purposes of the exclusion under R 299.9204(2)(i), mineral processing spent materials must be the result of mineral processing and may not include any hazardous wastes listed under R 299.9213 or R 299.9214. Listed hazardous wastes and characteristic hazardous waste generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of waste.

(w) Hazardous secondary materials used to make zinc fertilizers, if the following conditions are met:

(i) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively.

(ii) Generators and intermediate handlers of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers shall comply with all of the following requirements:

(A) Submit a 1-time notice to the director that contains the name, address, and site identification number of the generator or intermediate handler facility, provides a brief description of the secondary material that will be subject to the exclusion, and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions of this subdivision.

(B) Store the excluded secondary material in buildings, tanks, or containers that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. Tanks used for this purpose must be structurally sound and, if outdoors, must have roofs or covers that prevent contact with wind and rain. Containers that are used for this purpose must be kept closed except when it is necessary to add or remove material, and must be in sound condition. Containers that are stored outdoors must be managed within storage areas that have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation; provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and prevent run-on into the containment system.

(C) With each off-site shipment of excluded hazardous secondary materials, provide written notice to the receiving facility that the material is subject to the conditions of this subdivision.

(D) Maintain at the generator's or intermediate handler's facility for not less than 3 years records of all shipments of excluded hazardous secondary materials. At a minimum, the records for each shipment must include the name of the transporter, the date of the shipment, the name and address of the facility that received the excluded material, documentation confirming receipt of the shipment, and the type and quantity of excluded secondary material in each shipment.

(iii) Manufacturers of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials shall comply with all of the following requirements:

(A) Store excluded hazardous secondary material under the storage requirements for generators and intermediate handlers, as specified in paragraph (ii) of this subdivision.

(B) Submit a 1-time notification to the director which contains the name, address, and site identification number of the manufacturing facility and identifies when the manufacturer intends to begin managing excluded, zinc-bearing hazardous secondary materials under the conditions of this subdivision.

(C) Maintain for not less than 3 years records of all shipments of excluded hazardous secondary materials received by the manufacturer. At a minimum, the records for each shipment must include the name and address of the generating facility, the name of the transporter, the date the materials were received, the quantity of materials received, and a brief description of the industrial process that generated the material.

(D) Submit to the director an annual report that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial process from which they were generated.

(iv) Nothing in this subdivision preempts, overrides, or otherwise negates the requirements of R 299.9302, which requires any person who generates a waste to determine if the waste is a hazardous waste.

(v) Interim status and licensed storage units that have been used to store only zinc-bearing hazardous wastes before the submission of the 1-time notice described in paragraph (ii) of this subdivision, and

that afterward will be used only to store hazardous secondary materials excluded under this subdivision, are not subject to the closure requirements of part 6 of these rules.

(x) Zinc fertilizers made from hazardous wastes, or hazardous secondary materials that are excluded under subdivision (w) of this subrule, if the following conditions are met:

(i) The fertilizers meet the following contaminant limits, established as the maximum allowable total concentration in fertilizer per 1% of zinc, for metal contaminants:

(A) Arsenic, 0.3 parts per million.

(B) Cadmium, 1.4 parts per million.

(C) Chromium, 0.6 parts per million.

(D) Lead, 2.8 parts per million.

(E) Mercury, 0.3 parts per million.

(ii) The fertilizers meet the contaminant limit for dioxin contaminants of not more than 8 parts per trillion of dioxin, measured as toxic equivalent.

(iii) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals not less than every 6 months, and for dioxins not less than every 12 months. Testing must also be performed when changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical methods to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. The manufacturer shall ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.

(iv) The manufacturer maintains for not less than 3 years records of all sampling and analysis performed for the purposes of determining compliance with the requirements of paragraph (iii) of this subdivision. At a minimum, the records must include all of the following:

(A) The dates and times product samples were taken, and the dates the samples were analyzed.

(B) The names and qualifications of the persons taking the samples.

(C) A description of the methods and equipment used to take the samples.

(D) The name and address of the laboratory facility at which analyses of the samples were performed.

(E) A description of the analytical methods used, including any cleanup and sample preparation methods.

(F) All laboratory analytical results used to determine compliance with the contaminant limits specified in paragraphs (i) and (ii) of this subdivision.

(y) Used CRTs that meet any of the following requirements:

(i) Used, intact CRTs unless they are disposed or are speculatively accumulated by CRT collectors or glass processors.

(ii) Used, intact CRTs when exported for recycling if they meet the requirements of R 299.9231(5).

(iii) Used, broken CRTs if they meet the requirements of R 299.9231(1) and (2).

(iv) Glass removed from CRTs if it meets the requirements of R 299.9231(3).

(z) Solvent-contaminated wipes that are sent for cleaning and reuse are not wastes at the point of generation if all of the following requirements are met:

(i) The wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers must be able to contain free liquids, if free liquids occur. During accumulation, a container is considered closed if there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove wipes. If the container is full, the wipes are no longer being accumulated, or the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions.

(ii) The wipes must not be accumulated by the generator for more than 180 days from the start date of accumulation for each container before being sent for cleaning.

(iii) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the wipes must contain no free liquids.

(iv) Free liquids removed from the wipes or from the container holding the wipes must be managed in accordance with these rules.

(v) Generators shall maintain at their site all of the following:

(A) The name and address of the laundry or dry cleaner that is receiving the wipes.

(B) Documentation that the 180-day accumulation time limit in paragraph (ii) of this subdivision is being met.

(C) A description of the process the generator is using to ensure that the wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning.

(vi) The wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the federal clean water act, 33 USC 1311, 1341, and 1317.

(aa) Hazardous secondary material that is generated and legitimately reclaimed within the United States or its territories and under the control of the generator, if all of the following requirements are met:

(i) The hazardous secondary material is generated and reclaimed in accordance with any of the following conditions:

(A) It is reclaimed at the generating facility. For the purpose of this requirement, the generating facility means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.

(B) It is reclaimed at a different facility that is controlled by the generator, and the generator provides the following certification to the department: "On behalf of [insert generating facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaiming facility name], which is controlled by [insert generating facility name] and that [insert name of either generating or reclaiming facility name] has acknowledged full responsibility for the safe management of the secondary hazardous material."

(C) It is reclaimed at a different facility and both the generating facility and the reclaiming facility are controlled by the same person, and the generator provides the following certification to the department: "On behalf of [insert generating facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaiming facility name], that both facilities are under common control, and that [insert name of either generating or reclaiming facility name] has acknowledged full responsibility for the safe management of the secondary hazardous material." For the purpose of this requirement, "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person shall not be considered to "control" the facilities. The generating and reclaiming facilities must both maintain at their facilities for not less than 3 years records of hazardous secondary materials sent or received under this exclusion. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under this exclusion. These requirements may be satisfied by routine business records such as financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt.

(D) The hazardous secondary material is generated under a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor if the tolling contractor certifies the following: "On behalf of [insert tolling contractor name], I certify that [insert tolling contractor name] has a written contract with [insert toll manufacturer name] to manufacture [insert name of product or intermediate] which is made from specified unused materials, and that [insert tolling contractor name] will reclaim the hazardous secondary materials generated during this manufacture. On behalf of [insert tolling contractor name], I also certify that [insert tolling contractor name] retains ownership of, and responsibility for, the hazardous secondary materials that are

generated during the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process." The tolling contractor-shall maintain at its facility for not less than 3 years records of hazardous secondary materials received under its written contract with the toll manufacturer, and the toll manufacturer shall maintain at its facility for not less than 3 years records of hazardous secondary materials shipped under its written contract with the tolling contractor. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary materials shipped or received under the written contract. These requirements may be satisfied by routine business records such as financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt. For the purpose of this requirement, "tolling contractor" means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer and "toll manufacturer" means a person who produces a product or intermediate made from specified unused materials under a written contract with a tolling contractor.

(ii) The hazardous secondary material is contained. A hazardous secondary material that is released to the environment is discarded and a waste unless it is immediately recovered for reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded and a waste.

(iii) The hazardous secondary material is not speculatively accumulated.

(iv) A notification is provided in accordance with 40 CFR 260.42.

(v) The hazardous secondary material is not otherwise subject to material-specific management conditions under this subrule when reclaimed, and it is not a spent lead-acid battery.

(vi) A person performing the recycling of hazardous secondary materials under this exclusion shall maintain documentation of their legitimacy determination on-site. The documentation must include a written description of how the recycling meets all 3 factors in R 299.9232 and be maintained for 3 years after the recycling operation has ceased.

(vii) The emergency preparedness and response requirements of R 299.9234.

(bb) Hazardous secondary material that is generated and then transferred to another person for reclamation if all of the following requirements are met:

(i) The hazardous secondary material is not speculatively accumulated.

(ii) The hazardous secondary material is not handled by any person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer, and while in transport, is not stored for more than 10 days at a transfer facility and is packaged in accordance with applicable DOT regulations in 49 CFR parts 173, 178, and 179.

(iii) The hazardous secondary material is not otherwise subject to material-specific management conditions under this subrule when reclaimed, and it is not a spent lead-acid battery.

(iv) The reclamation of the hazardous secondary material is legitimate as outlined in R 299.9232.

(v) The hazardous secondary material generator meets all of the following conditions:

(A) The hazardous secondary material is contained. A hazardous secondary material that is released to the environment is discarded and a waste unless it is immediately recovered for the purpose of recycling. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded and a waste.

(B) Before arranging for transport of hazardous secondary materials to a reclamation facility or facilities where the management of the hazardous secondary materials is not addressed under an operating license issued under these rules or by the interim status standards in part 6 of these rules, the hazardous secondary material generator shall make reasonable efforts to ensure that each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that each reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment. If the hazardous secondary material will be passing through an intermediate facility where the management of the hazardous secondary material is not addressed under an operating license issued under these rules or by the interim status standards under

part 6 of these rules, the hazardous secondary material generator shall make contractual arrangements with the intermediate facility to ensure that the material is sent to the reclamation facility identified by the generator, and make reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. The hazardous secondary material generator shall repeat these reasonable efforts every 3 years at a minimum to claim the exclusion and send the hazardous secondary materials to each reclaimer and any intermediate facility. In making these reasonable efforts, the hazardous material generator may use any credible evidence available, including information gathered by the generator, provided by the reclaimer or intermediate facility, or provided by a third party. The hazardous secondary material generator shall confirm that all of the following requirements are met for each reclamation facility and any intermediate facility:

(I) The available information indicates that the reclamation process is legitimate under R 299.9232. In evaluating this requirement, the hazardous secondary material generator may rely on their existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as information from other sources about the reclamation process.

(II) The publicly available information indicates that the reclamation facility and any intermediate facility used by the hazardous secondary material generator has notified the appropriate authorities of the hazardous secondary materials reclamation activities under 40 CFR 260.42, and that the financial assurance requirements of paragraph (vi)(F) of this subdivision have been satisfied. In evaluating this requirement, the hazardous secondary material generator may rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements of 40 CFR 260.42, including the requirement in 40 CFR 260.42(a)(5).

(III) The publicly available information indicates that the reclamation facility or any intermediate facility used by the hazardous secondary material generator has not had a formal enforcement action taken against the facility in the previous 3 years for violations of part 111 of the act, MCL 324.11101 to 324.11153, and these rules and has not been classified as a significant non-complier under RCRA. In evaluating this requirement, the hazardous secondary material generator may rely on the publicly available information from this state or the EPA. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility in the previous 3 years for violations of part 111 of the act, MCL 324.11101 to 324.11153, and these rules, the generator must have credible evidence that the facility will manage the hazardous secondary materials in accordance with the applicable regulations. The hazardous secondary material generator may obtain additional information from this state, the EPA, or the facility itself that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials.

(IV) The publicly available information indicates that the reclamation facility or any intermediate facility used by the hazardous secondary material generator has the equipment and trained personnel to safely recycle the hazardous secondary material. In evaluating this requirement, the hazardous secondary material generator may rely on a description by the reclamation facility or by an independent third party of the equipment and trained personnel to be used to recycle the generator's hazardous secondary material.

(V) If residuals are generated from the reclamation of the excluded hazardous secondary materials, the reclamation facility shall have the licenses required, if any, to manage the residuals. If the reclamation facility does not have the required licenses, the facility shall have a contract with an appropriately licensed facility to dispose of the residuals. If the reclamation facility does not have the required licenses or contracts, the hazardous secondary material generator shall alternatively have credible evidence that the residuals will be managed in a manner that is protective of human health and the environment. In evaluating these requirements, the hazardous secondary material generator

may rely on publicly available information from this state or the EPA, or information provided by the facility itself.

(C) The hazardous secondary material generator shall maintain at the generating facility for not less than 3 years documentation and certification that reasonable efforts were made for each reclamation facility and, if applicable, intermediate facility where the management of the hazardous secondary material is not addressed under an operating license issued under these rules or by the interim status standards of part 6 of these rules before transferring hazardous secondary material. The documentation and certification must be made available upon request by the department within 72 hours, or within a longer period of time as approved by the department. The certification statement must include all of the following information:

(I) The printed and official title of an authorized representative of the hazardous secondary material generator company, the authorized representative's signature, and the date signed.

(II) The following language: "I hereby certify in good faith and to the best of my knowledge that, before arranging for transport of excluded hazardous secondary materials to [insert name(s) of reclamation facility and any intermediate facility], reasonable efforts were made in accordance with R 299.9204(1)(bb)(v)(B) to ensure that the hazardous secondary materials would be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment, and that the efforts were based on current and accurate information."

(D) The hazardous secondary material generator shall maintain at the generator facility for not less than 3 years records of all off-site shipments of hazardous secondary materials. For each shipment, these records must, at a minimum, contain all of the following information:

(I) The name of the transporter and date of the shipment.

(II) The name and address of each reclaimer and, if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent.

(III) The type and quantity of hazardous secondary material in the shipment.

(E) The hazardous secondary material generator shall maintain for not less than 3 years confirmations of receipt from each reclaimer and, if applicable, each intermediate facility for all off-site shipments of hazardous secondary materials.

(F) The emergency preparedness and response requirements of R 299.9234.

(vi) Reclaimers of hazardous secondary material excluded from regulation under this exclusion and intermediate facilities meet all of the following conditions:

(A) The reclaimer and intermediate facility shall maintain at its facility for not less than 3 years records of all shipments of hazardous secondary material that were received at the facility and, if applicable, for all shipments of hazardous secondary material that were received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records must, at a minimum, include the name of the transporter and date of the shipment, the name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility which the hazardous secondary material was received from, the type and quantity of hazardous secondary material in the shipment, and for hazardous secondary materials that, after being received by the reclaimer or intermediate facility, were subsequently transferred off-site for further reclamation, the name and address of the subsequent reclaimer, and if applicable, the name and address of each intermediate facility to which the hazardous secondary material was sent.

(B) The intermediate facility shall send the hazardous secondary material to the reclaimer or reclaimers designated by the hazardous secondary material generator.

(C) The reclaimer and intermediate facility shall send the hazardous secondary material generator confirmations of receipt for all off-site shipments of hazardous secondary material. Confirmations of receipt must include the name and address of the reclaimer or intermediate facility, the type and quantity of hazardous secondary material received, and the date that the hazardous secondary material was received. This requirement may be satisfied by routine business records such as financial records, bills of lading, copies of DOT shipping papers, or electronic confirmations of receipt.

(D) The reclaimer and intermediate facility shall manage the hazardous secondary material in a manner that is at least as protective as that employed for analogous raw material and that is contained. An "analogous raw material" is a raw material for which a hazardous secondary material is a substitute and serves the same function and has similar physical and chemical properties as the hazardous secondary material.

(E) Any residuals that are generated from reclamation processes must be managed in a manner that is protective of human health and the environment. If any residuals exhibit a hazardous characteristic according to part 2 of these rules, or they themselves are specifically listed in part 2 of these rules, the residuals are hazardous waste and must be managed in accordance with the applicable requirements of these rules.

(F) The reclaimer and intermediate facility shall have financial assurance as required under part 7 of these rules.

(G) The reclaimer and intermediate facility shall have an operating license issued under these rules or comply with the interim status standards under part 6 of these rules that address the management of the hazardous secondary materials.

(vii) All persons claiming the exclusion under this subdivision shall provide notification as required under 40 CFR 260.42.

(cc) Hazardous secondary material that is generated and then transferred to another person for remanufacturing if all of the following requirements are met:

(i) The hazardous secondary material consists of 1 or more of the following spent solvents:

(A) Toluene.

(B) Xylenes.

(C) Ethylbenzene.

(D) 1,2,4-trimethylbenzene.

(E) Chlorobenzene.

(F) n-hexane.

(G) Cyclohexane.

(H) Methyl tert-butyl ether.

(I) Acetonitrile.

(J) Chloroform.

(K) Chloromethane.

(L) Dichloromethane.

(M) Methyl isobutyl ketone.

(N) NN-dimethylformamide.

(O) Tetrahydrofuran.

(P) n-butyl alcohol.

(Q) Ethanol.

(R) Methanol.

(ii) The hazardous secondary material originated from using 1 or more of the solvents listed in paragraph (i) of this subdivision in a commercial grade for reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions, in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or paints and coatings manufacturing (NAICS 325510) sectors.

(iii) The hazardous secondary material generator sends the hazardous secondary material spent solvents listed in paragraph (i) of this subdivision to a remanufacturer in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or paints and coatings manufacturing (NAICS 325510) sectors.

(iv) After manufacturing 1 or more of the solvents listed in paragraph (i) of this subdivision, the use of the remanufactured solvent is limited to reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions, in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or paints and coatings manufacturing (NAICS 325510) sectors or to using them as ingredients in a product. These allowed uses correspond to chemical functional uses enumerated under the chemical data reporting rules of the toxic substances control act, 40 CFR parts 704, 710, and 711, including industrial function codes U015 (solvents consumed in a reaction to produce other chemicals and U030 (solvents become part of the mixture).

(v) After remanufacturing 1 or more of the solvents listed in paragraph (i) of this subdivision, the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces or other articles. These disallowed continuing uses correspond to chemical functional uses in industrial function code U029 under the chemical data reporting rule of the toxic substances control act.

(vi) Both the hazardous secondary material generator and the remanufacturer shall do all of the following:

(A) Notify the EPA or the director and update the notification every 2 years under 40 CFR 260.42.

(B) Develop and maintain an up-to-date remanufacturing plan that identifies all of the following:

(I) The name, address, and site identification number of the generator and the remanufacturer.

(II) The types and estimated annual volumes of spent solvents to be remanufactured.

(III) The processes and industry sectors that generate the spent solvents.

(IV) The specific uses and industry sectors for the remanufactured solvents.

(V) A certification statement from the remanufacturer stating "On behalf of [insert remanufacturer facility name], I certify that this facility is a remanufacturer under pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or paints and coatings manufacturing (NAICS 325510) sectors, and will accept the spent solvents for the sole purpose of remanufacturing into commercial-grade solvents that will be used for reacting, extracting, purifying, or blending chemicals, or for rinsing out the process lines associated with these functions, or for use as a product ingredient. I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate clean air act regulations under 40 CFR parts 60, 61, or 63, or, absent such clean air act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in 40 CFR part 261, subparts AA, BB, and CC."

(C) Maintain records of shipments and confirmations of receipts for a period of 3 years from the dates of the shipments.

(D) Before remanufacturing, store the hazardous spent solvents in tanks or containers that meet the technical standards R 299.9233(1) and (2), with the tanks and containers being labeled or otherwise having immediately available record of the material being stored.

(E) During remanufacturing, and during storage of the hazardous secondary material before remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate clean air act regulations under 40 CFR parts 60, 61, or 63, or, absent such clean air act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in 40 CFR part 261, subparts AA, BB, and CC.

(F) Meet the requirements prohibiting speculative accumulation under R 299.9107.

(dd) Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a waste if the hazardous secondary material generator complies with the applicable requirements of paragraphs (i)-(v) of subdivision (bb) of this

subrule, except subparagraph (B)(II) of paragraph (v) for foreign reclaimers and foreign intermediate facilities, and all of the following requirements:

(i) Provides notification to the EPA of an intended export before the hazardous secondary material is scheduled to leave the United States. A complete notification must be submitted at least 60 days before the initial shipment is intended to be shipped off-site. The notification may cover export activities extending over no more than a 12-month period. The notification must be in writing, signed by the hazardous secondary material generator, and include all of the following information:

(A) The name, mailing address, telephone number, and site identification number, if applicable, of the hazardous secondary material generator.

(B) A description of the hazardous secondary material and the hazardous waste number that would apply if the hazardous secondary material was managed as a hazardous waste and the DOT proper shipping name, hazard class, and ID number (UN/NA) for each hazardous secondary material as identified in 49 CFR parts 171 to 177.

(C) The estimated frequency or rate at which the hazardous secondary material is to be exported and the period of time over which the material is to be exported.

(D) The estimated total quantity of hazardous secondary material.

(E) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass.

(F) A description of the means by which each shipment of hazardous secondary material will be transported, including the mode of transportation vehicle and the types of containers.

(G) A description of the manner in which the hazardous secondary material will be reclaimed in the country of import.

(H) The name and address of the reclaimer, any intermediate facility, and any alternate reclaimer and intermediate facilities.

(I) The name of any countries of transit through which the hazardous secondary material will be sent and a description of the approximate length of time it will remain in the countries and the nature of its handling while there. For the purposes of this provision, the terms "EPA Acknowledgment of Consent," "country of import," and "country of transit" have the same meanings as defined in 40 CFR 262.81, with the exception that the terms in this subparagraph refer to hazardous secondary materials, rather than hazardous waste.

(ii) Notifications must be submitted electronically using the WIETS, or its successor system.

(iii) Except for changes to the telephone number in subparagraph (A) of paragraph (i) of this subdivision and decreases in the quantity of hazardous secondary material indicated under subparagraph (D) of paragraph (i) of this subdivision, when the conditions specified on the original notification change, including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification, the hazardous secondary material generator shall provide the EPA with written renotification of the change. The shipment cannot take place until consent of the country of import to the changes and in the ports of entry to and departure from countries of transit has been obtained and the hazardous secondary material generator receives from the EPA an Acknowledgment of Consent reflecting the country of import's consent to the changes.

(iv) Upon request by the EPA, the hazardous secondary material generator shall furnish to the EPA any additional information which a country of import requests to respond to a notification.

(v) The EPA shall provide a complete notification to the country of import and any countries of transit. A notification is complete when the EPA receives a notification that the EPA determines satisfies the requirements of paragraph (i) of this subdivision. If a claim of confidentiality is asserted with respect to any notification information required by paragraph (i) of this subdivision, the EPA may find the notification not complete until the claim is resolved under 40 CFR 260.2.

(vi) The export of hazardous secondary material under this subdivision is prohibited unless the country of import consents to the intended import. When the country of import consents in writing to the receipt of the hazardous secondary material or withdraws a prior consent, the EPA shall notify the

hazardous secondary material generator in writing. The EPA shall also notify the hazardous secondary material generator of any responses from the countries of transit.

(vii) For exports to OECD member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or any country of transit to a notification provided under to paragraph (i) of this subdivision within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, the EPA shall send an Acknowledgment of Consent to inform the hazardous secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment and are therefore presumed to have consented tacitly. Tacit consent expires 1 calendar year after the close of the 30-day period. Renotification and renewal of all consents is required for exports after that date.

(viii) A copy of the EPA Acknowledgement of Consent must accompany the shipment. The shipment must conform to the terms of the Acknowledgement of Consent.

(ix) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility, or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator shall re-notify the EPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with paragraph (iii) of this subdivision and obtain another EPA Acknowledgement of Consent.

(x) Hazardous secondary material generators shall keep a copy of each notification of intent to export and each EPA Acknowledgement of Consent for a period of not less than 3 years from the date of receipt of the EPA Acknowledgement of Consent. This recordkeeping requirement may be satisfied by retaining electronically submitted notifications or electronically generated Acknowledgements of Consent in the generator's account on WIETS, provided the copies are readily available for viewing and production if requested by any EPA or authorized state inspector. A hazardous secondary material generator may not be held liable for the inability to produce a notification or Acknowledgment of Consent for inspection under this paragraph if the generator can demonstrate that the inability to produce the copies are due exclusively to technical difficulty with WIETS for which the generator bears no responsibility.

(xi) Hazardous secondary material generators shall file with the EPA no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all hazardous secondary materials exported during the previous calendar year. Annual reports must be submitted electronically using WIETS. The reports must include all of the following information:

(A) The name, mailing and site addresses, and site identification number, if applicable, of the hazardous secondary material generator.

(B) The calendar year covered by the report.

(C) The name and site address of each reclaimer and intermediate facility.

(D) Organized by reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the material and the hazardous waste number that would apply if the material was managed as a hazardous waste, the DOT hazard class, the name and site identification number, if applicable, for each transporter used, the total amount material shipped, and the number of shipments under each notification.

(E) A certification signed by the hazardous secondary material generator that states: "I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

(xii) All persons claiming an exclusion under this subdivision shall provide notification as required by 40 CFR 260.42.

(2) The following wastes are not hazardous wastes for the purposes of part 111 of the act, MCL 324.11101 to 324.11153, and these rules:

(a) Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered, or reused. Household waste means any waste material, including garbage, trash, and sanitary wastes in septic tanks, that is derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas. A resource recovery facility that manages municipal waste is not considered to be treating, storing, disposing of, or otherwise managing hazardous wastes for regulation under these rules if the facility is in compliance with both of the following provisions:

(i) Receives and burns only household waste from single and multiple dwellings, hotels, motels, and other residential sources and waste from commercial or industrial sources that does not contain hazardous waste.

(ii) Does not accept hazardous wastes and the owner or operator of the facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in the facility.

(b) Wastes that are generated by either of the following and that are returned to the soil as fertilizers:

(i) The growing and harvesting of agricultural crops.

(ii) The raising of animals, including animal manures.

(c) Mining overburden that is returned to the mine site.

(d) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste that is generated primarily from the combustion of coal or other fossil fuels, except as provided by 40 CFR 266.112 for facilities that burn or process hazardous waste.

(e) The following wastes that are generated primarily from processes that support the combustion of coal or other fossil fuels that are co-disposed with the wastes in subdivision (d) of this subrule, except as provided by 40 CFR 266.112 for facilities that burn or process hazardous waste:

(i) Coal pile run-off. For the purpose of subdivision (d) of this subrule, coal pile run-off means any precipitation that drains off of coal piles.

(ii) Boiler cleaning solutions. For the purposes of subdivision (d) of this subrule, boiler cleaning solutions means water solutions and chemical solutions used to clean the fire-side and water-side of the boiler.

(iii) Boiler blowdown. For the purposes of subdivision (d) of this subrule, boiler blowdown means water purged from boilers used to generate steam.

(iv) Process water treatment and demineralizer regeneration wastes. For the purposes of subdivision (d) of this subrule, process water treatment and demineralizer regeneration wastes means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and dissolved chemical salts from combustion system process water.

(v) Cooling tower blowdown. For the purposes of subdivision (d) of this subrule, cooling tower blowdown means water purged from a closed cycle cooling system. Closed cycle cooling systems include cooling towers, cooling ponds, or spray canals.

(vi) Air heater and precipitator washes. For the purposes of subdivision (d) of this subrule, air heater and precipitator washes means wastes from cleaning air preheaters and electrostatic precipitators.

(vii) Effluents from floor and yard drains and sumps. For the purposes of subdivision (d) of this subrule, effluents from floor and yard drains and sumps means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain runoff, collected by yard drains and sumps located outside the power plant.

(viii) Wastewater treatment sludges. For the purposes of subdivision (d) of this subrule, wastewater treatment sludges means sludges that are generated from the treatment of wastewaters specified in paragraphs (i) to (vi) of this subdivision.

(f) Drilling fluids, produced waters, and other wastes that are associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.

(g) Wastes that fail the test for the toxicity characteristic because chromium is present or wastes that are listed in R 299.9213 or R 299.9214 due to the presence of chromium, that do not fail the test for the toxicity characteristic for any other constituent or are not listed due to the presence of any other constituent, and that do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that all of the following provisions are met:

(i) The chromium in the waste is exclusively, or nearly exclusively, trivalent chromium.

(ii) The waste is generated from an industrial process that uses trivalent chromium exclusively, or nearly exclusively, and the process does not generate hexavalent chromium.

(iii) The waste is typically and frequently managed in nonoxidizing environments.

(h) The specific wastes that meet the standards in subdivision (g) of this subrule, if the wastes do not fail the test for the toxicity characteristic for any other constituent and do not fail the test for any other characteristic, include the following:

(i) Chrome (blue) trimmings generated by any of the following subcategories of the leather tanning and finishing industry:

(A) Hair pulp/chrome, tan/retan/wet finish.

(B) Hair save/chrome, tan/retan/wet finish.

(C) Retan/wet finish.

(D) No beam houses.

(E) Through-the-blue.

(F) Shearling.

(ii) Chrome (blue) shavings generated by any of the following subcategories of the leather tanning and finishing industry:

(A) Hair pulp/chrome, tan/retan/wet finish.

(B) Hair save/chrome, tan/retan/wet finish.

(C) Retan/wet finish.

(D) No beam house.

(E) Through-the-blue.

(F) Shearling.

(iii) Buffing dust generated by any of the following subcategories of the leather tanning and finishing industry:

(A) Hair pulp/chrome, tan/retan/wet finish.

(B) Hair save/chrome, tan/retan/wet finish.

(C) Retan/wet finish.

(D) No beamhouse.

(E) Through-the-blue.

(iv) Sewer screenings generated by any of the following subcategories of the leather tanning and finishing industry:

(A) Hair pulp/chrome, tan/retan/wet finish.

(B) Hair save/chrome, tan/retan/wet finish.

(C) Retan/wet finish.

(D) No beamhouse.

(E) Through-the-blue.

(F) Shearling.

(v) Wastewater treatment sludges generated by any of the following subcategories of the leather tanning and finishing industry:

(A) Hair pulp/chrome, tan/retan/wet finish.

(B) Hair save/chrome, tan/retan wet finish.

(C) Retan/wet finish.

(D) No beamhouse.
(E) Through-the-blue.
(F) Shearling.
(vi) Wastewater treatment sludges generated by any of the following subcategories of the leather tanning and finishing industry:
(A) Hair pulp/chrome, tan/retan/wet finish.
(B) Hair save/chrome, tan/retan/wet finish.
(C) Through-the-blue.
(vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries, including waste scrap leather from automotive seat design activities.
(viii) Wastewater treatment sludges from the production of Ti02 pigment using chromium-bearing ores by the chloride process.
(ix) Ink generated by the USPS in its automated facer canceled systems.
(x) Boiler chemical cleaning waste from electric utility boiler maintenance using water and tetra ammonium ethylene diamine tetra acetic acid, which is also known as ammoniated EDTA.
(i) Waste from the extraction, beneficiation, and processing of ores and minerals, including coal, phosphate rock, and overburden from the mining of uranium ore, except as provided in 40 CFR 266.112 for facilities that burn or process hazardous waste. For purposes of this subdivision, the following provisions apply:
(i) Beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briqueting; calcining to remove water or carbon dioxide, or both; roasting, autoclaving, or chlorination, or any combination thereof, in preparation for leaching, except where the roasting/leaching or autoclaving/leaching or chlorination/leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing; gravity concentration; magnetic separation; electrostatic separation; flotation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat, tank, and in-situ leaching.
(ii) Waste from the processing of ores and minerals must include only the following wastes as generated:
(A) Slag from primary copper processing.
(B) Slag from primary lead processing.
(C) Red and brown muds from bauxite refining.
(D) Phosphogypsum from phosphoric acid production.
(E) Slag from elemental phosphorus production.
(F) Gasifier ash from coal gasification.
(G) Process wastewater from coal gasification.
(H) Calcium sulfate wastewater treatment plant sludge from primary copper processing.
(I) Slag tailings from primary copper processing.
(J) Fluorogypsum from hydrofluoric acid production.
(K) Process wastewater from hydrofluoric acid production.
(L) Air pollution control dust/sludge from iron blast furnaces.
(M) Iron blast furnace slag.
(N) Treated residue from roasting/leaching of chrome ore.
(O) Process wastewater from primary magnesium processing by the anhydrous process.
(P) Process wastewater from phosphoric acid production.
(Q) Basic oxygen furnace and open hearth furnace air pollution control dust/sludge from carbon steel production.
(R) Basic oxygen furnace and open hearth furnace slag from carbon steel production.
(S) Chloride process waste solids from titanium tetrachloride production.

(T) Slag from primary zinc processing.

(iii) Residues derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remain excluded under subrule (2) of this rule if the owner or operator meets both of the following requirements:

(A) Processes at least 50% by weight normal beneficiation raw materials or normal mineral processing raw materials.

(B) Legitimately reclaims the secondary mineral processing materials.

(j) Mixtures of a waste that is excluded from regulation under subdivision (i) of this sub rule and any other waste that exhibits a hazardous waste characteristic under R 299.9212 and that is not listed under R 299.9213 or R 299.9214, such that the resultant mixture does not exhibit any hazardous waste characteristic that would have been exhibited by the non-excluded waste alone if the mixture had not occurred.

(k) Cement kiln dust waste, except as provided in 40 CFR 266.112 for facilities that burn or process hazardous waste.

(l) Waste that consists of discarded arsenical-treated wood or wood products, that fails the test for the toxicity characteristic for hazardous waste numbers D004 through D017 and that 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.

(m) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic under R 299.9212 for hazardous waste numbers D018 through D043 only and are subject to the corrective action regulations under 40 CFR part 280.

(n) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, if the refrigerant is reclaimed for further use.

(o) Non-terne plated used oil filters that are not mixed with wastes that are identified in R 299.9213 or R 299.9214, or both, if the oil filters have been gravity hot-drained using 1 of the following methods:

(i) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining.

(ii) Hot-draining and crushing.

(iii) Dismantling and hot-draining.

(iv) Any other equivalent hot-draining method that will remove used oil.

(p) Leachate or gas condensate collected from landfills where certain wastes have been disposed of if all of the following requirements are met:

(i) The wastes disposed would meet 1 or more of the listing descriptions for hazardous waste numbers K169, K170, K171, K172, K174, K175, K176, K177, K178, and K181 if these wastes had been generated after the effective date of the listing.

(ii) The wastes described in paragraph (i) of this subdivision were disposed before the effective date of the listing.

(iii) The leachate or gas condensate do not exhibit any characteristic of a hazardous waste and are not derived from any other listed hazardous waste.

(iv) The discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a publicly owned treatment works by truck, rail, or dedicated pipe, is subject to regulations under section 307(b) or 402 of the federal clean water act, 33 USC 1317 or 1342.

(v) As of February 13, 2001, leachate or gas condensate derived from K169, K170, K171, and K172 is no longer exempt if it is stored or managed in a surface impoundment before discharge. As of November 21, 2003, leachate or gas condensate derived from K176, K177, or K178 is no longer exempt if it is stored or managed in a surface impoundment before discharge. After February 26, 2007, leachate or gas condensate derived from K181 is no longer exempt if it is stored or managed in

a surface impoundment before discharge unless the surface impoundment meets both of the following requirements:

(A) The surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation.

(B) The surface impoundment has a double liner, and the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this subdivision after the emergency ends.

(q) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous waste at the point of generation if all of the following requirements are met:

(i) The wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes." The containers must be able to contain free liquids, if free liquids occur. During accumulation, a container is considered closed if there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove wipes. If the container is full, the wipes are no longer being accumulated, or the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions.

(ii) The wipes must not be accumulated by the generator for more than 180 days from the start date of accumulation for each container before being sent for disposal.

(iii) At the point of being transported for disposal, the wipes contain no free liquids.

(iv) Free liquids removed from the wipes or from the container holding the wipes must be managed in accordance with these rules.

(v) Generators shall maintain at their site all of the following:

(A) The name and address of the landfill or combustor that is receiving the wipes.

(B) Documentation that the 180-day accumulation time limit in paragraph (ii) of this subdivision is being met.

(C) A description of the process the generator is using to ensure that the wipes contain no free liquids at the point of being transported for disposal.

(vi) The wipes are sent for disposal to any of the following:

(A) A municipal solid waste landfill regulated under part 115 of the act, MCL 324.11501 to 324.11554.

(B) A municipal solid waste landfill regulated under 40 CFR part 258, including 40 CFR 258.40.

(C) A hazardous waste landfill regulated under these rules.

(D) A hazardous waste landfill regulated under 40 CFR part 264 or 265.

(E) A municipal waste combustor or other combustion facility regulated under section 129 of the clean air act, 42 USC 7429.

(F) A hazardous waste combustor, boiler, or industrial furnace regulated under these rules.

(G) A hazardous waste combustor, boiler, or industrial furnace regulated under 40 CFR part 264, 265, or 266, subpart H.

(3) The following hazardous wastes are not subject to regulation under parts 3 to 10 of these rules:

(a) A hazardous waste that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or a manufacturing process unit or an associated nonwaste treatment manufacturing unit. This exemption does not apply in any of the following circumstances:

(i) Once the waste exits the unit in which it was generated.

(ii) If the unit is a surface impoundment.

(iii) If the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for the manufacturing, storage, or transportation of product or raw materials.

(b) Waste pesticides and pesticide residues that are generated by a farmer from his or her own use and that are hazardous wastes if the pesticide residues are disposed of on the farmer's own farm in a

manner that is consistent with the disposal instructions on the pesticide container label and if the farmer empties or cleans each pesticide container under R 299.9207.

(4) Except as provided in subrule (5) of this rule, a sample of waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to part 111 of the act, MCL 324.11101 to 324.11153, and these rules if the following provisions are met:

(a) The sample meets 1 of the following provisions:

(i) The sample is being transported to a laboratory for the purpose of testing.

(ii) The sample is being transported back to the sample collector after testing.

(iii) The sample is being stored by the sample collector before transport to a laboratory for testing.

(iv) The sample is being stored in a laboratory before testing.

(v) The sample is being stored in a laboratory after testing but before it is returned to the sample collector.

(vi) The sample is being stored temporarily in the laboratory after testing for a specific purpose, such as until conclusion of a court case or enforcement action where further testing of the sample might be necessary.

(b) A sample collector that ships samples to a laboratory and a laboratory that returns samples to a sample collector shall comply with DOT, USPS, or any other applicable shipping requirements. The sample collector shall only ship a volume that is necessary for testing and analysis and, if the sample collector determines that DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the sample collector shall package the sample so that it does not leak, spill, or vaporize from its packaging and ensure that all of the following information accompanies the sample:

(i) The sample collector's name, mailing address, and telephone number.

(ii) The laboratory's name, mailing address, and telephone number.

(iii) The quantity of the sample.

(iv) The date of shipment.

(v) A description of the sample.

(c) The mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source does not exceed 25 kilograms.

(5) The exemption specified in subrule (4) of this rule does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer in compliance with any of the conditions in subdivision (a) of subrule (4) of this rule.

(6) Persons who generate or collect samples for the purpose of conducting treatability studies are not subject to the requirements of parts 2, 3, and 4 of these rules or the notification requirements of section 3010 of RCRA, 42 USC 6930, and the samples are not included in the quantity determinations specified in R 299.9303 when the sample is being collected and prepared for transportation by the generator or sample collector, the sample is being accumulated or stored by the generator or sample collector before transportation to a laboratory or testing facility, or the sample is being transported to a laboratory or testing facility for the purpose of conducting a treatability study. The exemption specified in this subrule is applicable to samples of hazardous waste that are being collected and shipped for the purpose of conducting treatability studies if all of the following provisions are met:

(a) The generator or sample collector does not use more than 10,000 kilograms of media that is contaminated with nonacute hazardous waste, 1,000 kilograms of any nonacute hazardous waste other than contaminated media, 1 kilogram of acute or severely toxic hazardous waste, or 2,500 kilograms of media that is contaminated with acute or severely toxic hazardous waste for each process that is being evaluated for each generated waste stream in a treatability study.

(b) The mass of each sample shipment is not more than 10,000 kilograms. The 10,000-kilograms quantity may be all media contaminated with nonacute hazardous waste or may include 2,500 kilograms of media contaminated with acute or severely toxic hazardous waste,

1,000 kilograms of nonacute hazardous waste, and 1 kilogram of acute or severely toxic hazardous waste.

(c) The sample must be packaged and transported so that it will not leak, spill, or vaporize from its packaging during shipment and so that either of the following requirements are met:

(i) The transportation of each sample shipment is in compliance with DOT, USPS, or any other applicable shipping requirements.

(ii) If the DOT, USPS, or other shipping requirements do not apply to the shipment of the sample, all of the following information must accompany the sample:

(A) The name, mailing address, and telephone number of the originator of the sample.

(B) The name, address, and telephone number of the facility that will perform the treatability study.

(C) The quantity of the sample.

(D) The date of the shipment.

(E) A description of the sample, including its hazardous waste number.

(d) The sample is shipped to a laboratory or testing facility that is exempt under subrule (9) of this rule or has an appropriate RCRA permit, state hazardous waste operating license, or interim status.

(e) The generator or sample collector maintains all of the following records for 3 years after completion of the treatability study:

(i) Copies of the shipping documents.

(ii) A copy of the contract with the facility that conducts the treatability study.

(iii) Documentation that shows all of the following information:

(A) The amount of waste that is shipped under this exemption.

(B) The name, address, and site identification number of the laboratory or testing facility that received the waste.

(C) The date the shipment was made.

(D) If unused samples and residues were returned to the generator.

(f) The generator reports the information required under subdivision (e)(iii) of this subrule as part of the data referenced in R 299.9312(1).

(g) The mass of a sample that will be exported to a foreign laboratory or that will be imported to a U.S. laboratory from a foreign source does not exceed 25 kilograms.

(7) The director may grant requests on a case-by-case basis for up to an additional 2 years for treatability studies involving bioremediation. The director may grant requests on a case-by-case basis for quantity limits in excess of those specified in subrules (6)(a) and (b) and (9)(d) of this rule for up to an additional 5,000 kilograms of media contaminated with nonacute hazardous waste, 500 kilograms of nonacute hazardous waste, 2,500 kilograms of media contaminated with acute or severely toxic hazardous waste, and 1 kilogram of acute or severely toxic hazardous waste. A request may be granted in response to 1 or both of the following requests:

(a) A request for authorization to ship, store, and conduct treatability studies on, additional quantities in advance of commencing treatability studies. The director shall consider all of the following factors in determining whether to grant the request:

(i) The nature of the technology.

(ii) The type of process.

(iii) The size of the unit undergoing testing, particularly in relation to scale-up considerations.

(iv) The time and quantity of material required to reach steady state operating conditions.

(v) Test design considerations such as mass balance calculations.

(b) A request for authorization to ship, store, and conduct treatability studies on, additional quantities after initiation or completion of initial treatability studies when any of the following occur:

(i) There has been an equipment or mechanical failure during the conduct of a treatability study.

(ii) There is a need to verify the results of a previously conducted treatability study.

(iii) There is a need to study and analyze alternative techniques within a previously evaluated treatment process.

(iv) There is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.

(8) The additional quantities and time frames allowed under subrule (7) of this rule are subject to this rule. The generator or sample collector shall apply to the director and shall provide, in writing, all of the following information:

(a) The reason why the generator or sample collector requires an additional quantity of the sample or time for the treatability study evaluation and the additional quantity or time needed.

(b) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies, including all of the following information:

(i) The date that each previous sample from the waste stream was shipped.

(ii) The sample quantity of each previous shipment.

(iii) The laboratory or testing facility to which the sample was shipped.

(iv) What treatability study processes were conducted on each sample shipped.

(v) The available results of each treatability study.

(c) A description of the technical modifications or change in specifications that will be evaluated and the expected results.

(d) If further study is being required due to equipment or mechanical failure, then the applicant must include information regarding the reason for the failure and also include a description of what procedures were established, or what equipment improvements have been made, to protect against further equipment or mechanical failure.

(e) Other information that the director considers necessary.

(9) Samples that undergo treatability studies and the laboratory or testing facility that conducts the treatability studies, to the extent the facilities are not otherwise subject to the requirements of part 111 of the act, MCL 324.11101 to 324.11153, or these rules, are not subject to any of the requirements of these rules or to the notification requirements of section 3010 of RCRA, 42 USC 6930, if the conditions of this subrule are met. A mobile treatment unit may qualify as a testing facility subject to this subrule. If a group of mobile treatment units is located at the same site, then the limitations specified in this subrule apply to the entire group of mobile treatment units collectively as if the group were 1 mobile treatment unit. The conditions are as follows:

(a) Not less than 45 days before conducting treatability studies, the facility shall notify the director, in writing, that it intends to conduct treatability studies under this rule.

(b) The laboratory or testing facility that conducts the treatability study has a site identification number.

(c) Not more than a total of 10,000 kilograms of "as received" media contaminated with nonacute hazardous waste, 2,500 kilograms of media contaminated with acute or severely toxic hazardous waste, or 250 kilograms of other "as received" hazardous waste is subjected to the initiation of treatment in all treatability studies in any single day. "As received" hazardous waste refers to waste as received in the shipment from the generator or sample collector.

(d) The quantity of "as received" hazardous waste that is stored at the facility for evaluation in treatability studies is not more than 10,000 kilograms, the total of which may include 10,000 kilograms of media contaminated with nonacute hazardous waste, 2,500 kilograms of media contaminated with acute or severely toxic hazardous waste, 1,000 kilograms of nonacute hazardous waste other than contaminated media, and 1 kilogram of acute or severely toxic hazardous waste. The quantity limitation does not include treatment materials, including nonhazardous waste, that are added to "as received" hazardous waste.

(e) Not more than 90 days have elapsed since the treatability study for the sample was completed, or not more than 1 year, or 2 years for treatability studies involving bioremediation, has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date occurs first.

(f) The treatability study does not involve the placement of hazardous waste on the land or the open burning of hazardous waste.

(g) The facility maintains records, for 3 years following completion of each study, that show compliance with the treatment rate limits, storage time, and quantity limits. All of the following specific information must be included for each treatability study that is conducted:

(i) The name, address, and site identification number of the generator or sample collector of each waste sample.

(ii) The date the shipment was received.

(iii) The quantity of waste accepted.

(iv) The quantity of "as received" waste in storage each day.

(v) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day.

(vi) The date the treatability study was concluded.

(vii) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the site identification number.

(h) The facility keeps, on site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending 3 years from the completion date of each treatability study.

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

(i) The name, address, and site 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 site identification numbers.

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

(v) The total 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.

(j) The facility determines if any unused sample or residues generated by the treatability study are hazardous waste under R 299.9203 and, if so, are subject to these rules, unless the residues and unused samples are returned to the sample originator under the exemption in subrule (6) of this rule.

(k) The facility notifies the director, by letter, when the facility is no longer planning to conduct any treatability studies at the site.

(10) The disposal of PCB-containing dielectric fluid and electric equipment that contains the fluid as authorized for use and as regulated under 40 CFR part 761 and fluid and equipment that are hazardous only because they fail the test for the toxicity characteristic for hazardous waste numbers D018 through D043 are not subject to regulation under parts 2 to 7 and 9 and 10 of these rules.

(11) Dredged material, as defined in 40 CFR 232.2, that is subject to the requirements of a permit that has been issued under section 404 of the federal clean water act, 33 USC 1344, or section 103 of the marine protection, research, and sanctuaries act of 1972, 33 USC 1413, is not a hazardous waste for the purposes of part 111 of the act, MCL 324.11101 to 324.11153, and these rules. For the purposes of this exemption, "permit" means any of the following:

(a) A permit issued by the U.S. Army Corps of Engineers or an approved state under section 404 of the federal clean water act, 33 USC 1344.

(b) A permit issued by the U.S. Army Corps of Engineers under section 103 of the marine protection, research, and sanctuaries act of 1972, 33 USC 1413.

(c) In the case of U.S. Army Corps of Engineers civil works projects, the administrative equivalent of the permits referred to in subdivisions (a) and (b) of this subrule, as provided for in the U.S. Army Corps of Engineers regulations.

(12) Carbon dioxide streams that are captured and transported for the purposes of injection into an underground injection well subject to the requirements for class VI underground injection control wells, including the requirements of 40 CFR parts 144 and 146 of the underground injection control program of act 399, are not a hazardous waste if all of the following requirements are met:

(a) Transportation of the carbon dioxide stream must comply with all of the following DOT requirements:

(i) The pipeline safety laws under 49 USC 60101 to 60141.

(ii) The pipeline safety regulations under 49 CFR parts 190 to 199.

(iii) The pipeline safety regulations adopted and administered by a state authority under a certification under 49 USC 60105, as applicable.

(b) Injection of the carbon dioxide stream must comply with the applicable requirements for class VI underground injection control wells, including the applicable requirements of 40 CFR parts 144 and 146.

(c) No hazardous waste is mixed with, or otherwise co-injected with, the carbon dioxide stream.

(d) Any generator of a carbon dioxide stream who claims that a stream is excluded under this subrule shall sign, or have an authorized representative sign, a certification statement worded in accordance with 40 CFR 261.4(h)(4)(i).

(e) Any class VI underground injection control well owner or operator who claims that a carbon dioxide stream is excluded under this subrule shall sign, or have an authorized representative sign, a certification statement worded in accordance with 40 CFR 261.4(h)(4)(ii).

(f) The signed certification statements referenced in subdivisions (d) and (e) of this subrule must be kept on-site for not less than 3 years. The statements must be made available within 72 hours of a written request from the director. The statements must be renewed every year that the exclusion is claimed by having the generator or the owner or operator, or their authorized representative, annually prepare and sign a new copy of the statement within 1 year of the date of the previous statement. The statements must also be readily accessible on the generator and owner or operator's publicly-available website, if one exists, as a public notification with the title of "Carbon Dioxide Stream Certification" when the exclusion is claimed.

(13) 40 CFR 261.4(h)(4)(i) and (ii), part 144, part 146, part 280, and part 761 and 49 CFR parts 190 to 199 are adopted by reference in R 299.11003 and R 299.11004.

R 299.9205 Rescinded.

R 299.9206 Requirements for recyclable materials.

Rule 206. (1) Except as provided in subrules (2) to (6) of this rule, recyclable materials are subject to all of the following requirements:

(a) Generators and transporters of recyclable materials are subject to the applicable requirements of parts 3 and 4 of these rules.

(b) Owners or operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of parts 5, 6, 7, and 8 of these rules. The recycling process itself is exempt from regulation, except as provided in subdivision (d) of this subrule.

(c) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the identification number requirements of 40 CFR 264.11, the manifest requirements of R 299.9608, and the reporting requirements of R 299.9610. The recycling process itself is exempt from regulation, except as provided in subdivision (d) of this subrule.

(d) A hazardous waste management unit in which recyclable materials are recycled is subject to the requirements of 40 CFR part 265, subparts AA and BB if the unit is located at a facility that is

described in R 299.9601(3)(a) or (b), or the requirements of R 299.9630 and R 299.9631 if the unit is located at a facility subject to the licensing requirements specified in part 111 of the act, MCL 324.11101 to 324.11153, and part 5 of these rules.

(2) The following recyclable materials are not subject to the requirements of this rule, but are regulated under the applicable provisions of parts 5 and 8 of these rules:

(a) Recyclable materials used in a manner that constitutes disposal.

(b) Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated as incinerators under part 6 of these rules.

(c) Recyclable materials from which precious metals are reclaimed.

(d) Spent lead-acid batteries that are being reclaimed.

(3) The following recyclable materials are not subject to regulation under part 111 of the act, MCL 324.11101 to 324.11153, or these rules, except for the environmental and human health standards of R 299.9602 and R 299.9809 to R 299.9816, as applicable:

(a) Industrial ethyl alcohol that is reclaimed except that exports and imports of the recyclable materials must comply with the requirements of R 299.9314.

(b) Scrap metal that is not excluded under R 299.9204(1)(p).

(c) Fuels produced from the refining of oil-bearing hazardous wastes together with normal process streams at a petroleum refining facility if the wastes result from normal petroleum refining, production, and transportation practices. This exemption does not apply to fuels produced from oil recovered from oil-bearing hazardous waste, if the recovered oil is already excluded under R 299.9204(1)(l).

(d) Hazardous waste fuel that is produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices or that is produced from oil that is reclaimed from the hazardous wastes, if the hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil if the resulting fuel is in compliance with the used oil specification in R 299.9809(1)(f) and if other hazardous wastes are not used to produce the hazardous waste fuel.

(e) Hazardous waste fuel that is produced from oil-bearing hazardous waste that results from petroleum refining production and transportation practices if the hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed and if the fuel is in compliance with the used oil fuel specification in R 299.9809(1)(f).

(f) Oil that is reclaimed from oil-bearing hazardous wastes that result from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, if the reclaimed oil is in compliance with the used oil fuel specification in R 299.9809(1)(f).

(g) Textiles, including gloves, uniforms, linens, and wipes, that are being recycled in a manner other than being burned for energy recovery or used in a manner constituting disposal if both of the following conditions are met:

(i) After the textile's original use, hazardous waste is not mixed with the textile.

(ii) The textiles and the containers used to transport the textiles do not contain any free liquids.

(4) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic is not subject to regulation under part 111 of the act, MCL 324.11101 to 324.11153, or these rules, except for the environmental and human health standards in R 299.9602 and R 299.9809 to R 299.9816. Used oil that is recycled includes any used oil that is reused, after its original use, for any purpose. Used oil includes, but is not limited to, oil that is re-refined, reclaimed, burned for energy recovery, or reprocessed.

(5) An owner or operator of a facility that stores lamps that meet the definition of a hazardous waste before recycling the lamps at the facility shall comply with all of the following requirements:

(a) Submit a written notification of hazardous waste lamp storage activity to the director. The notification must include all of the following information:

(i) The name, mailing address, and telephone number of the owner.
(ii) The name, mailing address, and telephone number of the operator.
(iii) The name, mailing address, location, and telephone number of the recycle facility.
(iv) A description of the unit or units in which the lamps are managed on-site before recycling and a map that shows the location of the unit or units.
(b) Obtain an identification number for the facility from the director.
(c) The environmental and human health standards under R 299.9602.
(d) The location standards under R 299.9603.
(e) The facility design and operating standards under R 299.9604.
(f) The handling requirements of R 299.9228(4)(a).
(g) Ensure that facility personnel are trained with respect to proper hazardous waste handling and preparedness and prevention procedures and are familiar with the facility emergency procedures.
(h) If there is a fire, explosion, or other release of hazardous waste or hazardous waste constituents that could threaten human health or the environment, or if the owner or operator has knowledge that a spill has reached surface water or groundwater, then the owner or operator shall immediately notify the department's pollution emergency alerting system telephone number 800-292-4706, or the department's district office for the district in which the facility is located. The notification must include all of the following information:
(i) The name and telephone number of the person who is reporting the incident.
(ii) The name, address, telephone number, and identification number of the facility.
(iii) The date, time, and type of incident.
(iv) The name and quantity of the material or materials involved and released.
(v) The extent of injuries, if any.
(vi) The estimated quantity and disposition of recovered materials that resulted from the incident, if any.
(vii) An assessment of actual or potential hazards to human health or the environment.
(viii) The immediate response action taken.
(i) The area where the lamps are accumulated must be protected, as appropriate for the type of waste being stored, from weather, fire, physical damage, and vandals.
(j) Accumulation must be conducted so that fugitive emissions are not in violation of part 55 of the act, MCL 324.5501 to 324.5542.
(k) A written operating record must be maintained on-site by the owner or operator and must contain all of the following information:
(i) The quantity of lamps received on-site during the calendar year.
(ii) The quantity of lamps recycled at the facility during the calendar year.
(iii) The documentation necessary to demonstrate that the lamps are not being stored on-site for more than 1 year.
(l) The closure standards of 40 CFR 264.111 and 264.114.
(m) R 299.9614 if the lamps are being stored in containers and R 299.9615 if the lamps are being stored in tanks.
(n) The lamps must not be stored on-site for more than 1 year from the date that the owner or operator receives the lamps.
(o) Any hazardous waste that is generated from the lamp recycle operation is subject to 2 to 7 of these rules.
(6) Hazardous waste that is exported ~~to~~ or imported for the purpose of recovery is subject to the requirements of R 299.9314.
(7) 40 CFR 264.11, 264.111, and 264.114, and part 265, subparts AA and BB, are adopted by reference in R 299.11003.

R 299.9213 Lists of hazardous wastes from nonspecific and specific sources.

Rule 213. (1) The following wastes are hazardous wastes unless excluded under R 299.9211:
(a) Wastes from nonspecific sources listed by the administrator and identified in table 203a of these rules.
(b) Wastes from specific sources listed by the administrator and identified in table 204a of these rules.
(2) Each hazardous waste that is listed in subrule (1) of this rule is assigned a hazardous waste number that precedes the name of the waste on the table in which it is listed. The number must be used in complying with the notification requirements and the recordkeeping and reporting requirements of these rules.
(3) The EPA hazardous waste numbers F020, F021, F022, F023, F026, and F027 are subject to the exclusion limits for acutely hazardous wastes established in R 299.9304.
(4) For the purposes of the EPA hazardous waste numbers F037 and F038 listings, aggressive biological treatment units are defined as those units that employ 1 of the following 4 treatment methods:
(a) Activated sludge.
(b) Trickling filter.
(c) Rotating biological contactor for the continuous accelerated biological oxidation of wastewaters.
(d) High-rate aeration. High-rate aeration is a system of surface impoundments or tanks in which intense mechanical aeration is used to completely mix the wastes and enhance biological activity. High-rate aeration systems must be composed of units that employ a minimum of 6 horsepower per million gallons of treatment volume and either the hydraulic retention time of the unit is no longer than 5 days, or the hydraulic retention time is no longer than 30 days and the unit does not generate a sludge that is hazardous waste by the toxicity characteristic.
(5) Generators and facility owners and operators shall demonstrate that their sludges are not subject to being listed as F037 or F038, or both, wastes under subrule (4) of this rule. Generators and facility owners and operators shall maintain, in their operating or other on-site records, documents and data sufficient to demonstrate that the unit is an aggressive biological treatment unit as defined in subrule (4) of this rule and that the sludges sought to be exempted from the definitions of F037 or F038, or both, wastes were actually generated in the aggressive biological treatment unit.
(6) For the purposes of the EPA hazardous waste number F037 listing, sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement.
(7) For the purposes of the EPA hazardous waste number F038 listing, sludges are considered to be generated at the moment of deposition in the unit, where deposition is defined as at least a temporary cessation of lateral particle movement, and floats are considered to be generated at the moment they are formed in the top of the unit.

R 299.9214 Discarded commercial chemical products, off-specification species, containers, container residues, and spill residues as hazardous wastes.
Rule 214. (1) The following materials or items are hazardous wastes when they are discarded or intended to be discarded as described in R 299.9202(1)(a), when they are burned for energy recovery instead of their original intended use, when they are used to produce fuels instead of their intended use, when they are applied to the land instead of their intended use, or when they are contained in products that are applied to the land instead of their original intended use:
(a) Any commercial chemical product or manufacturing chemical intermediate having the generic name in tables 205a, 205b, and 205c of these rules.
(b) Any off-specification commercial chemical product or manufacturing intermediate that, if it met specifications, would have the generic name listed in tables 205a, 205b, and 205c of these rules.
(c) Any residue that remains in a container or in an inner liner which is removed from a container that has held any commercial chemical product or manufacturing chemical intermediate having the

generic names listed in tables 205a, 205b, and 205c of these rules, unless the container is empty as defined in R 299.9207.

(d) Any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into any water or on any land of any commercial chemical product, a manufacturing chemical intermediate having the generic name listed in tables 205a, 205b, and 205c of these rules, any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill into any water or on any land of any off-specification chemical product, and manufacturing chemical intermediate that, if it met specifications, would have the generic name listed in tables 205a, 205b, and 205c of these rules.

(2) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products listed by the administrator and identified in table 205a are acutely hazardous wastes (H).

(3) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products listed by the administrator and identified in table 205b are toxic wastes (T).

(4) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products listed by the director and identified in table 205c-are toxic wastes (T).

(5) As used in subrule (1) of this rule, the phrases "commercial chemical product," "manufacturing chemical intermediate," "off-specification commercial chemical product," and "manufacturing chemical intermediate" refer to materials that are manufactured or formulated for commercial or manufacturing use. The phrases do not refer to materials, such as manufacturing process wastes, that contain any of the substances listed in tables 205a, 205b, or 205c of these rules.

(6) Each hazardous waste listed in subrule (1) of this rule is assigned the hazardous waste number in tables 205a, 205b, or 205c of these rules that corresponds to the constituent that caused the waste to be hazardous. With regard to a mixture of hazardous wastes, a number must be assigned in the following priority order based upon the wastes or constituents present:

(a) Acutely hazardous, from table 205a.

(b) Toxic, from table 205b.

(c) Toxic, from table 205c of these rules.

If the constituents are listed in the same table, the number assigned must correspond to the constituents present in the greatest amount on a weight basis.

R 299.9226 Table 205c; discarded commercial chemical products; off-specification species; container residues; and spill residues thereof as toxic hazardous wastes.

Rule 226. Table 205c reads as follows:

Table 205c			
Michigan Hazardous Waste Number	Chemical Abstract Services Number	Substance	Hazard Code
001U	50-76-0	Actinomycin D	
002U	107-05-1	Allyl chloride	
003U	117-79-3	2-aminoanthraquinone	
004U	60-09-3	Aminoazobenzene	
005U	97-56-3	O-aminoazotoluene	
007U	132-32-1	3-amino-9-ethyl carbazole	
011U	90-04-0	o-Anisidine	
012U	134-29-2	o-Anisidine hydrochloride	
014U	1397-94-0	Antimycin A	

Table 205c			
Michigan Hazardous Waste Number	Chemical Abstract Services Number	Substance	Hazard Code
020U	1689-84-5	Bromoxynil	
160U	106-99-0	1,3-Butadiene	
023U	133-06-2	Captan	
027U	786-19-6	Carbophenothion	
029U	2921-88-2	Chloropyrifos	
032U	7782-50-5	Chlorine gas	
033U	107-07-3	2-Chloroethanol	
150U	106-48-9	p-chlorophenol	
036U	5131-60-2	4-chloro-m-phenylenediamine	
038U	126-99-8	Chloroprene	
151U	96-79-4	5-chloro-o-toluidene	
040U	1420-04-8	Clonitralid	
042U	56-72-4	Coumasphos	
046U	66-81-9	Cycloheximide	
051U	333-41-5	Diazinon	
052U	117-80-6	Dichlone	
054U	62-73-7	Dichlorvos	
056U	64-67-5	Diethyl sulfate	
165U	105-55-5	N,N'-Diethylthiourea	
057U	39300-45-3	Dinocap	
061U	563-12-2	Ethion	
068U	680-31-9	Hexamethyl phosphoramide	
070U	123-31-9	Hydroquinone	
073U	54-85-3	Isonicotinic acid hydrazide	
074U	463-51-4	Ketene	
075U	78-97-7	Lactonitril	
076U	21609-90-5	Leptophos	
078U	569-64-2	Malachite green	
079U	121-75-5	Malathion	
086U	90-12-0	1-Methylnaphthalene	
094U	300-76-5	Naled	
097U	61-57-4	Niridazole	
098U	139-94-6	Nithiazide	
100U	99-59-2	Nitro-o-anisidine	
104U	51-75-2	Nitrogen mustard	
106U	156-10-5	p-Nitrosodiphenylamine	
108U	135-20-6	N-nitroso-N-phenylhydroxylamine, ammonium salt	
169U	29082-74-4	Octachlorostyrene	
110U	301-12-2	Oxydemeton-methyl	
111U	1910-42-5	Paraquat dichloride	
112U	79-21-0	Peroxyacetic acid	
113U	136-40-3	Phenazopyridine hydrochloride	
115U	50-06-6	Phenobarbitol	
116U	57-41-0	Phenytoin	

Table 205c			
Michigan Hazardous Waste Number	Chemical Abstract Services Number	Substance	Hazard Code
117U	630-93-3	Phenytoin sodium	
118U	4104-14-7	Phosazetim	
119U	732-11-6	Phosmet	
124U	57-57-8	Propiolactone	
127U	51-52-5	Propylthiouracil	
128U	83-749-4	Rotenone	
129U	57-56-7	Semicarbazide	
170U	563-41-7	Semicarbazide hydrochloride	
131U	100-42-5	Styrene	
136U	13071-79-9	Terbufos	
138U	139-65-1	4,4'-Thiodianiline	
154U	56-35-9	Bis(tri-n-butyl tin) oxide	
171U	688-73-3	Tributyltin (and other salts and esters)	
142U	1582-09-8	Trifluralin	
143U	137-17-7	2,4,5-Trimethylaniline	
175U	593-60-2	Vinyl bromide	

R 299.9228 Universal wastes.

Rule 228. (1) This rule provides an alternate set of standards under which universal wastes may be managed instead of full regulation as hazardous waste under these rules. The requirements of this rule apply to the universal wastes identified in this subrule and to persons managing the universal wastes. Universal wastes that are not managed pursuant to this rule are subject to full regulation as hazardous waste under these rules. Except as provided in subrule (2) of this rule, all of the following universal wastes are exempt from full regulation as hazardous waste under these rules if they are managed pursuant to the requirements of this rule:

(a) A battery, including a spent lead-acid battery that is not managed pursuant to R 299.9804.

(b) A pesticide, including both of the following:

(i) A recalled pesticide, including the following:

(A) A stock of a suspended and cancelled pesticide that is part of a voluntary or mandatory recall under section 19(b) of the FIFRA, 7 USC 136q, including, but not limited to, a stock owned by the registrant responsible for conducting the recall.

(B) A stock of a suspended or cancelled pesticide, or of a pesticide that is not in compliance with the FIFRA, that is part of a voluntary recall by the registrant.

(ii) A stock of an unused pesticide product other than a product specified in paragraph (i) of this subdivision that is collected and managed as part of a waste pesticide collection program.

(c) A thermostat.

(d) A mercury switch.

(e) A mercury thermometer.

(f) A waste device that contains only elemental mercury as the hazardous waste constituent.

(g) A lamp.

(h) A pharmaceutical.

(i) Consumer electronics.

(j) Antifreeze.

(k) An aerosol can.

(2) The requirements of this rule do not apply to any of the following:

(a) A spent lead-acid battery that is managed pursuant to R 299.9804.

(b) A battery that is not a waste under part 2 of these rules. A used battery becomes a waste when it is discarded. An unused battery becomes a waste on the date the universal waste handler decides to discard it.

(c) A battery that is not hazardous waste. A battery is a hazardous waste if it exhibits 1 or more of the hazardous characteristics identified in R 299.9212.

(d) A pesticide identified in subrule (1) of this rule that is managed by farmers in compliance with R 299.9204(3)(b).

(e) A pesticide that does not meet the requirements in subrule (1) of this rule. The pesticide must be managed pursuant to parts 2 to 8 of these rules, except that aerosol cans that contain pesticides may be managed as aerosol cans universal waste under this rule.

(f) A pesticide that is not a waste under part 2 of these rules. A recalled pesticide becomes a waste on the first date on which the generator of the pesticide agrees to participate in the recall and the person conducting the recall decides to discard the pesticide. An unused pesticide becomes a waste on the date that the generator decides to discard it. The following pesticides are not wastes:

(i) A recalled pesticide if the person conducting the recall is in compliance with either of the following provisions:

(A) The person has not made a decision to discard the pesticide. Until a decision is made, the pesticide does not meet the definition of a waste under R 299.9202 and, therefore, is not considered a hazardous waste subject to regulations under these rules. The pesticide remains subject to the requirements of the FIFRA.

(B) The person has made a decision to use a management option that does not result in the pesticide meeting the definition of a waste under R 299.9202. The pesticide, including a recalled pesticide that is exported to a foreign destinations for use or reuse, remains subject to the requirements of the FIFRA.

(ii) An unused pesticide product if the generator of the unused pesticide product has not decided to discard the product. The pesticide product remains subject to the requirements of the FIFRA.

(g) A pesticide that is not hazardous waste. A pesticide is a hazardous waste if it is listed under R 299.9213 or R 299.9214 or if it exhibits 1 or more of the hazardous characteristics identified in R 299.9212.

(h) A thermostat, mercury switch, mercury thermometer, or a waste device that contains only elemental mercury as the hazardous waste constituent that is not a waste under part 2 of these rules. A used thermostat, mercury switch, mercury thermometer, or a used waste device that contains only elemental mercury as the hazardous waste constituent becomes a waste on the date it is discarded. An unused thermostat, mercury switch, mercury thermometer, and an unused waste device that contains only elemental mercury as the hazardous waste constituent becomes a waste on the date that the universal waste handler decides to discard it.

(i) A thermostat, mercury switch, mercury thermometer, and a waste device that contains only elemental mercury as the hazardous waste constituent that is not hazardous waste. A thermostat, mercury switch, mercury thermometer, and a waste device that contains only elemental mercury as the hazardous waste constituent is a hazardous waste if it exhibits 1 or more of the hazardous characteristics identified in R 299.9212.

(j) A lamp that is not a waste under part 2 of these rules. A used lamp becomes a waste on the date that the universal waste handler permanently removes it from its fixture. An unused lamp becomes a waste on the date that the universal waste handler decides to discard it.

(k) A lamp that is not a hazardous waste. A lamp is a hazardous waste if it exhibits 1 or more of the hazardous characteristics identified in R 299.9212.

(l) A pharmaceutical that is not a waste under part 2 of these rules. An unused pharmaceutical becomes a waste on the date that the universal waste handler decides to discard it.

(m) A pharmaceutical that is not a hazardous waste. A waste pharmaceutical is a hazardous waste if it is listed under R 299.9213 or R 299.214 or if it exhibits 1 or more hazardous waste characteristics under R 299.9212.

(n) Consumer electronics that are not a waste under part 2 of these rules. A consumer electronic becomes a waste on the date that the universal waste handler decides to discard it.

(o) Consumer electronics that are not a hazardous waste. A consumer electronic is a hazardous waste if it is listed under R 299.9213 or R 299.214, or if it exhibits 1 or more hazardous waste characteristics under R 299.9212.

(p) Antifreeze that is not a waste under part 2 of these rules. Used antifreeze becomes a waste when it is discarded. Unused antifreeze becomes a waste on the date that the universal waste handler decides to discard it.

(q) Antifreeze that is not a hazardous waste. Antifreeze is a hazardous waste if it is listed in R 299.9213 or R 299.9214, or if it exhibits 1 or more hazardous waste characteristics under R 299.9212.

(r) Aerosol cans that are not a waste under part 2 of these rules. An unused aerosol can becomes a waste on the date the universal waste handler decides to discard it. A used aerosol can becomes a waste when it is discarded.

(s) Aerosol cans that are not a hazardous waste. An aerosol can is a hazardous waste if it contains a substance that is listed in R 299.9213 or R 299.9214, or if it exhibits 1 or more hazardous waste characteristics under R 299.9212.

(t) An aerosol can that is empty under R 299.9207.

(3) A person that manages household wastes that are exempt from regulation under R 299.9204(2)(a) and are also of the same type as the universal wastes identified in subrule (1) of this rule or very small quantity generator wastes that are exempt from regulation under R 299.9304 and are also of the same type as the universal wastes identified in subrule (1) of this rule may, at the person's option, manage the wastes under this rule. A person who commingles household wastes or very small quantity generator wastes with universal waste regulated pursuant to this rule shall manage the commingled waste under the requirements of this rule.

(4) A universal waste small quantity handler shall comply with all of the following requirements:

(a) The requirements of 40 CFR part 273, subpart B, except 273.10 and 273.18(b).

(b) If the universal waste small quantity handler is self-transporting universal waste offsite, then the handler becomes the universal waste transporter for the self-transportation activities and shall comply with the requirements of subrule (6) of this rule while transporting the universal wastes.

(c) If the universal waste small quantity handler handles mercury switches, mercury thermometers, or waste devices that contain only elemental mercury as the hazardous waste constituent, then 40 CFR 273.13(c) applies to the mercury switches, mercury thermometers, and waste devices that contain only elemental mercury as the hazardous waste constituent.

(d) If the universal waste small quantity handler manages pharmaceuticals, then all of the following additional requirements must apply:

(i) The pharmaceuticals must be managed in a manner that prevents releases of any universal waste or component of a universal waste to the environment. The pharmaceuticals must be contained in a container that remains closed, except to add or remove universal waste, is structurally sound, is compatible with the pharmaceutical, and lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable circumstances, or if the container does not meet these conditions, is overpacked in a container that does meet these conditions.

(ii) If a release of pharmaceuticals or component of pharmaceuticals occurs, the release must be immediately cleaned up and properly characterized for disposal.

(iii) A universal waste handler may disassemble packaging and sort pharmaceuticals.

(iv) Incompatible pharmaceuticals must be segregated. Adequate distance must be employed to prevent the contact of incompatible materials.

(e) If the universal waste small quantity handler manages consumer electronics, then all of the following additional requirements apply:

(i) The consumer electronics must be managed in a manner that prevents breakage or the release of any universal waste or components of universal waste by containing the consumer electronics in packaging that will prevent breakage during normal handling conditions.

(ii) Label the outer packaging or container with the words "universal waste consumer electronics" or "universal waste electronics."

(iii) Properly contain, classify, and dispose of releases and potential releases of consumer electronics and residues.

(f) A universal waste small quantity handler handling consumer electronics may perform any of the following activities and shall still be regulated as a universal waste small quantity handler:

(i) Repair the consumer electronics for potential direct reuse.

(ii) Remove other universal wastes from the consumer electronics.

(iii) Remove individual modular components for direct reuse.

(g) If the universal waste small quantity handler manages antifreeze, then all of the following additional requirements must apply:

(i) The antifreeze must be managed in a manner that prevents releases of any universal waste or component of a universal waste to the environment.

(ii) The antifreeze must be contained in 1 or more of the following manners:

(A) A container that remains closed, except to add or remove universal waste, is structurally sound, is compatible with the antifreeze, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

(B) A container that does not meet the requirements of subparagraph (A) of this paragraph, if the container is overpacked in a container that does meet the requirements of subparagraph (A) of this paragraph.

(C) A tank that meets the requirements of 40 CFR part 265, subpart J, except for 40 CFR 265.197(c), and 265.200.

(D) A transport vehicle or vessel that remains closed, except to add or remove universal waste, is structurally sound, is compatible with the antifreeze, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonable foreseeable conditions.

(iii) If a release of antifreeze or a component of antifreeze occurs, the release must be immediately cleaned up and properly characterized for disposal.

(iv) The containers or tanks used to manage the antifreeze must be labeled with the words "universal waste antifreeze," "waste antifreeze," or "used antifreeze."

(5) A universal waste large quantity handler shall comply with all of the following requirements:

(a) Maintain the universal waste large quantity handler designation through the end of the calendar year in which a total of 5,000 kilograms or more of universal waste is accumulated.

(b) The requirements of 40 CFR part 273, subpart C, except 273.30 and 273.38(b).

(c) If the universal waste large quantity handler is self-transporting universal waste off site, then the handler becomes the universal waste transporter for the self-transportation activities and shall comply with the requirements of subrule (6) of this rule while transporting the universal wastes.

(d) If the universal waste large quantity handler handles mercury switches, mercury thermometers, or waste devices that contain only elemental mercury as the hazardous waste constituent, then 40 CFR 273.33(c) applies to the mercury switches, mercury thermometers, and waste devices that contain only elemental mercury as the hazardous waste constituent.

(e) If the universal waste large quantity handler handles pharmaceuticals, all of the additional requirements of subrule (4)(d) of this rule.

(f) If the universal waste large quantity handler handles consumer electronics, all of the additional requirements of subrules (4)(e) and (f) of this rule.

(g) If the universal waste large quantity handler handles antifreeze, all of the additional requirements of subrule (4)(g) of this rule.

(6) A universal waste transporter shall comply with both of the following requirements:

(a) The requirements of 40 CFR part 273, subpart D, except 273.50 and 273.53.

(b) Store universal wastes at a universal waste transfer facility for 10 days or less. If the transporter stores universal wastes for more than 10 days, then the transporter becomes a universal waste handler and shall comply with the applicable requirements of subrules (4) and (5) of this rule while storing the universal wastes.

(7) Except as provided for in subrules (8) and (9) of this rule, an owner or operator of a destination facility shall comply with all of the following requirements:

(a) The requirements of parts 5 to 8 of these rules and the notification requirements under section 3010 of RCRA, 42 USC 6930.

(b) The requirements of 40 CFR 273.61 and 273.62.

(c) The requirements of the act and these rules if the owner or operator generates waste as a result of recycling universal waste.

(8) An owner or operator of a destination facility that recycles a particular universal waste without storing the universal waste before recycling shall comply with R 299.9206(1)(c).

(9) An owner or operator of a destination facility that stores lamps before recycling the lamps at the facility shall comply with R 299.9206(5).

(10) A person who manages universal waste that is imported from a foreign country into the United States shall comply with the following applicable requirements immediately after the universal waste enters the United States:

(a) The requirements of subrule (4) of this rule if a small quantity handler of universal waste.

(b) The requirements of subrule (5) of this rule if a large quantity handler of universal waste.

(c) The requirements of subrule (6) of this rule if a transporter of universal waste.

(d) The requirements of subrules (7) to (9) of this rule if a universal waste destination facility.

(e) The requirements of this rule and R 299.9314 if managing universal waste that is imported from an Organization for Economic Cooperation and Development country.

(11) 40 CFR part 273, subparts B to E, except 273.10, 273.18(b), 273.30, 273.38(b), 273.50, 273.53, and 273.60, are adopted by reference in R 299.11003. For the purposes of adoption, the term "department" replaces the term "EPA," except in 40 CFR 273.32(a)(3), the term "director" replaces the term "regional administrator," the term "R 299.9212" replaces the term "40 CFR part 261, subpart C," the term "R 299.9302" replaces the term "40 CFR 262.11," the term "R 299.9304, R 299.9305, R 299.9306, or R 299.9307" replaces the term "40 CFR 262.14, 15, 16, or 17," the term "R 299.93065 to R 299.9307" replaces the term "§262.34," the term "part 3 of these rules" replaces the term "40 CFR part 262," and the term "parts 2 to 8 of these rules" replaces the term "40 CFR parts 260 through 272."

R 299.9232 Legitimate recycling of hazardous secondary materials.

Rule 232. (1) The recycling of a hazardous secondary material for the purpose of exclusion or exemption from the regulation as a hazardous waste must be legitimate. A hazardous secondary material that is not legitimately recycled is a discarded material and, therefore, a waste. In determining if the recycling is legitimate, a person shall address all of the following requirements and consider the requirements of subrule (2) of this rule.

(a) Legitimate recycling must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. A hazardous secondary material provides a useful contribution if it meets 1 of the following requirements:

(i) It contributes a valuable ingredient to a product or intermediate.

(ii) It replaces a catalyst or carrier in the recycling process.

(iii) It is the source of a valuable constituent recovered in the recycling process.

(iv) It is recovered or regenerated by the recycling process.

(v) It is used as an effective substitute for a commercial product.

(b) The recycling process must produce a valuable product or intermediate. A product or intermediate is valuable if it meets 1 of the following requirements:

(i) It is sold to a third party.

(ii) It is used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.

(c) The generator and the recycler shall manage the hazardous secondary material as a valuable commodity when it is under their control. If there is an analogous raw material, the hazardous secondary material must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. If there is no analogous raw material, the hazardous secondary material must be contained. A hazardous secondary material that is released to the environment and is not recovered immediately is discarded.

(2) A person making a determination regarding the legitimacy of a specific recycling activity shall consider the following factors:

(a) The product of the recycling process does not do any of the following:

(i) Contain significant concentrations of any hazardous constituents found in appendix VIII of 40 CFR part 261 at levels that are not found in analogous products.

(ii) Contain concentrations of hazardous constituents found in appendix VIII of 40 CFR part 261 at levels that are significantly elevated from those found in analogous products.

(iii) Exhibit a hazardous characteristic as defined in R 299.9212 that analogous products do not exhibit.

(b) In making a determination that a hazardous secondary material is legitimately recycled, a person shall evaluate all factors and consider the legitimacy as a whole. If the evaluation of the considerations in subdivision (a) of this subrule indicate that the factor is not met, it may be an indication that the material is not legitimately recycled. The factor in subdivision (a) of this subrule does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons may consider exposure from toxics in the product, the bioavailability of the toxics in the product, and other relevant considerations.

PART 3. GENERATORS OF HAZARDOUS WASTE

R 299.9301 Applicability.

Rule 301. (1) This part establishes requirements for generators of hazardous waste. A person who generates hazardous waste shall comply with all of the following independent requirements:

(a) For a very small quantity generator, the requirements of R 299.9302(1) and R 299.9303.

(b) For a small quantity generator, the requirements of R 299.9302, R 299.9303, R 299.9308 to R 299.9310, R 299.9311(1), and R 299.9314.

(c) For a large quantity generator, the requirements of R 299.9302, R 299.9303, R 299.9308 to R 299.9312, and R 299.9314.

(2) A generator shall use the provisions of R 299.9303 to determine the applicability of the requirements of this part that are dependent on calculations of the quantity of hazardous waste generated each calendar month.

(3) A generator who treats, stores, or disposes of hazardous waste on-site shall comply with the R 299.9302, R 299.9305 to R 299.9308, R 299.9311, and R 299.9312 and the applicable requirements of parts 5, 6, 7, and 8 of these rules.

(4) Any person who imports hazardous waste into the United States shall comply with the standards in this part that are applicable to generators.

(5) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility comply with the generator standards established in this part.

(6) In addition to complying with this part, a generator who uses his or her own vehicle to transport hazardous waste shall comply with the applicable requirements of part 4 of these rules.

(7) Any person who exports or imports hazardous wastes shall comply with R 299.9308 and R 299.9314.

(8) Persons responding to an explosives or munitions emergency in accordance with R 299.9503(2) are not required to comply with the standards in this part.

(9) Laboratories owned by an eligible academic entity that chose to be subject to R 299.9313 are not subject to the following requirements:

(a) The independent requirements of R 299.9302, R 299.9305, and R 299.9311(1), except as provided in R 299.9315.

(b) R 299.9304, except as provided in R 299.9315.

R 299.9302 Hazardous waste determination.

Rule 302. (1) A person who generates a waste as defined in R 299.9202 shall make an accurate determination if that waste is a hazardous waste to ensure the waste is properly managed under these rules. A hazardous waste determination must be made using the following method:

(a) The hazardous waste determination for each waste must be made at the point of waste generation, before dilution, mixing, or other alteration of the waste occurs, and at any time in the course of its management that it has, or may have, changed its properties as a result of exposure to the environment or other factors that may change the properties of the waste such that the classification of the waste under these rules may change.

(b) A generator shall determine if the waste is excluded from regulation under R 299.9204(1) or (2).

(c) If the waste is not excluded, the generator shall determine if the waste is listed as hazardous under R 299.9213 and R 299.9214. Acceptable knowledge that may be used in making an accurate determination if the waste is listed may include the waste origin, composition, the process producing the waste, feedstock, and other reliable and relevant information. If the waste is listed, the generator may file a delisting petition under 40 CFR 260.20 and 260.22 to demonstrate that the waste from this specific site or operation is not a hazardous waste.

(d) The generator shall determine if the waste meets 1 or more of the characteristics of hazardous waste under R 299.9212 by doing either of the following, or a combination of both:

(i) Applying knowledge of the hazardous characteristics of the waste given the materials or processes used to generate the waste. Acceptable knowledge that may be used in making an accurate determination if the waste exhibits 1 or more characteristics of a hazardous waste includes process knowledge; feedstocks and other process inputs; knowledge of products, by-products, and intermediates produced by the manufacturing process; chemical or physical characterization of the wastes; information on the chemical and physical properties of the chemicals used or produced by the process or otherwise contained in the waste; testing that illustrates the properties of the waste; or other reliable and relevant information about the properties of the waste or its constituents. A test other than a test method set forth in R 299.9212 or according to an equivalent method approved by the director under R 299.9215 may be used as part of the generator's knowledge to determine if a waste exhibits a characteristic of a hazardous waste. The tests do not, by themselves, provide definitive results. Any test results that a generator may use for this determination must be based on testing that was conducted using representative samples of the waste.

(ii) If available knowledge is inadequate to make an accurate determination, the generator shall test the waste according to the methods set forth in R 299.9212 or according to an equivalent method approved by the director under R 299.9215 and in accordance with the following:

(A) A generator testing his waste shall obtain a representative sample of the waste for testing.

(B) If the test method is set forth in R 299.9212 or approved under R 299.9215, the results of the

regulatory test, if properly performed, are definitive for determining the regulatory status of the waste.

(2) If the waste is determined to be hazardous, the generator shall refer to parts 2 to 6 and 8 of these rules for possible exclusions or restrictions that pertain to the management of his or her specific waste.

(3) If the waste is determined to be hazardous, then both small and large quantity generators shall identify all applicable hazardous waste numbers.

(4) If the general character of a waste changes due to changes in the materials or processes involved in its generation, the evaluation under subrule (1) of this rule must be repeated immediately by the generator.

R 299.9303 Generator category determination.

Rule 303. (1) A generator shall determine its generator category. A generator's category is based on the amount of hazardous waste generated each month and may change from month to month. This rule sets forth procedures to determine whether a generator is a very small quantity generator, a small quantity generator, or a large quantity generator for a particular month.

Table 1 Generator Categories Based on Quantity of Waste Generated in a Calendar Month

Acute Hazardous Waste	Non-acute Hazardous Waste	Severely Toxic Hazardous Waste	Residues from Cleanup of Acute or Severely Toxic Hazardous Waste	Generator Category
> 1 kg	Any amount	> 1 kg	Any amount	Large quantity generator
Any amount	≥ 1,000 kg	Any amount	Any amount	Large quantity generator
Any amount	Any amount	Any amount	> 100 kg	Large quantity generator
≤ 1 kg	> 100 kg and < 1,000 kg	≤ 1 kg	≤ 100 kg	Small quantity generator
≤ 1 kg	≤ 100 kg	≤ 1 kg	≤ 100 kg	Very small quantity generator

(2) A generator who generates acute hazardous waste, non-acute hazardous waste, or severely toxic hazardous waste in a calendar month shall determine its generator category for that month by doing all of the following.

(a) Counting the total amount of hazardous waste generated in the calendar month.

(b) Subtracting from the total any amounts of waste exempt from counting as described in subrules (4) and (5) of this rule.

(c) Determining the resulting generator category for the hazardous waste generated using table 1 of this rule.

(3) A generator who generates acute or severely toxic hazardous waste and non-acute hazardous waste in the same calendar month shall determine its generator category for that month by doing all of the following:

(a) Counting separately the total amount of acute hazardous waste, the total amount of severely toxic hazardous waste, and the total amount of non-acute hazardous waste generated in the calendar month.

(b) Subtracting from each total any amounts of waste exempt from counting as described in subrules (4) and (5) of this rule.

(c) Determining separately the resulting generator categories for the quantities of acute hazardous waste, severely toxic hazardous waste, and non-acute hazardous waste generated using table 1 of this rule.

(d) Comparing the resulting generator categories from subdivision (c) of this subrule and applying the more stringent generator category to the accumulation and management of both non-acute hazardous waste and acute or severely toxic hazardous waste generated for that month.

(4) When making the monthly quantity-based determinations required by this rule, the generator shall include all hazardous waste that it generates, except hazardous waste that:

(a) Is exempt from regulation under R 299.9204(3) to (10), R 299.9206(3), or R 299.9207(1).

(b) Is managed immediately upon generation only in on-site elementary neutralization units, wastewater treatment units, or totally enclosed treatment facilities.

(c) Is recycled, without prior storage or accumulation, only in an on-site process subject to regulation under R 299.9206(1)(c).

(d) Is used oil managed under R 299.9206(4) and R 299.9809 to R 299.9816.

(e) Is spent lead-acid batteries managed under R 299.9804.

(f) Is universal waste managed under R 299.9228.

(g) Is a hazardous waste that is an unused commercial chemical product listed in part 2 of these rules or exhibits 1 or more characteristics in R 299.9212, that is generated solely as a result of a laboratory clean-out conducted at an eligible academic entity under R 299.9315.

(h) Is managed as part of an episodic event in compliance with R 299.9316.

(5) In determining the quantity of hazardous waste generated in a calendar month, a generator need not include any of the following:

(a) Hazardous waste when it is removed from on-site accumulation if the hazardous waste was previously counted once.

(b) Hazardous waste generated by onsite treatment, including reclamation, of the generator's hazardous waste if the hazardous waste that is treated was previously counted once.

(c) Hazardous waste spent materials that are generated, reclaimed, and subsequently reused on site if the spent materials have been previously counted once.

(6) Based on the generator category determined under this rule, the generator shall meet all of the applicable independent requirements listed in R 299.9301. A generator's category also determines which provisions of R 299.9301 to R 299.9307 must be met to obtain an exemption from the licensing, interim status, and operating requirements when accumulating hazardous waste.

(7) Hazardous wastes generated by a very small quantity generator may be mixed with wastes. Very small quantity generators may mix a portion or all its hazardous waste with waste and remain subject to R 299.9304 even though the resultant mixture exceeds the quantity limits identified in the definition of very small quantity generator, unless the mixture exhibits 1 or more of the characteristics of hazardous waste identified in R 299.9212. If the resulting mixture exhibits a characteristic of a hazardous waste, the resultant mixture is a newly-generated hazardous waste. The very small quantity generator shall count both the resultant mixture amount plus the other hazardous waste generated in the calendar month to determine if the total quantity exceeds the very small generator calendar month quantity limits identified in the definition of generator categories. If so, to remain exempt from the licensing, interim status, and operating standards, the very small quantity generator shall meet the conditions for exemption applicable to either a small quantity generator or a large quantity generator. The very small quantity generator shall meet the independent requirements for either a small quantity generator or a large quantity generator. If a very small quantity generator's wastes are mixed with used oil, the mixture is subject to part 8 of these rules. Any material produced from a mixture by processing, blending, or other treatment is also regulated under part 8 of these rules.

(8) Hazardous wastes generated by a small quantity generator or large quantity generator may be mixed with waste. These mixtures are subject to the mixture rule in R 299.9203(1)(c), (2)(b) and (c), and (7); the prohibition of dilution rule in 40 CFR 268.3(a); the land disposal restriction requirements in 40 CFR 268.40 if a characteristic hazardous waste is mixed with a waste so that it no longer exhibits the hazardous characteristic; and the hazardous waste determination requirement in R 299.9302. If the resulting mixture is a hazardous waste, the resultant mixture is a newly-generated hazardous waste. A small quantity generator shall count both the resultant mixture amount and the other hazardous waste generated in the calendar month to determine if the total quantity exceeds the

small quantity generator calendar monthly quantity limits identified in the definition of generator categories. If so, to remain exempt from the licensing, interim status, and operating standards, the small quantity generator shall meet the conditions for exemption applicable to a large quantity generator. The small quantity generator shall also comply with the applicable independent requirements for a large quantity generator.

R 299.9304 Conditions for exemption for very small quantity generators.

Rule 304. (1) If a very small quantity generator meets all of the conditions for exemption listed in this rule, the hazardous waste generated by the very small quantity generator is not subject to regulation under parts 3 to 10 of these rules, except R 299.9301 to R 299.9304, and the notification requirements of section 3010 of RCRA, 42 USC 6930, and the very small quantity generator may accumulate hazardous waste on site without complying with the requirements. The conditions for exemption include all of the following:

(a) In a calendar month, the very small quantity generator generates less than or equal to the amounts specified in the definition of "very small quantity generator."

(b) The very small quantity generator complies with R 299.9302(1)(a)-(d).

(c) If the very small quantity generator accumulates at any time greater than 1 kilogram of acute hazardous waste; 1 kilogram of severely toxic hazardous waste; or 100 kilograms of any residue or contaminated soil, water, or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute or severely toxic hazardous waste listed, all quantities of that acute or severely toxic hazardous waste are subject to both of the following additional conditions for exemption:

(i) The waste is held on site for no more than 90 days beginning on the date when the accumulated wastes exceed the amounts in this subdivision.

(ii) The conditions for exemption in R 299.9307.

(d) If the very small quantity generator accumulates at any time 1,000 kilograms or greater of non-acute hazardous waste, all quantities of that hazardous waste are subject to all of the following additional conditions for exemption:

(i) The waste is held on site for no more than 180 days, or 270 days, if applicable, beginning on the date when the accumulated waste exceed the amounts in this subdivision.

(ii) The quantity of waste accumulated on site never exceeds 6,000 kilograms.

(iii) The conditions for exemption in R 299.9306(1)(b) and (d) to (r), (3), and (4).

(e) A very small quantity generator that accumulates hazardous waste in amounts less than or equal to the limits in subdivisions (c) and (d) of this subrule shall either treat or dispose of its hazardous waste in an on-site facility or ensure delivery to an off-site treatment, storage, or disposal facility. If the facility is located in the United States, it shall comply with 1 of the following requirements:

(i) Be licensed under part 111 of the act, MCL 324.11101 to 324.11153, for that waste type or be operating under R 299.9502(3), (4), or (5).

(ii) Be in another state and be authorized to manage hazardous waste by the state under a hazardous waste management program that is approved under 40 CFR part 271.

(iii) Be in another state and be permitted or licensed under 40 CFR part 270.

(iv) Be in another state and be in interim status under 40 CFR parts 270 and 265.

(v) Be a facility that stores or treats the waste and that is in compliance with the applicable requirements of parts 31, 55, and 115 of the act, MCL 324.3101 to 324.3134, 324.5501 to 324.5542, and 324.11501 to 324.11554.

(vi) Be a disposal facility that is in compliance with the applicable requirements of parts 31, 55, and 115 of the act, MCL 324.3101 to 324.3134, 324.5501 to 324.5542, and 324.11501 to 324.11554.

(vii) Be in another state and be permitted, licensed, or registered by that state to manage municipal waste that, if managed in a municipal waste landfill, is subject to 40 CFR part 258.

(viii) Be in another state and be permitted, licensed, or registered by that state to manage nonmunicipal waste that, if managed in a nonmunicipal waste disposal unit after the effective date of these rules, is subject to 40 CFR 257.5 to 257.30.

(ix) Be a facility that beneficially uses or reuses, or legitimately recycles or reclaims, the waste or treats the waste before the beneficial use or reuse or legitimate recycling or reclamation.

(x) Be an off-site publicly owned treatment works, if the waste is in compliance with all federal, state, and local pretreatment requirements and, if the waste is shipped by vehicle, the conditions of R 299.9503(3)(b) are met.

(xi) For universal waste managed under to R 299.9228, be a universal waste handler or destination facility in compliance with R 299.9228.

(xii) Be a large quantity generator under the control of the same person as the very small quantity generator and meet all of the conditions below. As used in this rule, "control" means the power to direct the policies of the generator, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person are not considered to "control" the generators. The conditions include all of the following:

(A) The very small quantity generator marks each container of hazardous waste with the words "Hazardous Waste."

(B) The very small quantity generator marks each container of hazardous waste with a description of the waste or the hazardous waste number, and an indication of the hazards of the contents. The indication of the hazards of the contents may include the applicable hazardous waste characteristic(s), the hazard communication consistent with 49 CFR part 172, subpart E or F, a hazard statement or pictogram consistent with 29 CFR 1910.1200, or a chemical hazard label consistent with the NFPA standard no. 704.

(f) The very small quantity generator accumulates waste in an area where the waste is protected from weather, fire, physical damage, and vandals.

(g) The hazardous waste accumulation is conducted so that hazardous waste or hazardous waste constituents cannot escape by gravity into the soils, directly or indirectly, into surface or groundwaters, or into drains or sewers and so that fugitive emissions are not in violation of part 55 of the act, MCL 324.5501 to 324.5542.

(2) The placement of bulk or noncontainerized liquid hazardous waste or hazardous waste containing free liquids, whether or not sorbents have been added, in any landfill is prohibited.

(3) A very small quantity generator experiencing an episodic event may generate and accumulate hazardous waste in accordance with R 299.9316 instead of R 299.9305 to R 299.9307.

R 299.9305 Satellite accumulation area requirements for small and large quantity generators.

Rule 305. (1) A generator may accumulate as much as 55 gallons of non-acute hazardous waste or either 1 quart of liquid acute hazardous waste or severely toxic hazardous waste or 1 kilogram of solid acute hazardous waste or severely toxic waste in containers at or near any point of generation where wastes initially accumulate and that is under the control of the operator of the process that generates the waste, without an operating license issued under part 111 of the act, MCL 324.11101 to 324.11153, and without complying with parts 5 to 8 of these rules, if all of the conditions for exemption in this rule are met. A generator may comply with the conditions for exemption in this rule instead of complying with the conditions for exemption in R 299.9306(1)(b) to (r) or R 299.9307(1), except as required in this subrule and subrule (2) of this rule. The conditions for exemption for satellite accumulation include all of the following requirements:

(a) If a container holding hazardous waste is not in good condition, or if it begins to leak, the generator immediately transfer the hazardous waste from this container to a container that is in good condition and does not leak, or immediately transfer and manage the waste in a central accumulation area operated in compliance with R 299.9306(1)(b) to (r) or R 299.9307(1).

(b) The generator shall use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(c) All of the following special standards for incompatible wastes:

(i) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same container unless the requirements of 40 CFR 265.17(b) are met.

(ii) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material unless the requirements of 40 CFR 265.17(b) are met.

(iii) A container holding a hazardous waste that is incompatible with any waste or other materials accumulated nearby in other containers must be separated from the other materials or protected from them by any practical means.

(d) A container holding hazardous waste must be closed at all times during accumulation, except to add, remove, or consolidate waste or when temporary venting of a container is necessary for the proper operating of equipment or to prevent dangerous situations, such as build-up of extreme pressure.

(e) A generator shall mark or label its container with both the following:

(i) The words "Hazardous Waste."

(ii) A description of the waste or the hazardous waste number, and an indication of the hazards of the contents. The indication of the hazards of the contents may include the applicable hazardous waste characteristic(s), the hazard communication consistent with 49 CFR part 172, subpart E or F, a hazard statement or pictogram consistent with 29 CFR 1910.1200, or a chemical hazard label consistent with the NFPA standard no. 704.

(2) A generator who accumulates either non-acute hazardous waste, acute hazardous waste, or severely toxic hazardous waste in excess of the amounts listed in subrule (1) of this rule at or near any point of generation shall do 1 or more of the following with respect to that amount of excess waste:

(a) Comply with the applicable central accumulation area requirements in R 299.9306(1)(b) to (r) or R 299.9307(1) within 3 consecutive calendar days.

(b) Remove the excess waste from the satellite accumulation area within 3 consecutive calendar days to 1 or more of the following:

(i) A central accumulation area operated in accordance with the applicable requirements of R 299.9306(1)(b) to (r) or R 299.9307(1).

(ii) An on-site interim status or licensed treatment, storage, or disposal facility.

(iii) An off-site designated facility.

(c) During the 3-consecutive-calendar-day period, continue to comply with subrules (1)(a) to (c) of this rule. The generator shall mark or label each container holding the excess accumulation of hazardous waste with the date the excess amount began accumulating.

(3) All satellite accumulation areas operated by a small quantity generator shall meet the provisions of R 299.9306(1)(f) to (r).

(4) All satellite accumulation areas operated by a large quantity generator shall meet the provisions of 40 CFR part 262, subpart M.

(5) 40 CFR part 262, subpart M is adopted by reference in R 299.11003.

R 299.9306 Conditions for exemption for small quantity generators that accumulate hazardous waste.

Rule 306. (1) A small quantity generator may accumulate hazardous waste on site without an operating license issued under part 111 of the act, MCL 324.11101 to 324.11153, and without complying with parts 5 to 8 of these rules or the notification requirements of section 3010 of RCRA, 45 USC 6930, if all of the following conditions are met:

(a) The small quantity generator generates in a calendar month no more than the amounts specified in the definition of "small quantity generator."

(b) The small quantity generator accumulates hazardous waste on site for no more than 180 days, unless the small quantity generator is in compliance with the conditions for longer accumulation in subrules (3) and (4) of this rule.

(c) The quantity of hazardous waste accumulated on site never exceeds 6,000 kilograms.

(d) The hazardous waste is managed under 1 or more of the following methods:

(i) In containers and the small quantity generator complies with the containment requirements of 40 CFR 264.175 if the quantity of waste accumulated on site exceeds 1,000 kilograms, and with all of the following:

(A) If a container holding hazardous waste is not in good condition, or if it begins to leak, the small quantity generator shall immediately transfer the hazardous waste from this container to a container that is in good condition and does not leak, or immediately manage the waste in some other way that complies with the conditions for exemption of this rule.

(B) Use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(C) Containers holding hazardous waste must be closed at all times during accumulation, except when it is necessary to add or remove waste.

(D) Containers holding hazardous waste must not be opened, handled, or accumulated in a manner that may rupture the container or cause it to leak.

(E) At least weekly, inspect central accumulation areas looking for leaking containers and for deterioration of containers caused by corrosion or other factors.

(F) All of the following special standards for incompatible wastes:

(I) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same container unless the requirements of 40 CFR 265.17(b) are met.

(II) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material unless the requirements of 40 CFR 265.17(b) are met.

(III) A container accumulating hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(G) Mark or label each container with all of the following:

(I) The words "Hazardous Waste."

(II) A description of the waste or the hazardous waste number, and an indication of the hazards of the contents. The indication of the hazards of the contents may include the applicable hazardous waste characteristic(s), the hazard communication consistent with 49 CFR part 172, subpart E or F, a hazard statement or pictogram consistent with 29 CFR 1910.1200, or a chemical hazard label consistent with the NFPA standard no. 704.

(III) The date upon which each period of accumulation begins clearly visible for inspection on each container.

(ii) In tanks and the small quantity generator complies with all of the following:

(A) Treatment or accumulation of hazardous waste in tanks must comply with 40 CFR 265.17(b).

(B) Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(C) Uncovered tanks must be operated to ensure at least 60 centimeters of freeboard, unless the tank is equipped with a containment structure like a dike or trench, a drainage control system, or a diversion structure like a standby tank with a capacity that equals or exceeds the volume of the top 60 centimeters of the tank.

(D) If hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow.

(E) Except as noted in subparagraph (F) of this paragraph, a small quantity generator that accumulates hazardous waste in tanks must inspect, where present:

(I) Discharge control equipment at least once each operating day, to ensure that it is in good working order.

(II) Data gathered from monitoring equipment at least once each operating day to ensure that the tank is being operated according to its design.

(III) The level of waste in the tank at least once each operating day to ensure compliance with subparagraph (C) of this paragraph.

(IV) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams.

(V) The construction materials of, and the area immediately surrounding, discharge confinement structures at least weekly to detect erosion or obvious signs of leakage. The small quantity generator shall remedy any deterioration or malfunction of equipment or structures that the inspection reveals on a schedule that ensures that the problem does not lead to an environmental or human health hazard. If a hazard is imminent or has already occurred, remedial action must be taken immediately.

(F) A small quantity generator accumulating hazardous waste in tanks or tank systems that have full secondary containment and that either use leak detection equipment to alert personnel to leaks, or implement established workplace practices to ensure leaks are promptly identified, shall inspect at least weekly, where applicable, the areas identified in subparagraph (E)(I) to (V) of this paragraph. Use of the alternate inspection schedule must be documented in the small quantity generator's operating record. This documentation must include a description of the established workplace practices at the small quantity generator.

(G) Upon closure of the small quantity generator's site, that small quantity generator shall remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures. At closure, as throughout the operating period, unless the small quantity generator can demonstrate, in accordance with R 299.9203(3) or (5), that any waste removed from its tank is not a hazardous waste, it shall manage the waste in accordance with all applicable provisions of parts 3, 4, and 6 of these rules.

(H) Ignitable or reactive waste must not be placed in a tank, unless 1 or more of the following occurs:

(I) The waste is treated, rendered, or mixed before or immediately after placement in a tank so that the resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under R 299.9212 and 40 CFR 265.17(b) is met.

(II) The waste is accumulated or treated in a way that it is protected from any material or conditions that may cause the waste to ignite or react.

(III) The tank is used solely for emergencies.

(I) A small quantity generator that treats or accumulates ignitable or reactive waste in covered tanks shall comply with the buffer zone requirements for tanks contained in Tables 2-1 to 2-6 of the NFPA standard no. 30.

(J) The following special conditions for incompatible wastes:

(I) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank, unless the requirements of 40 CFR 265.17(b) are met.

(II) Hazardous waste must not be placed in an unwashed tank that previously held an incompatible waste or material, unless the requirements of 40 CFR 265.17(b) are met.

(K) Mark or label each tank with all of the following:

(I) The words "Hazardous Waste."

(II) A description of the waste or the hazardous waste number, and an indication of the hazards of the contents. The indication of the hazards of the contents may include the applicable hazardous waste characteristic(s), the hazard communication consistent with 49 CFR part 172, subpart E or F, a

hazard statement or pictogram consistent with 29 CFR 1910.1200, or a chemical hazard label consistent with the NFPA standard no. 704.

(L) Use inventory logs, monitoring equipment, or other records to demonstrate that hazardous waste has been emptied within 180 days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 180 days of first entering. The inventory logs or records must be kept onsite and readily available for inspection.

(iii) Place the hazardous waste on a drip pad and comply with all of the following:

(A) 40 CFR part 265, subpart W, except 265.445(c).

(B) The small quantity generator must remove all wastes from the drip pad at least once every 90 days. Any hazardous wastes that are removed from the drip pad at least once every 90 days are then subject to the 180-day accumulation limit in subdivision (b) of this subrule and R 299.9305 if hazardous wastes are being managed in satellite accumulation areas before being moved to the central accumulation area.

(C) The small quantity generator must maintain on site the following records readily available for inspection:

(I) A written description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days.

(II) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(e) The applicable requirements of 40 CFR part 268.

(f) The small quantity generator shall maintain and operate the small quantity generator site in a manner that minimizes the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, or surface water that could threaten human health or the environment.

(g) All areas where hazardous waste is either generated or accumulated must be equipped with all the items specified in this subdivision, unless none of the hazards posed by waste handled at the small quantity generator's site could require a particular kind of specified equipment or the actual waste generation or accumulation area does not lend itself for safety reasons to have a particular kind of specified equipment. A small quantity generator shall determine the most appropriate locations to locate specified equipment necessary to prepare for and respond to emergencies:

(i) An internal communications or alarm system capable of providing immediate emergency instruction, voice or signal, to small quantity generator site personnel.

(ii) A device, such as a telephone immediately available at the scene of operations or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or state or local emergency response teams.

(iii) Portable fire extinguishers, fire control equipment, including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals, spill control equipment, and decontamination equipment.

(iv) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems.

(h) All communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, must be tested and maintained as necessary to assure its proper operation in time of emergency.

(i) When hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation shall have immediate, unimpeded access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless the device is not required under subdivision (g) of this subrule.

(j) If there is just 1 employee on the premises while the small quantity generator's site is operating, the employee shall have immediate unimpeded access to a device, such as a telephone (immediately

available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless the a device is not required under subdivision (g) of this subrule.

(k) The small quantity generator shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of small quantity generator's site operation in an emergency, unless aisle space is not needed for any of these purposes.

(l) The small quantity generator shall attempt to make arrangements with the local police department, fire department, other emergency response teams, emergency response contractors, equipment suppliers and local hospitals, taking into account the types and quantities of hazardous wastes handled at the small quantity generator's site. Arrangements may be made with the local emergency planning committee, if it is determined to be the appropriate organization with which to make arrangements. As part of this coordination, the small quantity generator shall attempt to familiarize these organizations with the layout of the small quantity generator's site, the properties of hazardous waste handled at the small quantity generator's site and associated hazards, places where personnel would normally be working, entrances to roads inside the small quantity generator's site, and possible evacuation routes as well as the types of injuries or illnesses that could result from fires, explosions, or releases at the small quantity generator's site. If more than 1 police or fire department might respond to an emergency, the small quantity generator shall attempt to make arrangements designating primary emergency authority to a specific fire or police department, and arrangements with any others to provide support to the primary emergency authority. The small quantity generator shall maintain records documenting the arrangements with the local fire department as well as any other organization necessary to respond to an emergency. This documentation must include documentation in the operating record that either confirms the arrangements actively exist or, if no arrangements exist, confirms that attempts to make the arrangements were made. A small quantity generator possessing 24-hour response capabilities may seek a waiver from the authority having jurisdiction over the fire code within the small quantity generator's state or locality as far as needing to make arrangements with the local fire department as well as any other organization necessary to respond to an emergency, if the waiver is documented in the operating record.

(m) The small quantity generator shall ensure that, at all times, there is at least 1 employee either on the premises or on call with the responsibility for coordinating all emergency response measures specified in subdivision (p) of this subrule. This employee is the emergency coordinator and, if on call, shall be available to respond to an emergency by reaching the small quantity generator's site within a short period of time.

(n) The small quantity generator shall post next to telephones or in areas directly involved in the generation and accumulation of hazardous waste the name and emergency telephone number of the emergency coordinator; the location of fire extinguishers and spill control material, and, if present, fire alarm; and the telephone number of the fire department, unless the small quantity generator's site has a direct alarm.

(o) The small quantity generator shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures relevant to their responsibilities during normal site operations and emergencies.

(p) The emergency coordinator or his or her designee shall respond to any emergencies that arise. The applicable responses are as follows:

(i) In the event of a fire, call the fire department or attempt to extinguish it using a fire extinguisher.

(ii) In the event of a spill, contain the flow of hazardous waste to the extent possible, and as soon as is practicable, clean up the hazardous waste and any contaminated materials or soil. The containment and cleanup may be conducted either by the small quantity generator or by a contractor on behalf of the small quantity generator.

(iii) In the event of a fire, explosion, or other release of hazardous waste or hazardous waste constituents that could threaten human health or the environment or if the small quantity generator

has knowledge that a spill has reached surface water or groundwater, the small quantity generator shall also immediately notify the department's pollution emergency alerting system – telephone number 800-292-4706. For releases that could threaten human health outside the small quantity generator's site or if the small quantity generator has knowledge that a spill has reached surface water, the small quantity generator shall immediately notify the national response center at its 24-hour toll free number - 800-424-8802. The notifications must include all of the following information:

(A) The name and telephone number of the person who is reporting the incident.

(B) The name, address, telephone number, and site identification number of the small quantity generator.

(C) The date, time, and type of incident.

(D) The name and quantity of the material or materials involved and released.

(E) The extent of injuries, if any.

(F) The estimated quantity and disposition of recovered materials that resulted from the incident, if any.

(G) An assessment of actual or potential hazards to human health or the environment.

(H) The immediate response action taken.

(q) The small quantity generator ensures that the area where the waste is accumulated is protected from weather, fire, physical damage, and vandals.

(r) The small quantity generator ensures that hazardous waste accumulation is conducted so hazardous waste or hazardous waste constituents cannot escape by gravity into the soil, directly or indirectly, into surface or groundwaters, or into drains or sewers and so that fugitive emissions are not in violation of part 55 of the act, MCL 324.5501 to 324.5542.

(2) A small quantity generator who shall transport its waste, or offer its waste for transportation, over a distance of 200 miles or more for off-site treatment, storage, or disposal may accumulate hazardous waste on site for 270 days or less without an operating license or without being an existing facility under to R 299.9502, if he or she complies with subrule (1)(b) to (r) of this rule.

(3) A small quantity generator who accumulates hazardous waste for more than 180 days, or 270 days as allowed for in subrule (2) of this rule, is an operator of a storage facility and is subject to the requirements of parts 5 to 7 of these rules unless the small quantity generator has been granted an extension to the 180-day or, if applicable 270-day, period. The director or his or her designee may grant an extension if hazardous wastes shall remain on site for longer than 180 days or 270 days, if applicable, due to unforeseen, temporary, and uncontrollable circumstances. The director or his or her designee may grant an extension of up to 30 days on a case-by-case basis.

(4) A small quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of R 299.9608 may accumulate the returned waste on site in accordance with subrule (1) to (3). Upon receipt of the returned shipment, the small quantity generator must:

(a) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest.

(b) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

(5) A small quantity generator experiencing an episodic event may accumulate hazardous waste in accordance with R 299.9316 instead of R 299.9307.

R 299.9307 Conditions for exemption for large quantity generators that accumulate hazardous waste. Rule 307. (1) A large quantity generator may accumulate hazardous waste on site without an operating license issued under part 111 of the act, MCL 324.11101 to 324.11153, and without complying with the requirements of parts 5 to 8 of these rules or the notification requirements of section 3010 of RCRA, 42 USC 6930, if all of the following conditions for exemption are met:

(a) The large quantity generator accumulates hazardous waste on site for no more than 90 days, unless the large quantity generator is in compliance with the accumulation time extension or F006 accumulation conditions for exemption in subrules (2) to (5) of this rule.

(b) The hazardous waste is managed under either of the following methods:

(i) In containers and the large quantity generator complies with all of the following:

(A) The containment requirements of 40 CFR 264.175 and the applicable requirements of 40 CFR part 265, subparts AA, BB, and CC.

(B) If a container holding hazardous waste is not in good condition, or if it begins to leak, the large quantity generator shall immediately transfer the hazardous waste from this container to a container that is in good condition and does not leak, or immediately manage the waste in some other way that complies with the conditions for exemption of this rule.

(C) Use a container made of or lined with materials that will not react with, and are otherwise compatible with, the hazardous waste to be accumulated, so that the ability of the container to contain the waste is not impaired.

(D) Containers holding hazardous waste must be closed at all times during accumulation, except when it is necessary to add or remove waste.

(E) Containers holding hazardous waste must not be opened, handled, or accumulated in a manner that may rupture the container or cause it to leak.

(F) At least weekly, inspect central accumulation areas looking for leaking containers and for deterioration of containers caused by corrosion or other factors.

(G) Both of the following special conditions for ignitable or reactive wastes:

(I) Containers holding ignitable or reactive waste must be located at least 15 meters (50 feet) from the large quantity generator's property line unless a written approval is obtained from the authority having jurisdiction over the local fire code allowing hazardous waste accumulation to occur within this restricted area. A record of the written approval must be maintained on site as long as ignitable or reactive hazardous waste is accumulated in this area.

(II) The large quantity generator shall take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to the following: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks, spontaneous ignition, and radiant heat. While ignitable or reactive waste is being handled, the large quantity generator shall confine smoking and open flame to specially designated locations. "No smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(H) All of the following special standards for incompatible wastes:

(I) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same container unless the requirements of 40 CFR 265.17(b) are met.

(II) Hazardous waste must not be placed in an unwashed container that previously held an incompatible waste or material unless the requirements of 40 CFR 265.17(b) are met.

(III) A container holding hazardous waste that is incompatible with any waste or other materials accumulated or stored nearby in other containers, piles, open tanks, or surface impoundments must be separated from the other materials or protected from them by means of a dike, berm, wall, or other device.

(I) Mark or label each container with all of the following:

(I) The words "Hazardous Waste."

(II) A description of the waste or the hazardous waste number, and an indication of the hazards of the contents. The indication of the hazards of the contents may include the applicable hazardous waste characteristic(s), the hazard communication consistent with 49 CFR part 172, subpart E or F, a hazard statement or pictogram consistent with 29 CFR 1910.1200, or a chemical hazard label consistent with the NFPA standard no. 704.

(III) The date upon which each period of accumulation begins clearly visible for inspection on each container.

(ii) In tanks and the generator complies with the applicable requirements of 40 CFR part 265, subparts J, AA, BB, and CC, except 265.197(c) and 265.200, and R 299.9615, except for R 299.9615(1). For the purposes of this rule, the references in R 299.9615 to 40 CFR part 264 are replaced by references to 40 CFR part 265.

(A) Mark or label each tank with all of the following:

(I) The words "Hazardous Waste."

(II) A description of the waste or the hazardous waste number, and an indication of the hazards of the contents. The indication of the hazards of the contents may include the applicable hazardous waste characteristic(s), the hazard communication consistent with 49 CFR part 172, subpart E or F, a hazard statement or pictogram consistent with 29 CFR 1910.1200, or a chemical hazard label consistent with the NFPA standard no. 704.

(B) Use inventory logs, monitoring equipment, or other records to demonstrate that hazardous waste has been emptied within 90 days of first entering the tank if using a batch process, or in the case of a tank with a continuous flow process, demonstrate that estimated volumes of hazardous waste entering the tank daily exit the tank within 90 days of first entering. The inventory logs or records must be kept onsite and readily available for inspection.

(iii) On drip pads and the large quantity generator shall complies with all of the following:

(A) 40 CFR part 265, subpart W.

(B) The large quantity generator shall remove all wastes from the drip pad at least once every 90 days. Any hazardous wastes that are removed from the drip pad at least once every 90 days are then subject to the 90-day accumulation limit in subdivision (a) of this subrule and R 299.9305 if hazardous wastes are being managed in satellite accumulation areas before being moved to the central accumulation area.

(C) The large quantity generator shall maintain on site the following records readily available for inspection:

(I) A written description of procedures that will be followed to ensure that all wastes are removed from the drip pad and associated collection system at least once every 90 days.

(II) Documentation of each waste removal, including the quantity of waste removed from the drip pad and the sump or collection system and the date and time of removal.

(c) The large quantity generator complies with the requirements of 40 CFR part 262, subpart M. In the event of a fire, explosion, or other release of hazardous waste or hazardous waste constituents that could threaten human health or the environment or if the large quantity generator has knowledge that a spill has reached surface water or groundwater, the large quantity generator shall also immediately notify the department's pollution emergency alerting system - telephone number 800-292-4706. The notifications must include all of the following information:

(i) The name and telephone number of the person who is reporting the incident.

(ii) The name, address, telephone number, and site identification number of the large quantity generator.

(iii) The date, time, and type of incident.

(iv) The name and quantity of the material or materials involved and released.

(v) The extent of injuries, if any.

(vi) The estimated quantity and disposition of recovered materials that resulted from the incident, if any.

(vii) An assessment of actual or potential hazards to human health or the environment.

(viii) The immediate response action taken.

(d) The large quantity generator shall ensure that the area where the waste is accumulated is protected from weather, fire, physical damage, and vandals.

(e) The large quantity generator shall ensure that hazardous waste accumulation is conducted so hazardous waste or hazardous waste constituents cannot escape by gravity into the soil, directly or indirectly, into surface or groundwaters, or into drains or sewers and so that fugitive emissions are not in violation of part 55 of the act, MCL 324.5501 to 324.5542.

(f) Personnel shall successfully complete a program of classroom instruction, online training, or on-the-job training that teaches them to perform their duties in a way that ensures compliance with these rules. The large quantity generator shall ensure that this program includes all of the elements described in the document required under subdivision (i) of this subrule. This program must be directed by a person trained in hazardous waste management procedures and include instruction which teaches personnel hazardous waste management procedures, including contingency plan implementation, relevant to the positions in which they are employed. At a minimum, the training program must be designed to ensure that personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:

(i) Procedures for using, inspecting, repairing, and replacing emergency and monitoring equipment.

(ii) Key parameters for automatic waste feed cut-off systems.

(iii) Communications or alarm systems.

(iv) Response to fires or explosions.

(v) Response to groundwater contamination incidents.

(vi) Shutdown of operations.

(g) For employees that receive emergency response training under 29 CFR 1910.120(p)(8) and 1910.120(q), the large quantity generator is not required to provide separate emergency response training under this rule if that the overall training meets all of the conditions of exemption in this rule.

(h) Personnel shall successfully complete the program required in subdivision (f) of this subrule within 6 months after the date of their employment or assignment to the large quantity generator's site, or to a new position at the site, whichever is later. Employees shall not work in unsupervised positions until they have completed the training standards of subdivision (f) of this subrule. Personnel shall also take part in an annual review of the initial training required in subrule (f) of this subrule.

(i) The large quantity generator must maintain all of the following documents and records on site:

(i) The job title for each position at the site related to hazardous waste management, and the name of the employee filling each job.

(ii) A written job description for each position listed under paragraph (i) of this subdivision. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of personnel assigned to each position.

(iii) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (i) of this subdivision.

(iv) Records that document that the training or job experience, required under subdivisions (f) to (h) of this subrule, has been given to, and completed by, personnel.

(j) Training records on current personnel must be kept until closure of the large quantity generator's site. Training records on former employees must be kept for at least 3 years from the date the employee last worked at the large quantity generator's site. Personnel training records may accompany personnel transferred within the same company.

(k) A large quantity generator accumulating hazardous wastes in containers, tanks, or drip pads must, before closing an individual waste accumulation unit or all of the units, meet the following conditions:

(i) If closing an individual unit, perform 1 of the following:

(A) Place a notice in the operating record within 30 days after closure identifying the location of the unit.

(B) Meet the closure performance standards of paragraph (iii) of this subdivision for containers or tanks or paragraph (iv) of this subdivision for drip pads, and notify the director following the procedures in paragraph (ii)(B) of this subdivision. If the unit is subsequently reopened, the large quantity generator may remove the notice from the operating record.

(ii) If closing all of the units, comply with all of the following:

(A) Notify the director using Michigan site identification form EQP5150 no later than 30 days before closing the large quantity generator's site.

(B) Notify the director using the Michigan site identification form EQP5150 within 90 days after closing all of the units that it has met the closure performance standards of subdivisions (iii) or (iv) of this subrule. If the large quantity generator cannot meet these closure performance standards, notify the director using Michigan site identification form EQP5150 that it will close as a landfill under 40 CFR 265.310 in the case of a container or tank unit or 40 CFR 265.445(b) in the case of drip pads.

(C) If additional time is needed to clean close all of the units, notify the director using Michigan site identification form EQP5150 within 75 days after the date provided in subparagraph (A) of this paragraph to request an extension and provide an explanation as to why the additional time is required.

(iii) At closure, close each unit in a manner that does all of the following:

(A) Minimizes the need for further maintenance by controlling, minimizing, or eliminating, to the extent necessary to protect human health and the environment, the postclosure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere.

(B) Removes or decontaminates all contaminated equipment, structures, and soil and any remaining hazardous waste residues from the unit including containment system components, contaminated soils and subsoils, bases, and structures and equipment contaminated with waste, unless R 299.9203(5) applies.

(C) Any hazardous waste generated in the process of closing the unit must be managed in accordance with all applicable standards of parts 3 to 7, including removing any hazardous waste contained in the unit within 90 days of generating it and managing these wastes in a facility licensed under part 111 of the act, MCL 324.11101 to 324.11153, or under an interim status or permitted facility under subtitle C of RCRA, 42 USC 6921 to 6939g, or a state program authorized thereunder.

(D) If the large quantity generator demonstrates that any contaminated soils and wastes cannot be practicably removed or decontaminated as required in subparagraph (B) of this paragraph, then the unit is considered a landfill. For the purposes of closure, postclosure, and financial responsibility, the large quantity generator shall close the unit and perform postclosure care in accordance with 40 CFR 265.310 and comply with the requirements for landfills specified in 40 CFR part 265, subparts G and H.

(iv) At closure, the large quantity generator shall comply with the closure requirements of paragraphs (ii) and (iii)(A) and (C) of this subdivision and 40 CFR 265.445(a) and (b).

(v) The closure requirements of this subdivision do not apply to satellite accumulation areas.

(1) The applicable provisions of 40 CFR part 268.

(2) A large quantity generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of parts 5 to 8 of these rules and the notification requirements of section 3010 of RCRA, 42 USC 6930, unless it has been granted an extension to the 90-day period. The director or his or her designee may grant an extension if hazardous wastes must remain on site for longer than 90 days, if applicable, due to unforeseen, temporary, and uncontrollable circumstances. The director or his or her designee may grant an extension of up to 30 days on a case-by-case basis.

(3) A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for the hazardous waste number F006, may accumulate F006 waste on site for more than 90 days, but not more than 180 days without being subject to parts 5

to 8 of these rules and the notification requirements of section 3010 of RCRA, 42 USC 6930, if the large quantity generator complies with all of the following additional conditions for exemption:

(a) The large quantity generator has implemented pollution prevention practices that reduce the amount of any hazardous substances, pollutants, or contaminants entering F006 waste or otherwise released to the environment before its recycling.

(b) The F006 waste is legitimately recycled through metals recovery.

(c) No more than 20,000 kilograms of F006 waste is accumulated on site at any 1 time.

(d) The F006 waste is managed in accordance with the following:

(i) The F006 waste is placed in either of the following:

(A) In containers and the large quantity generator complies with the applicable conditions for exemption in R 299.9307(1)(b)(i).

(B) Is placed in tanks and the large quantity generator complies with the applicable conditions for exemption in R 299.9307(1)(b)(ii).

(ii) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container.

(iii) While being accumulated on site, each container and tank is labeled or marked clearly with both of the following:

(A) The words "Hazardous Waste."

(B) A description of the waste or the hazardous waste number, and an indication of the hazards of the contents. The indication of the hazards of the contents may include the applicable hazardous waste characteristic(s), the hazard communication consistent with 49 CFR part 172, subpart E or F, a hazard statement or pictogram consistent with 29 CFR 1910.1200, or a chemical hazard label consistent with the NFPA standard no. 704.

(iv) The large quantity generator complies with the requirements in subdivisions (c) to (k) of subrule (1) of this rule.

(4) A large quantity generator who also generates wastewater treatment sludges from electroplating operations that meet the listing description for hazardous waste number F006, and who must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more for off-site metals recovery, may accumulate F006 waste on site for more than 90 days, but not more than 270 days without being subject to parts 5 to 8 of these rules and the notification requirements of section 3010 of RCRA, 42 USC 6930, if the large quantity generator complies with all of the conditions for exemption of subrule (3) of this rule.

(5) A large quantity generator accumulating F006 waste in accordance with subrules (3) and (4) of this rule who accumulates F006 waste on site for more than 180 days, or for more than 270 days if the large quantity generator must transport this waste, or offer this waste for transportation, over a distance of 200 miles or more, or who accumulates more than 20,000 kilograms of F006 waste on site is an operator of a storage facility and is subject to the requirements of parts 5 to 7 of these rules and the notification requirements of section 3010 of RCRA, 42 USC 6930, unless the large quantity generator has been granted an extension to the 180-day, or 270-day if applicable, period or an exception to the 20,000 kilogram accumulation limit. Extensions and exceptions may be granted by the director if F006 waste must remain on site for longer than 180 days, or 270 days if applicable, or if more than 20,000 kilograms of F006 waste must remain on site due to unforeseen, temporary, and uncontrollable circumstances. An extension of up to 30 days or an exception to the accumulation limit may be granted at the discretion of the director on a case-by-case-basis.

(6) A large quantity generator may accumulate on site hazardous waste received from very small quantity generators under control of the same person, without an operating license or complying with the requirements of parts 5 to 8 of these rules and the notification requirements of section 3010 of RCRA, 42 USC 6930, if the large quantity generator complies with all of the following conditions. A used in this rule, "control" means the power to direct the policies of the generator, whether by the

ownership of stock, voting rights, or otherwise, except that contractors who operate generator facilities on behalf of a different person are not considered to "control" the generators.

(a) The large quantity generator notifies the department at least 30 days before receiving the first shipment from a very small quantity generator using Michigan site identification form EQP5150. The large quantity generator shall identify on the form the name, site address, and contact person name and business telephone number for each very small quantity generator. The large quantity generator shall also submit an updated Michigan site identification form EQP5150 within 30 days after a change in the name or site address for the very small quantity generator.

(b) The large quantity generator maintains records of shipments for 3 years from the date the hazardous waste was received from the very small quantity generator. These records must identify the name, site address, and contact information for the very small quantity generator and include a description of the hazardous waste received, including the quantity and the date the waste was received.

(c) The large quantity generator complies with the independent requirements identified in R 299.9301(1)(c) and the conditions for exemption in this rule for all hazardous waste received from a very small quantity generator. For purposes of the labeling and marking regulations in subrule (1)(b) of this rule, the large quantity generator shall label the container or unit with the date accumulation started and the date the hazardous waste was received from the very small quantity generator. If the large quantity generator is consolidating incoming hazardous waste from a very small quantity generator with either its own hazardous waste or with hazardous waste from other very small quantity generators, the large quantity generator shall label each container or unit with the earliest date any hazardous waste in the container was accumulated on site.

(7) A large quantity generator who sends a shipment of hazardous waste to a designated facility with the understanding that the designated facility can accept and manage the waste, and later receives that shipment back as a rejected load or residue in accordance with the manifest discrepancy provisions of R 299.9608, may accumulate the returned waste on site in accordance with subrules (1) and (2) of this rule. Upon receipt of the returned shipment, the large quantity generator must:

(a) Sign Item 18c of the manifest, if the transporter returned the shipment using the original manifest.

(b) Sign Item 20 of the manifest, if the transporter returned the shipment using a new manifest.

R 299.9308 Site identification numbers for small and large quantity generators.

Rule 308. (1) A small quantity or large quantity generator shall not treat or store, dispose of, or transport or offer for transportation, hazardous waste without having received a site identification number from the regional administrator or the regional administrator's designee.

(2) A small quantity or large quantity generator who has not received a site identification number may obtain one by applying to the regional administrator or the regional administrator's designee. Upon receiving the request, the administrator shall assign a site identification number to the generator.

(3) A small quantity or large quantity generator shall not offer his or her hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received a site identification number.

(4) Applications for site identification numbers must be made on Michigan site identification form EQP5150 and signed under 40 CFR 270.11(a)(1) to (3).

(5) A small quantity generator shall re-notify the regional administrator or the regional administrator's designee starting in 2021 and every 4 years thereafter. This re-notification must be submitted by September 1 of each year in which the re-notifications are required.

(6) A large quantity generator shall re-notify the regional administrator or the regional administrator's designee by March 1 of each even-numbered year thereafter. A large quantity generator may submit this re-notification as part of its biennial report required under R 299.9312.

(7) A recognized trader shall not arrange for import or export of hazardous waste without having received a site identification number from the regional administrator or the regional administrator's designee.

Rule 309. (1) A small quantity or large quantity generator who transports, or offers for transport, a hazardous waste for off-site treatment, storage, or disposal, or a treatment, storage, or disposal facility who offers for transport a rejected hazardous waste load, shall do all of the following:

(a) Prepare a manifest (OMB Control number 2050-0039) on EPA Form 8700-22, and if necessary, EPA Form 8700-22A.

(b) Use a manifest in accordance with 40 CFR 262.20 to 262.23, and 262.27, and the instructions in the appendix to 40 CFR part 262 before transporting the waste offsite.

(c) Instead of using a paper manifest as specified in subdivisions (a) and (b) of this subrule, prepare and use an electronic manifest in accordance with 40 CFR 3.10 and 262.24.

(d) Use a transporter or be a transporter, if a generator transports his or her own hazardous waste, who is registered and permitted under act 138 under part 4 of these rules.

(2) The electronic signature methods for the e-manifest system must be methods that are designed and implemented in a manner that the EPA considers to be as cost-effective and practical as possible for the user of the manifest. An electronic signature must be a legally valid and enforceable signature under applicable EPA and other federal requirements pertaining to electronic signatures.

(3) The requirements of this rule do not apply to hazardous waste that is produced by a small quantity generator if both of the following requirements are met:

(a) The waste is reclaimed under a contractual agreement that specifies the type of waste and frequency of shipments and the vehicle used to transport the waste to the recycling facility and to deliver the regenerated material back to the generator is owned and operated by the reclaimer of the waste.

(b) The generator maintains a copy of the reclamation agreement in his or her files for a period of not less than 3 years after termination or expiration of the agreement.

(4) A small quantity or large quantity generator who authorizes a transporter to commingle his or her hazardous waste under R 299.9405(2) or (3) shall place in the special handling instructions and additional information section of the manifest the hazardous waste number followed by the letters "CS," as specified in R 299.9405(2), or the letters "CD," as specified in R 299.9405(3), and the associated manifest line item.

(5) The requirements of this rule and R 299.9310(1)(d) do not apply to the transport of hazardous waste shipments on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if the property is contiguous property divided by a public or private right-of-way. Notwithstanding R 299.9401, the generator or transporter shall comply with the requirements for transporters in R 299.9410 in the event of a discharge of hazardous waste on a public or private right-of-way.

(6) 40 CFR 3.10, 262.20, 262.21, 262.22, 262.23, 262.24, and 262.27 and the appendix to part 262 are adopted by reference in R 299.11003. For the purposes of adoption, the term "site identification number" replaces the term "EPA identification number," the term "R 299.9207" replaces the term "§261.7," and the term "§264.72" replaces the term "§265.72."

R 299.9310 Pre-transport requirements applicable to small and large quantity generators.

Rule 310. (1) Before transporting hazardous waste or offering hazardous waste for transportation off site, a small quantity or large quantity generator shall do all of the following:

(a) Package the waste in accordance with the applicable DOT regulations on packaging under 49 CFR parts 173, 178, and 179.

(b) Label each package in accordance with the applicable DOT regulations on hazardous materials under 49 CFR part 172.

(c) Mark each package of hazardous waste in accordance with the applicable DOT regulations under 49 CFR part 172.

(d) Mark each container of 119 gallons or less used in the transportation with the following words and information displayed in accordance with 49 CFR 172.304:

(i) HAZARDOUS WASTE - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.

(ii) Generator's Name and Address _____

(iii) Generator's Site Identification Number _____

(iv) Manifest Tracking Number _____

(v) The hazardous waste number identifying the waste.

(e) A generator may use a nationally recognized electronic system, such as bar coding, to identify the hazardous waste number, as required by subdivision (d)(v) or subdivision (f) of this subrule.

(f) Lab packs that will be incinerated in compliance with 40 CFR 268.42(c) are not required to be marked with hazardous waste numbers, except D004, D005, D006, D007, D008, D010, and D011, if applicable.

(g) Placard or offer the initial transporter the appropriate placards according to DOT regulations for hazardous materials under 49 CFR part 172, subpart F.

(2) The placement of bulk or non-containerized liquid hazardous waste or hazardous waste containing free liquids, whether or not sorbents have been added, in any landfill is prohibited. Before disposal in a hazardous waste landfill, liquids must meet additional requirements as specified in 40 CFR 264.314 and 265.314.

(3) 49 CFR parts 172, 173, 178, and 179 are adopted by reference in R 299.11004.

R 299.9311 Recordkeeping for small and large quantity generators.

Rule 311. (1) Small and large quantity generators shall keep records supporting the hazardous waste determinations made under R 299.9302 for not less than 3 years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

(2) The records must include all of the following information:

(a) The type of waste and the source or process from which it was produced.

(b) The chemical composition and properties of the waste and the anticipated fluctuations in its chemical composition and properties.

(c) The results of any tests, sampling, waste analyses, or other determinations made under R 299.9302.

(d) Records documenting the validity and relevance of the tests, sampling, and analytical methods used, including all of the following information:

(i) The sampling procedure and the reasons for determining that the sample is representative of the waste.

(ii) The accuracy and precision of any tests conducted.

(e) The knowledge basis for the generator's determination if testing, sampling, and waste analyses were not conducted.

(2) A small or large generator who is requested by the director to submit any of the information in subrule (1) of this rule shall provide the required information within 30 days after receipt of the request.

(3) Small and large quantity generators shall keep a copy of each manifest signed under R 299.9309 for 3 years or until he or she receives a signed copy from the designated facility that received the waste. This signed copy must be retained as a record for not less than 3 years from the date the waste was accepted by the initial transporter.

(4) A large quantity generator shall keep a copy of the data submitted under R 299.9312(1), exception report, or other report required by the director, or his or her designee, for a period of not less than 3 years from the due date of the report.

(5) Small and large quantity generators shall keep the documentation required under R 299.9503(1)(i)(ix) for not less than 3 years from the date that the waste was treated.

(6) Small and large quantity generators shall keep the documentation required under R 299.9213(5) for not less than 3 years.

(7) Small and large quantity generators shall keep documentation of all inspections, training, and other records required under R 299.9306 and R 299.9307, respectively, for not less than 3 years.

(8) The periods of retention referred to in this rule are extended automatically during any unresolved enforcement action regarding the regulated activity or as requested by the director.

R 299.9312 Reporting for large and small quantity generators.

Rule 312. (1) A generator who is a large quantity generator for at least 1 month of an odd-numbered year, the reporting year, who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the United States shall complete and submit EPA Form 8700-13 A/B to the director or the director's designee by March 1 of the following even-numbered year and cover generator activities during the previous year.

(2) Any generator who is a large quantity generator for at least 1 month of an odd-numbered year, the reporting year, who treats, stores, or disposes of hazardous waste on-site shall complete and submit EPA Form 8700-13 A/B to the director or the director's designee by March 1 of the following even-numbered year covering those wastes in accordance with parts 5 and 6 of these rules. This requirement also applies to large quantity generators that receive hazardous waste from very small quantity generators under R 299.9307(6).

(3) Exports of hazardous waste to foreign countries are not required on EPA Form-8700-13-A/B. A separate annual report requirement is set forth in 40 CFR 262.83(g) for hazardous waste exporters.

(4) Any large quantity generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter shall do both of the following:

(a) Contact the transporter or the owner or operator of the designated facility to determine the status of the hazardous waste.

(b) If the generator has not obtained confirmation that the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter, then the generator shall submit an exception report to the director, or his or her designee, and the EPA regional administrator for the region in which the generator is located. The exception report must include both of the following:

(i) A legible copy of the manifest for which the generator does not have confirmation of delivery.

(ii) A cover letter signed by the generator, or the generator's authorized representative, explaining the efforts taken to locate the hazardous waste and the results of those efforts.

(5) Any small quantity generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 60 days of the date the waste was accepted by the initial transporter shall submit a legible copy of the manifest, with some indication that the generator has not received confirmation of delivery, to the director or his or her designee and the regional administrator for the region in which the generator is located.

(6) For rejected shipments of hazardous waste, the time frames referenced in subrules (4) and (5) of this rule begin the date the waste was accepted by the initial transporter forwarding the hazardous waste shipment from the designated facility to the alternate facility.

(7) A generator shall furnish periodic reports of hazardous waste generated, stored, transferred, treated, disposed of, or transported for treatment, storage, or disposal required by the director or the director's designee.

R 299.9313 Land disposal restrictions.

Rule 313. (1) Generators of hazardous waste shall comply with the applicable requirements and restrictions of 40 CFR part 268.

(2) 40 CFR part 268 is adopted by reference in R 299.11003. For the purposes of adoption, the term "director" replaces the terms "administrator" and "assistant administrator," the term "R 299.9305, R 299.9306, and R 299.9307" replaces the term "§§262.15, 262.16, and 262.17," the term "part 6 of these rules" replaces the term "parts 264 and 265 of this chapter," and the term "part 2 of these rules" replaces the term "subparts C and D of part 261 of this chapter," except in 40 CFR 268.5, 268.6, 268.40(b), 268.42(b), and 268.44(a) to (g) and (i) to (o).

R 299.9314 Transfrontier movements of hazardous waste for recovery and disposal.

Rule 314. (1) Persons who import or export wastes that are considered hazardous under the U.S. national procedures and that are destined for recovery operations shall comply with 40 CFR part 262, subpart H, except 262.80. A waste is considered hazardous under the U.S. national procedures if it meets the federal definition of hazardous waste in 40 CFR 261.3 and it is subject to either the manifesting requirements of part 3 of these rules, the universal waste provisions of R 299.9228, or the export requirements in the spent lead-acid battery management standards of R 299.9804.

(2) Any person subject to this rule, including a notifier, consignee, or recovery facility operator, who mixes 2 or more hazardous or solid wastes or otherwise subjects 2 or more hazardous or solid wastes to physical or chemical transformation operations, and thereby creates a new hazardous waste, shall comply with the following requirements:

(a) The person shall be considered the generator of the waste and comply with the requirements of part 3 of these rules.

(b) The applicable notifier requirements of 40 CFR part 262, subpart H.

(3) 40 CFR part 262, subpart H, except 262.80, is adopted by reference in R 299.11003.

R 299.9315 Academic laboratories; alternate generator requirements.

Rule 315. (1) This rule provides alternate requirements for hazardous waste determinations and accumulation of hazardous waste in laboratories owned by eligible academic entities.

(2) Persons with laboratories owned by eligible academic entities may elect to comply with the requirements of 40 CFR part 262, subpart K, except 262.201 and 262.202, instead of the requirements of R 299.9304 to R 299.9307, as applicable.

(3) 40 CFR part 262, subpart K, except 262.201 and 262.202 and the references to performance track members, is adopted by reference in R 299.11003. For the purposes of adoption, the term "director" replaces the term "EPA regional administrator," the term "site identification number" replaces "EPA identification number," the term "operating license" replaces the term "RCRA Part B permit," the term "hazardous waste numbers" replaces the term "hazardous waste codes," the term "Michigan site identification form EQP5150" replaces the term "RCRA Subtitle C Site Identification Form (EPA Form 8700-12)," the term "R 299.9101(bb)" replaces the term "§260.11," the term "R 299.9212" replaces the term "40 CFR part 261, subpart C," the term "R299.9213 and R 299.9214" replaces the term "40 CFR part 261, subpart D," the term "R 299.9202" replaces the term "§261.2," the term "R 299.9203" replaces the term "§261.3," the term "R 299.9304" replaces the term "§261.5," the term "R 299.9214" replaces the term "§261.33(e)," the term "part 3 of the rules" replaces the term "40 CFR part 262," the term "R 299.9302" replaces the term "§262.11," the term "R 299.9302(1)(a)" replaces the term "§262.11(a)," the term "R 299.9303" replaces the term "§262.13," the term "R 299.9304" replaces the term "§262.14," the term "R 299.9305" replaces the term "§262.15," the term "R 299.9306" replaces the term "§262.16," the term "R 299.9306(1)(d)(i)(G) and (ii)(K)" replaces the term "§262.16(b)(6)," the term "R 299.9307" replaces the term "§262.17," and the term "R 299.9307(1)(b)(i)(I)and (ii)(A)" replaces the term "§262.17(a)(5)."

R 299.9316 Episodic generation; alternate requirements for very small and small quantity generators.

Rule 316. (1) This rule provides alternative requirements for very small and small quantity generators and the episodic generation of wastes beyond their usual generator categories.

(2) A very small quantity generator may maintain its existing generator category for hazardous waste generated during an episodic event if the very small quantity generator complies with all of the following conditions:

(a) The very small quantity generator is limited to 1 episodic event per calendar year, unless a petition is granted under subrules (4) to (7) of this rule.

(b) The very small quantity generator shall notify the director no later than 30 calendar days before initiating a planned episodic event using Michigan site identification form EQP5150. In the event of an unplanned episodic event, the very small quantity generator shall notify the director within 72 hours of the unplanned event via phone, email, or fax and subsequently submit Michigan site identification form EQP5150. The very small quantity generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of hazardous waste expected to be generated as a result of the episodic event, and shall identify a facility contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to an emergency in compliance with R 299.9306(1)(n).

(c) The very small quantity generator shall have a site identification number or obtain a site identification number using Michigan site identification form EQP5150.

(d) A very small quantity generator is prohibited from accumulating hazardous waste generated from an episodic event on drip pads and in containment buildings.

(e) The episodic hazardous waste is managed under 1 or more of the following methods:

(i) In containers and the very small quantity generator complies with all off the following:

(A) The standards of R 299.9306(1)(d)(i).

(B) Each container is marked or labeled with all of the following:

(I) The words "Episodic Hazardous Waste."

(II) A description of the waste and an indication of the hazards of the contents. The indication of the hazards of the contents may include the applicable hazardous waste characteristic(s), the hazard communication consistent with 49 CFR part 172, subpart E or F, a hazard statement or pictogram consistent with 29 CFR 1910.1200, or a chemical hazard label consistent with the NFPA standard no. 704.

(III) The date upon which the episodic event began.

(ii) In tanks and the very small quantity generator complies with all of the following:

(A) The standards of R 299.9306(1)(d)(ii).

(B) Each tank is marked or labeled with both of the following:

(I) The words "Episodic Hazardous Waste."

(II) A description of the waste and an indication of the hazards of the contents. The indication of the hazards of the contents may include the applicable hazardous waste characteristic(s), hazard communication consistent with 49 CFR part 172, subpart E or F, a hazard statement or pictogram consistent with 29 CFR 1910.1200, or a chemical hazard label consistent with the NFPA standard no. 704.

(C) Use inventory logs, monitoring equipment, or other records to identify the date upon which each episodic event begins.

(D) Keep inventory logs or records with the above information on site and readily available for inspection.

(iii) Hazardous waste must be managed in a manner that minimizes the possibility of a fire, explosion, or release of hazardous waste or hazardous waste constituents to the air, soil, or water which could threaten human health or the environment.

(f) The very small quantity generator shall comply with the hazardous waste manifest provisions in R 299.9309 when it sends its episodic event hazardous waste off site to a designated facility. The very small quantity generator has up to 60 calendar days from the start of the episodic event to manifest and send its hazardous waste generated from the episodic event to a designated facility.

(g) The very small quantity generator shall maintain all of the following records for 3 years from the end date of the episodic event:

(i) The beginning and end dates of the episodic event.

(ii) A description of the episodic event.

(iii) A description of the types and quantities of hazardous wastes generated during the event.

(iv) A description of how the hazardous waste was managed as well as the name of the designated facility that received the hazardous waste.

(v) The name of hazardous waste transporters.

(vi) An approval letter from director if the very small quantity generator petitioned to conduct 1 additional episodic event per calendar year.

(3) A small quantity generator may maintain its existing generator category for hazardous waste generated during an episodic event if the small quantity generator complies with all of the following conditions:

(a) The small quantity generator is limited to 1 episodic event per calendar year, unless a petition is granted under subrules (4) to (7) of this rule.

(b) The small quantity generator shall notify the director no later than 30 calendar days before initiating a planned episodic event using Michigan site identification form EQP5150. In the event of an unplanned episodic event, the small quantity generator shall notify the director within 72 hours of the unplanned event via phone, email, or fax and subsequently submit Michigan site identification form EQP5150. The small quantity generator shall include the start date and end date of the episodic event, the reason(s) for the event, types and estimated quantities of hazardous waste expected to be generated as a result of the episodic event, and shall identify a small quantity generator contact and emergency coordinator with 24-hour telephone access to discuss the notification submittal or respond to an emergency.

(c) The small quantity generator shall have a site identification number or obtain a site identification number using Michigan site identification form EQP5150.

(d) A small quantity generator is prohibited from accumulating hazardous waste generated from an episodic event on drip pads and in containment buildings.

(e) The episodic hazardous waste is managed under 1 or more of the following methods:

(i) In containers and the small quantity generator complies with all of the following:

(A) R 299.9306(1)(d)(i).

(B) Each container is marked or labeled with all of the following:

(I) The words "Episodic Hazardous Waste."

(II) A description of the waste and an indication of the hazards of the contents. The indication of the hazards of the contents may include the applicable hazardous waste characteristic(s), the hazard communication consistent with 49 CFR part 172, subpart E or F, a hazard statement or pictogram consistent with 29 CFR 1910.1200, or a chemical hazard label consistent with the NFPA standard no. 704.

(III) The date upon which the episodic event began.

(ii) In tanks and the small quantity generator complies with all of the following:

(A) The standards of R 299.9306(1)(d)(ii).

(B) Each tank is marked or labeled with both of the following:

(I) The words "Episodic Hazardous Waste."

(II) A description of the waste and an indication of the hazards of the contents. The indication of the hazards of the contents may include the applicable hazardous waste characteristic(s), hazard communication consistent with 49 CFR part 172, subpart E or F, a hazard statement or pictogram

consistent with 29 CFR 1910.1200, or a chemical hazard label consistent with the NFPA standard no. 704.

(C) Use inventory logs, monitoring equipment, or other records to identify the date upon which each episodic event begins.

(D) Keep inventory logs or records with the above information on site and readily available for inspection.

(f) The small quantity generator shall treat the hazardous waste generated from an episodic event on site or manifest and ship the hazardous waste off site to a designated facility within 60 calendar days from the start of the episodic event to manifest and send its hazardous waste generated from the episodic event to a designated facility.

(g) The small quantity generator shall maintain all of the following records for 3 years from the end date of the episodic event:

(i) The beginning and end dates of the episodic event.

(ii) A description of the episodic event.

(iii) A description of the types and quantities of hazardous wastes generated during the event.

(iv) A description of how the hazardous waste was managed as well as the name of the designated facility that received the hazardous waste.

(v) The name of hazardous waste transporters.

(vi) An approval letter from the director if the small quantity generator petitioned to conduct 1 additional episodic event per calendar year.

(4) A very small quantity generator or small quantity generator may petition the director for a second episodic event in a calendar year without impacting its generator category under the following conditions:

(a) If a very small quantity generator or small quantity generator has already held a planned episodic event in a calendar year, the generator may petition the director for an additional unplanned episodic event in that calendar year within 72 hours of the unplanned event.

(b) If a very small quantity generator or small quantity generator has already held an unplanned episodic event in a calendar year, the generator may petition the director for an additional planned episodic event in that calendar year.

(5) The petition must include the following:

(a) The reason(s) why an additional episodic event is needed and the nature of the episodic event.

(b) The estimated amount of hazardous waste to be managed from the event.

(c) How the hazardous waste is to be managed.

(d) The estimated length of time needed to complete management of the hazardous waste generated from the episodic event. This estimated length of time may not exceed 60 days.

(e) Information regarding the previous episodic event managed by the very small quantity generator or small quantity generator, including the nature of the event, whether it was a planned or unplanned event, and how the very small quantity generator or small quantity generator met the conditions.

(6) The petition must be made to the director in writing, either on paper or electronically.

(7) The very small quantity generator or small quantity generator shall retain written approval in its records for 3 years from the date the episodic event ended.

PART 4. TRANSPORTERS OF HAZARDOUS WASTE

R 299.9401 Scope.

Rule 401. (1) This part applies to transporters of hazardous waste if the transportation requires a manifest under part 3 of these rules, and transporters operating under R 299.9309(3).

(2) This part does not apply to on-site transportation of hazardous waste either by generators or by owners or operators of licensed hazardous waste treatment, storage, or disposal facilities.

(3) A transporter of hazardous waste shall also comply with part 3 of these rules relating to hazardous wastes, except for R 299.9311(4) and R 299.9312(1) and (2), and the accumulation time limits specified in R 299.9404(1)(b), if either of the following provisions apply to the transporter:

(a) The transporter is the United States importer of hazardous waste into the state from abroad.

(b) The transporter commingles, by placing the waste in the same container, compatible hazardous waste of different DOT shipping descriptions where the DOT hazard class or the DOT packing group differs in a manner that alters the components of the waste description on the generator's original manifest.

(4) A person who commingles hazardous waste from lab packs shall comply with parts 5, 6, and 7 of these rules if the wastes from the lab packs are mixed.

(5) A transporter of hazardous waste that is being imported from or exported to any other country for the purpose of recovery or disposal shall comply with the requirements of this part and R 299.9314.

(6) This part does not apply to transportation during an explosives or munitions emergency response which is conducted under R 299.9503(2).

R 299.9404 Transfer facility requirements.

Rule 404. (1) A transporter at a transfer facility shall comply with all of the following requirements:

(a) Manage vehicles and hazardous wastes so that hazardous waste and hazardous waste constituents cannot escape into the soil, directly or indirectly into surface or groundwaters, or uncontrolled into drains or sewers and so that fugitive emissions are controlled by closing, covering, or otherwise sealing containers, as required by 49 CFR 173.24(b), at all times unless the container is being filled or emptied of waste or is being cleaned.

(b) Store hazardous wastes, subject to manifesting requirements, in containers meeting the applicable requirements of 49 CFR parts 107 and 172 to 180 for a period of 10 days or less. Storage for a period of more than 10 days requires compliance with the treatment, storage, and disposal facility requirements of parts 5, 6, and 7 of these rules.

(c) Hazardous wastes must not be routed to the same transfer facility more than once during transportation, unless either of the following provisions applies:

(i) The load has been rejected by the treatment, storage, and disposal facility and the load is either being returned to the generator or is being sent to an alternate treatment, storage, and disposal facility.

(ii) A transporter was temporarily unable to deliver the waste for reasons unrelated to the suitability of the treatment, storage, and disposal facility to manage the waste, such as treatment, storage, and disposal facility maintenance or overbooking or delivery of the load after normal business hours, and rerouting was necessary to ensure subsequent delivery at the designated facility.

(d) When consolidating the contents of 2 or more containers with the same hazardous waste into a new container, or when combining and consolidating 2 different hazardous wastes that are compatible with each other, the transporter shall mark its containers of 119 gallons or less with the following information:

(i) The words "Hazardous Waste."

(ii) The applicable hazardous waste numbers, or in compliance with R 299.9305(1)(e).

(2) A transporter who off-loads hazardous wastes during transportation for the purpose of storage off of the vehicle or conveyance of waste in accordance with R 299.9503(1)(k) shall comply with all of the following requirements.

(a) The requirements of subrule (1) of this rule.

(b) For new activity, before the activity begins, provide notification to the department. Within 30 days of changes to information included in the notification a subsequent notification is required. The notification must include all of the following information:

(i) The transporter name and site identification number.

(ii) The transporter mailing address.

(iii) The transporter telephone number.
(iv) The owner of the transfer facility.
(v) The location and telephone number of all of the transfer facilities.
(vi) A description of the transfer activity performed at each transfer facility location.
(c) Obtain financial capability as specified in R 299.9711 for transfer facilities.
(d) The requirements of 49 CFR parts 130 and 172 to 180, and 40 CFR 263.31 concerning the use and management of containers.
(e) Secondary containment must be sufficiently impervious to prevent any hazardous waste or hazardous waste constituent released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
(f) The requirements of 49 CFR 172.602, 172.702, 172.704, and 177.848 and 29 CFR part 1910, subpart L, and 1910.120(q) and 1910.132 to 1910.138 concerning preparedness and prevention, contingency planning and emergency procedures, and training.
(g) Maintain an inventory log that tracks manifested hazardous waste which is managed at the transfer facility by date of receipt, date of shipment off site, and manifest number. The inventory log, or similar documentation, must also include the date of the weekly inspection of the areas where containers are stored and the results of the inspection, including, at a minimum, any evidence of container failure, the condition of secondary containment, and remediation correcting any problems noted. Except as required in subdivision (a) of this subrule, the requirements of this subrule do not apply when, during transportation, there is a continuous physical link between vehicles or vehicles and pipelines for waste being off-loaded or, in the case of bulk-packagings authorized by 49 CFR 173.240, the break in the link between the transport vehicles is no longer than is necessary to accomplish the immediate transfer of the bulk packagings from 1 vehicle to another vehicle.
(3) Transfer facility operations must not occur at treatment, storage, and disposal facilities.
(4) 49 CFR parts 107, 130, and 171 to 180, and 29 CFR part 1910, subpart L, and 1910.120(q) and 1910.132 to 1910.138 are adopted by reference in R 299.11004.

R 299.9405 Consolidation and commingling of hazardous waste.
Rule 405. (1) A transporter consolidating containers of hazardous waste shall ensure that the original manifest for each hazardous waste container in the consolidated shipment accompanies the shipment.
(2) A transporter commingling hazardous wastes of the same DOT shipping description if the DOT hazard class and DOT packing group remain the same shall comply with all of the following requirements:
(a) 49 CFR part 173, as applicable.
(b) Conduct commingling, unless performed at the generator location when the load is first received by the transporter, in a secondarily contained area that is sufficiently impervious to prevent any hazardous waste or hazardous waste constituent released into the containment system from migrating out of the system to the soil, groundwater, or surface water.
(c) Ensure that commingled wastes are destined for a single disposal facility.
(d) Ensure that incompatible wastes are not commingled.
(e) Ensure that commingled wastes do not undergo chemical or thermal change or treatment, and ensure that the resultant waste retains both the physical and chemical characteristics similar to the individual wastes before they were commingled.
(f) Ensure that the generator authorizes the commingling in accordance with R 299.9309(4) and places in the special handling instructions and additional information section of the manifest the hazardous waste number followed by the letters "CS" and the associated manifest line item, denoting the commingling activity.
(g) For bulk rail or bulk water shipments, ensure that where the commingling of wastes results in the original shipment being transported to the designated facility by more than 1 vehicle the extra copies

of the manifest as provided by the generator in accordance with R 299.9309 accompany each of the vehicles and that the transporter prepares a DOT-approved shipping paper and attaches the shipping paper to the top of the manifest or manifests. The shipping paper must reflect the differences from the original shipment in terms of quantity, count, and DOT-approved packaging.

(h) Ensure that where the commingling of wastes results in changes to the quantity, count, or DOT-approved packaging on the generator manifest or manifests, the transporter prepares a DOT-approved shipping paper and attaches the shipping paper to the top of the manifest or manifests. The shipping paper must reflect the differences from the original shipment in terms of quantity, count, and DOT-approved packaging.

(i) Ensure that, where a commingled load is rejected by the designated facility, all generators contributing to the commingled load are contacted to designate an alternate facility and that the rejected commingled wastes are not returned to any single generator.

(3) A transporter commingling compatible hazardous wastes of different DOT shipping descriptions where the DOT hazard class or DOT packing group differs in a manner that alters the components of the waste description on the generator's original manifest shall comply with all of the following requirements:

(a) Comply with the requirements of subrule (2)(a) to (e) of this rule.

(b) For new activity, before the activity beginning, provide notification to the department. Within 30 days of changes in information included in the original notification a subsequent notification is required. The notification must include all of the following information:

(i) The transporter name and site identification number.

(ii) The transporter mailing address.

(iii) The transporter telephone number.

(iv) The owner of the facility.

(v) If other than the generator site, the location of the facility and the telephone number where commingling activity is performed.

(vi) The description of the commingling activity performed at each facility location.

(c) Prepare a new manifest as a generator in accordance with part 3 of these rules.

(d) On the new manifest in the special handling instructions and additional information section, describe the commingled load by adding the hazardous waste number followed by the letters "CD" and the manifest line item.

(e) Ensure that the transporter-initiated manifest and the generator manifests accompany the shipment to the designated facility. The transporter-initiated manifest must satisfy DOT shipping paper requirements and be segregated from the generator manifests. All generator and transporter manifests must be signed by an authorized representative of the designated facility upon receipt of the waste.

(f) Comply with part 3 of these rules relating to the wastes, except for R 299.9311(4) and R 299.9312(1) and (2) and the accumulation time limits specified in R 299.9404(1)(b).

(g) Ensure that, where a commingled load is rejected by the designated facility, all other generators contributing to the load are contacted to jointly, with the transporter, designate an alternate facility and that the rejected commingled wastes are not returned to any single generator. The transporter, under this part, shares generator responsibility.

R 299.9409 Transporter manifest and recordkeeping requirements.

Rule 409. (1) Hazardous waste transporters shall only transport hazardous waste using a manifest signed in accordance with 40 CFR 262.23, or an electronic manifest that is obtained, completed, and transmitted in accordance with 40 CFR 262.20(a)(3), and signed with in accordance with R 299.9309(2). Hazardous waste transporters shall comply with 40 CFR part 263, subpart B, regarding the manifest system, compliance with the manifest, and recordkeeping.

(2) If the hazardous waste cannot be delivered pursuant to the manifest and 40 CFR 263.21(a), and if the transporter revises the manifest pursuant to 40 CFR 263.21(b)(1), the transporter shall legibly note on the manifest the name and phone number of the person representing the generator from whom instructions have been obtained.

(3) A transporter whose manifested shipment results in a manifest discrepancy, as specified in R 299.9608, and a total or partial rejected shipment must comply with 40 CFR 263.21(b)(2). Before accepting for transportation the rejected portion of the original shipment, the transporter shall confirm that the generator has prepared a new manifest under part 3 of these rules.

(4) A transporter shall retain all records, logs, or documents required under this part for a period of 3 years and make the records, logs, and documents readily available for inspection by the director or his or her designee, upon request. The retention period is extended during any unresolved enforcement action regarding the regulated activity or as otherwise required by the department.

(5) 40 CFR part 263, subpart B, is adopted by reference in R 299.11003. For the purposes of adoption, the term "R 299.9207" replaces the term "§261.7."

R 299.9413 Land disposal restrictions.

Rule 413. (1) Transporters of hazardous waste-shall comply with the applicable requirements and restrictions of 40 CFR part 268.

(2) 40 CFR part 268 is adopted by reference in R 299.11003. For purposes of adoption, the term "director" replaces the terms "administrator" and "assistant administrator," the term "R 299.9305, R 299.9306, and R 299.9307" replaces the term "§§262.15, 262.16, and 262.17," the term "part 6 of these rules" replaces the term "parts 264 and 265 of this chapter," and the term "part 2 of these rules" replaces the term "subparts C and D of part 261 of this chapter," except in 40 CFR 268.5, 268.6, 268.40(b), 268.42(b), and 268.44(a) to (g) and (i) to (o).

PART 5. OPERATING LICENSES

R 299.9503 Operating licenses; exemptions.

Rule 503. (1) The following persons do not require an operating license under part 111 of the act, MCL 324.11101 to 324.11153:

(a) Persons who own or operate a facility that treats, stores, or disposes of hazardous waste in compliance with parts 31, 55, and 115 of the act, MCL 324.3101 to 324.3134, 324.5501 to 324.5542, and 324.11501 to 324.11554, if the only hazardous wastes the facility treats, stores, or disposes of are excluded from regulation under R 299.9304.

(b) Generators who accumulate hazardous waste on site for less than the time periods provided in R 299.9305 to R 299.9307.

(c) Farmers who dispose of waste pesticides from their own use in compliance with R 299.9204(3)(b).

(d) Owners or operators of totally enclosed treatment facilities.

(e) Owners or operators of elementary neutralization units.

(f) Owners or operators of wastewater treatment units, if the following conditions, as applicable, are met:

(i) The units are subject to regulation under section 402 or 307(b) of the federal clean water act, 33 USC 1342 or 1317(b).

(ii) The units are located on the site of a generator and do not treat hazardous waste from any other generator unless the waste is shipped entirely by pipeline or the off-site generator has the same owner as the facility at which the unit is located.

(iii) If an owner or operator is diluting D001 waste, other than D001 high TOC subcategory waste as defined in 40 CFR 268.40, or D003 waste, to remove the hazardous characteristic before land disposal, the owner or operator complies with the requirements of 40 CFR 264.17(b) and 265.17(b),

as applicable.

(g) Transporters storing manifested shipments of hazardous waste in containers at a transfer facility for a period of 10 days or less, if the transfer facility requirements of R 299.9404 are met.

(h) Persons adding absorbent material to hazardous waste in a container, and persons adding hazardous waste to absorbent material in a container, if all of the following conditions are met:

(i) The actions occur at the site of generation when hazardous waste is first placed in the container.

(ii) Liquids are not absorbed in materials that biodegrade or that release liquids when compressed.

(iii) The provisions of 40 CFR 264.17(b), 264.171, and 264.172 are met.

(i) Generators who have on-site treatment facilities if a generator complies with all of the following requirements:

(i) All treatment is conducted in either containers or tanks.

(ii) If the treatment occurs in containers, then all of the following requirements are met:

(A) The requirements of 40 CFR part 265, subpart I, except 40 CFR 265.173.

(B) The containers holding hazardous waste are always closed, except when it is necessary to add, remove, or treat the waste.

(C) The containers holding hazardous waste are not opened or handled in a manner that may rupture the containers or cause them to leak.

(D) The containment requirements of 40 CFR 264.175.

(E) The generator documents the inspections required under 40 CFR 265.174.

(iii) If the treatment occurs in tanks, the requirements of 40 CFR part 265, subpart J, except for 40 CFR 265.197(c) and 265.200.

(iv) The requirements of 40 CFR part 265, subpart C.

(v) The area where the waste is treated is protected, as appropriate for the type of waste being treated, from weather, fire, physical damage, and vandals.

(vi) Hazardous waste treatment is conducted so that hazardous waste or hazardous waste constituents cannot escape by gravity into the soil, directly or indirectly, into surface or groundwaters, or into drains or sewers and so that fugitive emissions are not in violation of part 55 of the act, MCL 324.5501 to 324.5542.

(vii) The closure standards of 40 CFR 265.111 and 265.114.

(viii) All treatment is completed within 90 days from the date that accumulation of the waste began if the generator is a large quantity generator or within 180 days from the date that the accumulation of the waste began if the generator is a small quantity generator.

(ix) Documentation is maintained on site that specifies the date that accumulation of the waste began, the date that treatment of the waste began, and the date that treatment of the waste was completed.

(x) The requirements of R 299.9602, R 299.9603(1)(b) to (f) and (4), R 299.9604, R 299.9627, and R 299.9633.

(j) Universal waste handlers and universal waste transporters when handling the wastes identified in R 299.9228(1). Universal waste handlers and universal waste transporters are subject to R 299.9228 when handling the universal wastes identified in R 299.9228(1).

(k) Owners or operators who use a pipeline for the sole purpose of transferring wastes to and from treatment or storage tanks at the facility and bulk railcars at an off-site transfer facility, if all of the following requirements are met:

(i) The pipeline is owned and operated by the owner or operator.

(ii) The pipeline meets the requirements for ancillary equipment under 40 CFR part 264, subpart J.

(iii) Wastes are not stored in the pipeline.

(iv) The owner or operator establishes as part of their waste analysis plan procedures for receipt of the wastes by the facility to and from the transport vehicle.

(v) The owner or operator uses the pipeline solely as a method of transferring wastes and not as an extension of the facility boundary beyond the area specified in their current operating license or

authorization.

(l) Owners or operators of facilities which store military munitions that have been classified as a waste in accordance with part 2 of these rules unless otherwise specified in R 299.9817.

(2) A person who is engaged in treatment or containment activities during immediate response to a discharge of a hazardous waste, an imminent and substantial threat of a discharge of hazardous waste, a discharge of a material that, when discharged, becomes a hazardous waste, or an immediate threat to human health, public safety, property, or the environment, from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist shall not be subject to the operating license requirements of part 111 of the act, MCL 324.11101 to 324.11153, and these rules. Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this part and part 6 of these rules, except as provided in subrule (4) of this rule. In the case of an explosives or munitions emergency response, if a federal, state, tribal or local official acting within the scope of his or her official responsibilities, or an explosives or munitions emergency response specialist, determines that immediate removal of the material or waste is necessary to protect human health or the environment, that official or specialist may authorize the removal of the material or waste by transporters who do not have EPA identification numbers. In the case of emergencies involving military munitions, the responding military emergency response specialist's organizational unit shall retain records for 3 years identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.

(3) The following are considered to have an operating license and are not subject to the operating license requirements of part 111 of the act, MCL 324.11101 to 324.11153, and these rules for new facilities or expanded, enlarged, or altered existing facilities if the listed conditions are met:

(a) The owner or operator of an injection well disposing of hazardous waste, if the owner or operator meets all of the following requirements:

(i) Has a permit for underground injection that is issued pursuant to 40 CFR parts 124, 144, 145, 146, and 147, subpart X.

(ii) Complies with the conditions of the permit and the requirements of 40 CFR 144.14.

(iii) Has a permit for underground injection that is issued pursuant to 40 CFR parts 124, 144, 145, 146, and 147, subpart X, and that is issued after November 8, 1984, and complies with both of the following:

(A) R 299.9629, Corrective action.

(B) Where the underground injection well is the only unit at a facility that requires a permit, complies with 40 CFR 270.14(d).

(b) The owner or operator of a publicly owned treatment works that accepts hazardous waste for treatment if the waste is in compliance with all federal, state, and local pretreatment requirements that would be applicable to the waste if it were being discharged into the publicly owned treatment works (POTW) through a sewer, pipe, or similar conveyance, if the owner or operator has a national pollutant discharge elimination system (NPDES) permit and the owner or operator complies with the conditions of the permit, and if the owner or operator complies with all of the following requirements:

(i) 40 CFR 264.11, Identification number.

(ii) R 299.9608, Use of manifest system.

(iii) R 299.9609, Operating record; availability, retention and disposition of records.

(iv) R 299.9610, Reporting.

(v) For NPDES permits issued after November 8, 1984, R 299.9629, Corrective action.

(4) The director shall exempt persons who conduct the following activities from the operating license requirements of part 111 of the act, MCL 324.11101 to 324.11153, and these rules, but only if the exemption does not constitute a less stringent permitting requirement than is required under RCRA:

(a) The treatment of hazardous waste during the closure of a treatment, storage, or disposal unit, if both of the following conditions apply:

(i) The treatment occurs at the site of generation.

(ii) The treatment is authorized in a closure plan approved by the director or his or her designee.

(b) Closure of an existing surface impoundment for hazardous waste that is closed as a landfill pursuant to R 299.9616(3), if the closure is authorized in a closure plan approved by the director or his or her designee and an operating license is obtained for the postclosure period.

(c) The treatment, storage, or disposal of hazardous waste at the individual site of generation if conducted solely in response to, or as corrective action under, and in full compliance with, a plan developed or approved by the director, or his or her designee, under part 31, 111, 201, or 213 of the act, MCL 324.3101 to 324.3134, 324.11101 to 324.11153, 324.20101 to 324.20142, and 324.21301a to 324.21334, or an administrative or judicial consent order to which the director is a party and if the treatment, storage, or disposal is conducted in accordance with the technical standards of part 6 of these rules.

(d) Treatment, storage, or disposal of hazardous waste at the individual site of generation, if conducted solely in response to, or as a corrective action under, and in full compliance with CERCLA.

(5) 40 CFR parts 124, 144, 145, 146, 147, and 265, subparts I and J, except 40 CFR 265.197(c) and 265.200, and 40 CFR 264.11, 264.17(b), 264.171, 264.172, 264.175, 265.111, 265.114, and 268.7(a)(4) are adopted by reference in R 299.11003.

R 299.9511 Public participation procedures.

Rule 511. (1) Except as provided for in subrule (2) of this rule, the requirements of this subrule apply to any person required to obtain an operating license under the act or these rules. Applicants shall comply with all of the following requirements:

(a) Before submission of an application, the applicant shall hold at least 1 public meeting to solicit comments from the public and inform the public of the proposed hazardous waste management activities.

(b) The applicant shall post a sign-in sheet or otherwise provide an opportunity for the preapplication meeting attendees to provide their names and addresses.

(c) The applicant shall provide notice of the preapplication meeting not less than 30 days in advance of meeting. The applicant shall maintain documentation of the preapplication meeting notice and provide the documentation to the director upon request. The notice of the preapplication meeting must comply with the following requirements:

(i) The notice must include all of the following information:

(A) The date, time, and location of the meeting.

(B) A brief description of the purpose of the meeting.

(C) A brief description of the facility and proposed operations, including, the facility address and a map of the facility location.

(D) A statement encouraging persons to contact the facility not less than 72 hours before the meeting if they require special accommodations to participate in the meeting.

(E) The name, address, and telephone number of the applicant's contact person.

(ii) The notice must be provided by the applicant in all of the following forms:

(A) Published as a display advertisement in a newspaper of general circulation in the county or equivalent jurisdiction that hosts the proposed location of the facility. If the director determines that publication in newspapers of general circulation in the adjacent counties or equivalent jurisdictions is necessary to inform the affected public, the director shall advise the applicant to provide a notice in those newspapers.

(B) Posted as a notice on a clearly marked sign at or near the facility. If the applicant places the sign on the facility property, the sign must be large enough to be readable from the nearest point where the

public would pass by the facility.

(C) Broadcast a notice at least once on 1 local radio station or television station. The applicant may employ another medium with prior approval from the director.

(d) The applicant shall provide a copy of the newspaper publication of the preapplication meeting notice to the director and the appropriate units of state and local government in accordance with 40 CFR 124.10(c)(1)(x).

(2) The requirements of subrule (1) of this rule do not apply to any of the following:

(a) A renewal operating license application that does not propose any significant changes in facility operations. As used in this subdivision, "significant changes" means any changes that would qualify as a major modification under R 299.9519.

(b) An operating license application that is submitted solely to address postclosure requirements or postclosure and corrective action requirements.

(c) An operating license modification submitted in accordance with R 299.9519.

(d) An operating license application submitted before the effective date of these rules.

(3) Except as provided for in subrule (4) of this rule, the director shall comply with all of the following requirements upon receipt of an operating license application under the act or these rules:

(a) Within a reasonable period of time after the application is received, provide the facility mailing list and appropriate units of state and local government with notice in accordance with 40 CFR 124.10(c)(1)(ix) and (x) that the application has been submitted to the department and is available for review. The notice must include all of the following information:

(i) The name, address, and telephone number of the applicant's contact person.

(ii) The name, address, and telephone number of the department's contact.

(iii) The mailing address to which information, comments, and inquiries may be submitted to the department throughout the application review process.

(iv) The address to which persons may write to be placed on the facility mailing list.

(v) The location where a copy of the application and any supporting documents may be viewed and copied.

(vi) A brief description of the facility and proposed operations, including, the facility address or a map of the facility location, on the front page of the notice.

(vii) The date that the application was received by the department.

(b) Concurrent with the notice provided in subdivision (a) of this subrule, place the application and any supporting documents in a location accessible to the public in the vicinity of the facility or at an appropriate department office.

(4) The requirements of subrule (3) of this rule do not apply to either of the following:

(a) An operating license application that is submitted solely to address postclosure requirements or postclosure and corrective action requirements.

(b) A minor operating license modification as specified in R 299.9519(5) and (9).

(5) The director shall comply with all of the following requirements upon receipt of an operating license application under the act or these rules:

(a) Assess the need, on a case-by-case basis, for an information repository based on the following information:

(i) The level of public interest.

(ii) The type of facility.

(iii) The presence of an existing repository.

(iv) The proximity of the facility to the nearest copy of the administrative record.

(b) If it is determined that an information repository is needed at any time after submittal of the application, notify the applicant that he or she must establish and maintain an information repository in compliance with the following requirements:

(i) The information repository must include all documents, reports, data, and information considered necessary by the director to fulfill the purposes for which the repository is established.

The director shall have the discretion to limit the contents of the information repository.

(ii) The information repository must be located and maintained at a site selected by the applicant. However, if the director finds that the site selected by the applicant is unsuitable for the purposes or persons for which the information repository is established, due to problems with the location, hours of availability, access, or other relevant considerations, the director shall specify a more appropriate site for the information repository.

(iii) The information repository must be maintained and updated by the applicant for the time period specified by the director.

(c) Specify the requirements for informing the public about the information repository. At a minimum, the director shall require the applicant to provide a written notice about the information repository to all individuals on the facility mailing list.

(d) Based on the factors outlined in subdivision (a) of this subrule, make decisions regarding the appropriateness of closing the information repository and notify the applicant accordingly.

(6) For applications for incinerators, boilers, or industrial furnaces, the director shall provide notice to all persons on the facility mailing list and to the appropriate units of state and local government in accordance with 40 CFR 124.10(c)(1)(ix) and (x) announcing the following:

(a) The scheduled commencement and completion dates for the trial burn. The notice must be mailed within a reasonable time period before the scheduled trial burn. An additional notice is not required if the trial burn is delayed due to circumstances beyond the control of the facility or the department. The notice, which must be issued before the applicant may commence the trial burn, must contain all of the following information:

(i) The name, address, and telephone number of the applicant's contact person.

(ii) The name, address, and telephone number of the department's contact person.

(iii) The location where the approved trial burn plan and any supporting documents may be reviewed and copied.

(iv) The expected time period for commencement and completion of the trial burn.

(b) The department's intention to approve the trial burn plan in accordance with the timing and distribution requirements of 40 CFR 270.62(b)(6) and 270.66(d)(3) as applicable. The notice must contain all of the following information:

(i) The name, address, and telephone number of the facility contact person.

(ii) The name, address, and telephone number of the department's contact person.

(iii) The location where the approved trial burn plan and any supporting documents may be reviewed and copied.

(iv) A schedule of the activities that are required as part of an operating license for a new facility or the expansion, enlargement, or alteration of an existing facility, or for existing facilities, before license issuance, including the anticipated time for department approval of the trial burn plan and the time period during which the trial burn will be conducted.

(7) Before making a final decision on a major license modification or operating license application, the director or his or her designee shall, when authorized under 40 CFR part 271, do the following:

(a) Prepare either a draft major license modification, operating license, or a notice of intent to deny.

(b) For major facilities, prepare a fact sheet under R 299.9512 that briefly sets forth the significant factual, methodological, and policy questions considered in preparing the draft major license modification, operating license, or notice of intent to deny and send this fact sheet to the applicant and, upon request, any other person.

(c) Publish a public notice that a draft operating license or notice of intent to deny has been prepared and allow not less than 45 days for public comment.

(d) Publish a public notice that a draft major license modification has been prepared and allow not less than 60 days for public comment.

(e) Provide public notice of any public hearing scheduled pursuant to R 299.9514 not less than 30 days before the hearing date.

(f) Prepare and make available to the public a response to comments on the draft major license modification, operating license, or notice of intent to deny, which must do all of the following:

(i) Specify which provisions of the draft major license modification or operating license have been changed, if any, and the reasons for the changes.

(ii) Briefly describe and respond to all significant comments raised during the public comment period or any hearing.

(iii) Indicate whether the comment period is to be reopened or extended.

(iv) For notices of intent to deny, the reasons for denial.

(8) If the director decides to prepare a draft operating license, he or she shall prepare a license that contains the information specified in R 299.9521.

(9) Draft major license modifications and licenses that are prepared by the director pursuant to this rule must be accompanied by a fact sheet pursuant to R 299.9512, publicly noticed pursuant to R 299.9513, and made available for public comment. The director shall give notice of the opportunity for a public hearing pursuant to R 299.9514, issue a final decision, and respond to comments pursuant to R 299.9515.

R 299.9513 Public notices.

Rule 513. (1) Public notices of draft operating licenses, notices of intent to deny, and public hearings must be given by the following methods after the director is authorized under 40 CFR part 271 to enforce and administer part 111 of the act, MCL324.11101 to 324.11153, and these rules instead of the federal program:

(a) By mailing a copy of the notice, fact sheet, operating license application, and draft operating license to all of the following entities:

(i) The applicant.

(ii) Any other agency that the director knows has issued or is required to issue an environmental permit for the same facility.

(iii) Federal and state agencies with jurisdiction over any of the following:

(A) Fish, shellfish, and wildlife resources.

(B) Coastal zone management plans.

(C) The advisory council on historic preservation.

(D) State historic preservation officers.

(E) Other appropriate government authorities, including any affected states.

(iv) Any unit of local government having jurisdiction over the area where the facility is proposed to be located.

(v) Each state agency having any authority under state law with respect to the construction or operation of the facility.

(b) By mailing a copy of the notice to persons on a facility mailing list developed pursuant to subrule (3) of this rule.

(c) By any method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(d) By publication of a notice in a daily or weekly major local newspaper of general circulation and by broadcasting over local radio stations. The director may replace the radio broadcast with another medium that provides at least an equivalent means of notification.

(e) By posting the notice at the principal office of the department and any other locations considered appropriate by the director.

(2) All public notices required by this rule must contain all of the following information:

(a) Name and address of the office processing the operating license.

(b) Name and address of the applicant and the facility at issue.

(c) A brief description of the business conducted at the facility or activity described in the

application or draft license.

(d) Name, address, and telephone number of a person or agency from whom interested persons may obtain further information, including copies of the draft operating license, fact sheet, and application.

(e) A brief description of the comment procedures required by R 299.9511 and the time and place of any hearing that will be held, including a statement of procedures to request a hearing and other procedures by which the public may participate in the final decision.

(f) For notices of public hearings, all of the following information:

(i) References to the date of previous public notices relating to the application.

(ii) Date, time, and place of the hearing.

(iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

(iv) Any other information required by act 306.

(g) Any additional information considered necessary and proper.

(3) The director or his or her designee shall develop a facility mailing list which includes the following persons:

(a) Those who request in writing to be on the list.

(b) Participants from past application proceedings under part 111 of the act, MCL 324.11101 to 324.11153, in that area.

(4) The director or his or her designee shall notify the public of the opportunity to be put on the mailing list through publication.

R 299.9519 Modification, revocation, and suspension of operating licenses during their terms.

Rule 519. (1) An owner or operator shall construct, operate, and maintain a facility pursuant to part 111 of the act, MCL 324.11101 to 324.11153, these rules, and the operating license issued to the facility pursuant to part 111 of the act, MCL 324.11101 to 324.11153. Any deviation from the conditions of a license or from approved plans requires prior approval by the director, unless otherwise specified in this rule, and, if necessary, modification of the license.

(2) If the director receives any information during the term of an operating license, for example, inspects the facility, receives information submitted by the licensee as required in the license, receives a request for modification or revocation pursuant to this rule, or conducts a review of the license file, then he or she may determine if 1 or more of the causes listed in subrule (3) of this rule for modification or subrule (11) of this rule for revocation, or both, exist. If cause exists, the director may commence proceedings pursuant to act 306 to modify or revoke an operating license accordingly, subject to the limitation of subrule (4) of this rule, and may request an updated application under R 299.9520, if necessary. If an operating license is modified, then only the conditions subject to modification are reopened. If an operating license modification satisfies the criteria of subrule (5) of this rule for a minor modification, or if the director has not yet been authorized under 40 CFR part 271, then the license may be modified pursuant to subrule (6) of this rule. Otherwise, a draft license must be prepared and other procedures specified in R 299.9511 followed.

(3) Any of the following are causes for modification of an operating license:

(a) The causes listed under 40 CFR 270.41(a), except 40 CFR 270.41(a)(3).

(b) If the standards or regulations on which license was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the license was issued.

(c) To modify a monitoring program under R 299.9611 or R 299.9612.

(d) Cause exists for modification under subrule (5) of this rule and the director determines that modification is appropriate.

(e) The director has received notification pursuant to R 299.9522 of a proposed transfer of ownership or operation.

(4) The director shall not consider suitability of the facility location at the time of operating license modification, suspension, or revocation, or when reviewing an operating license for a new facility or the expansion, enlargement, or alteration of an existing facility, unless new information or standards indicate that a threat to human health or the environment exists that was unknown at the time of license issuance. In addition, the director shall not modify an operating license for a new facility or the expansion, enlargement, or alteration of an existing facility beyond what is authorized in the license.

(5) The licensee may put into effect the following minor license modifications without following the procedures specified in R 299.9511, if the licensee complies with subrule (6) of this rule:

(a) Any of the following general license modifications:

(i) An administrative and information change.

(ii) A correction of a typographical error.

(iii) Equipment replacement or upgrading with functionally equivalent elements, for example pipes, valves, pumps, conveyors, or controls.

(iv) A change in the frequency of, or procedures for, monitoring, reporting, sampling, or maintenance activities to provide for more frequent monitoring, reporting, sampling, or maintenance.

(v) A change in the interim compliance dates in the schedule of compliance if the prior written approval of the director is obtained.

(vi) A change in the expiration date of the license to allow earlier license termination if the prior written approval of the director is obtained.

(vii) A change in the ownership or operational control of a facility if the procedures specified in R 299.9522 are followed and if the prior written approval of the director is obtained.

(viii) Changes to remove operating license conditions that are no longer applicable because the standards upon which they are based are no longer applicable to the facility if prior written approval from the director is obtained.

(ix) Changes to remove license conditions applicable to a unit excluded under R 299.9204.

(x) Changes in the expiration date of a license issued to a facility at which all units are excluded under R 299.9204.

(b) Any of the following general facility modifications:

(i) A change to waste sampling or analysis methods to conform to agency guidelines or regulations.

(ii) A change to waste sampling or analysis methods to incorporate change associated with F039 (multisource leachate) sampling or analysis methods.

(iii) A change to waste sampling or analysis methods to incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes if the prior written approval of the director is obtained.

(iv) A change in a sampling or analysis procedure or monitoring schedule if the prior written approval of the director is obtained.

(v) A change to analytical quality assurance/control plans to conform to department guidelines or rules.

(vi) A change in procedures for maintaining the operating record.

(vii) A change in the contingency plan to reflect the replacement of emergency equipment with functionally equivalent equipment, the upgrade of emergency equipment, or the relocation of emergency equipment listed.

(viii) A change to the training plan, other than those changes that affect the type of, or decrease the amount of, training given to employees.

(ix) The replacement of emergency equipment with functionally equivalent emergency equipment, the upgrade of emergency equipment, or the relocation of emergency equipment listed in the contingency plan.

(x) A change in the name, address, or phone number of a coordinator or another person or agency identified in the contingency plan.

(xi) A change in the procedures used to empty hazardous waste from transport vehicles and other containers.

(xii) A change that the construction quality assurance officer certifies will provide equivalent or better certainty that the unit components meet the design specifications. The certification must be provided in the facility operating record.

(c) Any of the following groundwater protection modifications:

(i) Replacement of an existing well that has been damaged or rendered inoperable without changing the location, design, or depth of the well.

(ii) A change in groundwater sampling or analysis procedure or monitoring schedule if the prior written approval of the director is obtained.

(iii) A change in statistical procedure for determining whether a statistically significant change in groundwater quality between upgradient and downgradient wells has occurred if the prior written approval of the director is obtained.

(d) Any of the following changes to closure plans:

(i) A change in the estimate of maximum inventory of waste on site at any time during the active life of the facility, not to exceed the approved process design capacity of the facility if the prior written approval of the director is obtained.

(ii) A change in the closure schedule for any unit, a change in the final closure schedule for the facility, or extension of the closure period if the prior written approval of the director is obtained.

(iii) A change in the expected year of final closure, if other license conditions are not changed and if the prior written approval of the director is obtained.

(iv) A change in procedure for the decontamination of facility equipment or structures if the prior written approval of the director is obtained.

(v) The addition of temporary tanks used for neutralization, dewatering, phase separation, or other separation with the prior written approval of the director.

(e) Any of the following postclosure modifications:

(i) A change in the name, address, or phone number of the contact person in the postclosure plan.

(ii) A change in the expected year of final closure if other license conditions are not changed.

(f) The addition of a roof to a container unit without altering the containment system.

(g) The replacement of a tank with a tank that is in compliance with the same design standards, has the same capacity of the replaced tank, and is in compliance with the same conditions in the license.

(h) The replacement of a waste pile unit with another waste pile unit of the same design and capacity and that is in compliance with all the waste pile conditions in the license.

(i) Any of the following land treatment modifications:

(i) A decreased rate of waste application.

(ii) A change in any condition specified in the license for a land treatment unit to reflect the results of the land treatment demonstration if performance standards are met and if the prior written approval of the director is obtained.

(iii) A change to allow a second land treatment demonstration to be conducted when the results of the first demonstration have not shown the conditions under which the wastes can be treated completely, if the conditions for the second demonstration are substantially the same as the conditions for the first demonstration and if the prior written approval of the director is obtained.

(j) Any of the following incinerator, boiler, or industrial furnace modifications:

(i) Authorization of up to an additional 720 hours of waste burning during the shakedown period for determining operation readiness after construction if the prior written approval of the director is obtained.

(ii) A change in the operating requirements specified in the license for conducting a trial burn, if the change is minor and if the prior written approval of the director is obtained.

(iii) A change in the ranges of the operating requirements specified in the license to reflect the results of the trial burn, if the change is minor and if the prior written approval of the director is obtained.

(iv) Substitution of an alternate type of nonhazardous waste fuel that is not specified in the license if the prior written approval of the director is obtained.

(v) Technology changes necessary to meet the standards under 40 CFR part 63, subpart EEE, if the owner or operator met the notification of intent to comply requirements of 40 CFR 63.1210 that were in effect before October 11, 2000, and if prior written approval is obtained from the director.

(k) Technology changes necessary to meet the standards under 40 CFR part 63, subpart EEE that were promulgated on October 12, 2005, if the owner or operator met the notification of intent to comply requirements of 40 CFR 63.1210(b) and 63.1212(a) and if prior written approval is obtained from the director.

(l) Waiver of operating and emission limits as necessary to support the transition to 40 CFR part 63, subpart EEE, if all of the following requirements are met and if prior written approval is obtained from the director:

(i) The specific operating and emission limits for which the waiver is requested must be identified in writing.

(ii) An explanation of why the changes are necessary to minimize or eliminate conflicts between the license and the maximum achievable control technology standards compliance must be provided in writing.

(iii) An explanation of how the rised provisions will be sufficiently protective must be provided in writing.

(iv) If the modification is being requested in conjunction with maximum achievable control technology performance testing where the license limits may only be waived during actual test events and pretesting, as defined under 40 CFR 63.1207(h)(2)(i) and (ii), for an aggregate time not to exceed 720 hours of operation, the request must be provided at the same time the test plans are submitted to the director. The director may approve or deny the request contingent upon approval of the test plans.

(m) Any of the following burden reduction changes:

(i) The development of 1 contingency plan based on integrated contingency plan guidance pursuant to 40 CFR 264.52(b).

(ii) Changes to recordkeeping or reporting requirements under 40 CFR 264.56(i), 264.113(e)(5), 264.196(f), 264.343(a)(2), 264.1061(b)(1), 264.1062(a), or R 299.9629(10).

(iii) Changes to the inspection frequency for tank systems under 40 CFR 264.195(b).

(iv) Changes to a detection or a compliance monitoring program under 40 CFR 264.98(d) or (g)(2) or (3), or 264.99(f) or (g).

(6) For minor license modifications, the licensee shall do both of the following:

(a) Notify the director concerning the minor modification by certified mail or other means that establish proof of delivery. For minor modifications that do not require the prior written approval of the director, the notification must be made within 7 calendar days after the change is put into effect. For minor modifications that do require the prior written approval of the director, the notification shall be made before the change is put into effect. The notification must comply with all of the following provisions:

(i) Contain a minor modification request for the director's approval, if required.

(ii) Specify the exact change or changes being made or to be made to the license conditions or supporting documents referenced by the license.

(iii) Identify that the modification is a minor modification.

(iv) Explain why the modification is necessary.

(v) Provide the applicable information required pursuant to R 299.9504 and R 299.9508, as appropriate.

(b) Send a notice of the minor modification to all persons on the facility mailing list that is maintained by the director pursuant to 40 CFR 124.10(c)(ix) and the appropriate units of state and local government pursuant to 40 CFR 124.10(c)(x). The notification must be made within 90 days after the change is put into effect. For minor modifications that require the prior written approval of the director, the notification must made within 90 calendar days after the director approves the minor modification request.

(7) Any person may request that the director review any minor-license modification. The director may reject for cause. The director shall inform the licensee by certified mail that a minor license modification has been rejected and explain the reasons for the rejection. If a minor license modification is rejected, the licensee shall comply with the existing license conditions.

(8) For minor license modifications, the licensee may elect to follow the procedures specified in R 299.9511 instead of the license modification procedures. The licensee shall inform the director of this decision in the notice that is required in subrule (6) of this rule.

(9) Any modification that is not specifically listed in subrule (5) of this rule is considered a major license modification and is subject to the requirements of R 299.9511 and R 299.9520, unless all of the following conditions are met:

(a) The licensee demonstrates, to the director's satisfaction, that a modification meets the criteria for a minor modification. In determining the appropriate classification for a modification, the director shall consider the similarity of the modification to other modifications listed in subrule (5) of this rule. Minor modifications apply to minor changes that keep the license current with routine changes to the facility or its operation. These changes do not substantially alter the license conditions or reduce the capacity of the facility to protect human health or the environment.

(b) The modification does not authorize the physical construction of a new treatment, storage, or disposal facility; the expansion or enlargement beyond the previously authorized design capacity or area of a treatment, storage, or disposal facility; or the alteration of the method of treatment or disposal previously authorized at a treatment, storage, or disposal facility to a different method of treatment or disposal.

(c) The classification of the modification is not less stringent than that allowed under RCRA.

(10) For major license modifications, the licensee shall submit a major modification request to the director by certified mail or by other means that establish proof of delivery. The request must be made before the change is put into effect. The request must comply with all of the following provisions:

(a) Describe the exact change or changes to be made to the license conditions or supporting documents referenced by the license.

(b) Identify that the modification is a major modification.

(c) Explain why the modification is necessary.

(d) Provide the applicable information required under R 299.9504 and R 299.9508, as appropriate.

(11) An operating license may be revoked for any of the following reasons:

(a) Noncompliance by the licensee with part 111 of the act, MCL 324.11101 to 324.11153, these rules, or any condition of the operating license.

(b) A determination that the licensed activity endangers human health or the environment.

(c) The owner or operator fails in the application or during the operating license issuance process to disclose fully all relevant facts or at any time misrepresents any relevant facts.

(12) Requests for operating license modification by a licensee and updated applications requested by the director pursuant to subrule (2) of this rule must be made on forms provided by the director.

(13) An operating license may be suspended pursuant to act 306.

(14) 40 CFR part 63, subpart EEE and 264.52(b), 264.56(i), 264.98(d) and (g)(2) and (3), 264.99(f) and (g), 264.113(e)(5), 264.195(b), 264.196(f), 264.343(a)(2), 264.1061(b)(1), 264.1062(a), 270.41(a), except 40 CFR 270.41(a)(3), are adopted by reference in R 299.11003.

PART 6. OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

R 299.9601 Applicability; relationship to interim status standards.

Rule 601. (1) The standards in this part apply to owners and operators of all facilities that treat, store, or dispose of hazardous waste, except as otherwise specifically provided in these rules.

(2) Treatment, storage, or disposal facilities that are authorized to operate under these rules and that have not been issued or reissued an operating license after the effective date of these rules shall comply with all of the following rules:

(a) R 299.9602 Environmental and human health standards generally.

(b) R 299.9607 Contingency plan and emergency procedures.

(c) R 299.9609 Operating record; availability, retention and disposition of records.

(d) R 299.9610 Reporting.

(e) R 299.9613(2) to (6) Closure and postclosure.

(f) R 299.9614 Use and management of containers.

(g) R 299.9615 Tank systems.

(h) R 299.9623 Incinerators.

(i) R 299.9627 Land disposal restrictions.

(j) R 299.9629 Corrective action.

(k) R 299.9635 Corrective action management unit requirements.

(l) R 299.9636 Temporary unit requirements.

(m) R 299.9637 Hazardous waste munitions and explosives storage requirements.

(n) R 299.9638 Staging pile requirements.

(o) R 299.9639 Disposal of corrective action management unit-eligible waste in hazardous wastes landfills.

(3) In addition to the requirements specified in subrule (2) of this rule, the following persons shall comply with 40 CFR 260.4 and 260.5 and the interim status standards of 40 CFR part 265, except subparts D, H, I, J, O, and DD, and 40 CFR 265.70, 265.73 to 265.77, 265.112(d)(1), 265.115, and 265.120.

(a) An owner or operator of an existing facility that treats, stores, or disposes of hazardous waste who has fully complied with the requirements for interim status under section 3005(e) of RCRA, 42 USC 6925(e), and 40 CFR 270.10, until final administrative disposition of the owner's or operator's permit application pursuant to RCRA or until an operating license is issued or reissued to the owner or operator after the effective date of these rules.

(b) An owner or operator of a facility that is in existence on November 19, 1980, or that is in existence on the effective date of amendments to part 111 of the act, MCL 324.11101 to 324.11153, or these rules that render it subject to the licensing requirements of part 111 of the act, MCL 324.11101 to 324.11153, who has failed to provide timely notification as required by section 3010(a) of RCRA, 42 USC 6930(a) or failed to file part A of the permit application as required under 40 CFR 270.10(e) and (g).

(4) The requirements of this part apply to a person who disposes of hazardous waste by means of underground injection subject to a permit issued pursuant to an underground injection control program approved or promulgated under the federal safe drinking water act only to the extent that these requirements are included in R 299.9503(3)(a).

(5) The requirements of this part apply to the owner or operator of a publicly owned treatment works that treats, stores, or disposes of hazardous waste only to the extent that these requirements are included in R 299.9503(3)(b).

(6) The standards in this part do not apply to those persons who are listed in R 299.9503(1) and (2), except as otherwise specified by those subrules.

(7) Except as noted in this subrule, part 6 of the rules does not apply to owners and operators of hazardous waste incinerator facilities identified in subrule (2) of this rule if the owner or operator demonstrates compliance with the maximum achievable control technology standards of 40 CFR part 63, subpart EEE by conducting a comprehensive performance test and submitting to the director a notification of compliance under 40 CFR 63.1207(j) and 63.1210(b) that documents compliance with the requirements of 40 CFR part 63, subpart EEE. The maximum achievable control technology standards of 40 CFR part 63, subpart EEE do not supersede the requirements of R 299.9608 to R 299.9610 and part 7 of these rules, and 40 CFR part 265, subparts A to D, F, G, BB, and CC.

(8) Notwithstanding any other provisions of these rules, enforcement actions may be brought pursuant to section 11148 of the act, MCL 324.11148.

(9) 40 CFR 260.4, 260.5, and 270.10 and 40 CFR part 265, except subparts H, O, and DD, and 40 CFR 265.70, 265.73 to 265.77, 265.112(d)(1), 265.115, and 265.120, are adopted by reference in R 299.11003. Where 40 CFR parts 264, 265, and 270 are referenced in this part, the term "director" replaces the term "regional administrator" and the term "operating license" replaces the term "permit." For the purposes of adoption, the term "site identification number" replaces the term "EPA identification number," the term "R 299.9629" replaces the term "§264.101(a)," the term "part 5 of these rules" replaces the term "§270.1(c)(7)," and the term "R 299.9703(8) and R 299.9710(17)" replaces the term "§265.140(d)," and the term "R 299.9612 and R 299.9629"-replaces the term "§§264.91 through 264.100."

R 299.9608 Use of manifest system.

Rule 608. (1) If a facility receives hazardous waste accompanied by a manifest, then the owner or operator, or his or her agent, shall comply with 40 CFR 264.71(a).

(2) If a facility receives a bulk shipment of hazardous waste from a rail or water transporter that is accompanied by a shipping paper containing all the information required on the manifest, excluding the site identification numbers, generator's certification, and signatures, then the owner or operator, or the owner or operator's agent, shall comply with 40 CFR 264.71(b) and return a legible copy of the manifest to the director or his or her designee within a period of 10 days after the end of the month in which the waste was received. If the generator state and the destination state are the same, the owner or operator, or his or her agent, shall only submit 1 copy of the manifest to the director or his or her designee.

(3) If a shipment of hazardous waste is initiated from a facility, then the owner or operator of that facility shall comply with the requirements of part 3 of these rules.

(4) Within 3 working days of the receipt of a shipment subject to R 299.9314, the owner or operator shall provide a copy of the movement document bearing all required signatures to the exporter, to competent authorities of the countries of export and transit that control the shipment as an export and transit of hazardous waste, respectively, and to the EPA electronically using WIETS, or its successor system. The owner or operator shall maintain the original copy of the movement document at the facility for not less than 3 years from the date of signature. The owner or operator may satisfy this recordkeeping requirement by retaining electronically submitted documents in the facility's account on WIETS or its successor program, if copies are readily available for viewing and production if requested by the EPA or authorized state inspector. The owner or operator may not be held liable for the inability to produce the documents for inspection under this subrule if the inability to produce the document is due exclusively to technical difficulty with WIETS, or its successor system, for which the owner or operator bears no responsibility.

(5) The owner or operator shall determine if the consignment state for a shipment regulates any additional wastes, beyond those regulated federally, as hazardous wastes under its state hazardous waste program. The owner or operator shall also determine if the consignment state or the generator state requires the owner or operator to submit any copies of the manifests to these states.

(6) Electronic manifests that are obtained, completed, and transmitted in accordance with 40 CFR 262.20(a)(3) and used in accordance with this rule instead of paper manifests are the legal equivalent of paper manifests bearing handwritten signatures, and satisfy any requirement in these rules to obtain, complete, sign, provide, use, or retain a manifest as outlined in 40 CFR 264.71(f) and (k).

(7) An owner or operator may participate in the electronic manifest system either by accessing the system from the owner or operator's electronic equipment, or from portable equipment brought to the facility by the transporter who delivers the hazardous waste shipment, and by complying with 40 CFR 264.71(i).

(8) If an owner or operator receives a hazardous waste shipment that is accompanied by a paper replacement manifest for a manifest that originated electronically, the owner or operator shall comply with 40 CFR 264.71(h).

(9) An owner or operator who is a user of the electronic manifest system format may be assessed a user fee by the EPA for the origination or processing of each electronic manifest. An owner or operator may also be assessed a user fee by the EPA for the collection and processing of paper manifest copies that owners or operators are required to submit in accordance with 40 CFR 264.71(a)(2)(v). The EPA shall establish, publish, maintain, and update the user fees in accordance with 40 CFR 264.71(j).

(10) Electronic manifest signatures must meet the criteria described in 40 CFR 262.25.

(11) After an owner or operator has certified to the receipt of a hazardous waste by signing Item 20 of the manifest, any post-receipt data corrections must be made in accordance with 40 CFR 264.71(l).

(12) Upon discovering a manifest discrepancy, as defined in 40 CFR 264.72(a), including a significant difference as defined in 40 CFR 264.72(b), the owner or operator shall comply with 40 CFR 264.72(c) to (g) and distribute copies of the manifest pursuant to subrules (1) and (2) of this rule.

(13) The requirements of this rule do not apply to owners or operators of off-site facilities with respect to waste military munitions exempted from manifesting requirements under R 299.9818.

(14) Owners and operators shall comply with the manifest and fee requirements for the electronic hazardous waste manifest program that are established and administered by the EPA in accordance with 40 CFR 260.4 and 260.5 and part 264, subpart FF.

(15) 40 CFR 260.4, 260.5, 264.71(a), (b), (f), and (h) to (l), and 264.72 are adopted by reference in R 299.11003. For the purposes of adoption, the term "site identification number" replaces the term "EPA identification number," the term "R 299.9207" replaces the term "§261.7(b)," and the term "R 299.9309(1)(a)" replaces the term "§262.20(a)."

R 299.9610 Reporting.

Rule 610. (1) The owner or operator shall provide to the director or the director's designee the data necessary for the department to prepare and submit Michigan's hazardous waste report as required to the EPA. The owner or operator shall submit the data in a format specified by the director or the director's designee. The data must be acquired from the information required in parts 3 and 6 of the rules, the operating reports required in subrule (3) of this rule, other reporting mechanisms used by the director to obtain the information specified in 40 CFR 264.75, and by the EPA as part of a federal information collection request published in conjunction with 40 CFR 264.75.

(2) If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest or without an accompanying shipping paper as described in 40 CFR 263.20(e), and if the waste is not excluded from the manifest requirement by R 299.9304, then the owner or operator shall prepare and submit a single copy of a report to the director or his or her designee which the within 15 days after receiving the waste. The unmanifested waste report must be submitted on a form approved by the director. The report must be designated "Unmanifested Waste Report" and must include all of the following information:

(a) The site identification number, name, and address of the facility.
(b) The date the facility received the waste.
(c) The site identification number, name, and address of the generator and the transporter, if available.
(d) A description and the quantity of each unmanifested hazardous waste and facility received.
(e) The method of treatment, storage, or disposal for each hazardous waste.
(f) The certification signed by the owner or operator of the facility or the owner or operator's authorized representative.
(g) A brief explanation of why the waste was unmanifested, if known.
(3) The owner or operator of a hazardous waste treatment or disposal facility on the site of generation shall submit an operating report to the director or his or her designee, on forms provided by the director, which summarizes all managed hazardous wastes treated or disposed of, including the hazardous waste number of the wastes, quantity, method of treatment or disposal, and dates of treatment or disposal. The report must be submitted to the director within 10 days after the end of March, June, September, and December of each year, unless more frequent submissions are required by the director or his or her designee.
(4) All reports must be signed and certified pursuant to 40 CFR 270.11, which is adopted by reference in R 299.11003.
(5) 40 CFR 263.20(3) is adopted by reference in R 299.11003.

R 299.9612 Groundwater monitoring.
Rule 612. (1) Owners or operators of facilities that treat, store, or dispose of hazardous waste shall comply with the requirements of R 299.9629 and 40 CFR part 264, subpart F, excluding 264.94(a)(2) and (3), 264.94(b) and (c), 264.100, and 264.101 and except as follows:
(a) The director may, in the facility operating license, extend the point of compliance into groundwaters other than the uppermost aquifer.
(b) In addition to wells required by 40 CFR part 264, subpart F, the owner or operator shall install wells at appropriate locations and depths to yield groundwater from any saturated zone other than the uppermost aquifer if the sampling will provide an earlier warning of failure from a hazardous waste management unit. All wells installed to monitor or evaluate groundwater must be constructed and abandoned in accordance with the well installation and well decommissioning procedures in ASTM standards D5092-04 and D5299-14, or a plan approved by the director.
(c) The director may require sampling and analysis for secondary monitoring parameters at frequencies specified in the facility operating license. If the owner or operator determines that there is a statistically significant increase in 1 or more secondary monitoring parameters, then he or she shall do all of the following:
(i) Notify the director or his or her designee of the finding immediately.
(ii) Conduct verification sampling for both primary and secondary monitoring parameters, taking replicate measurements on each sample at each well in accordance with a plan approved by the director.
(iii) Redetermine if a statistically significant increase has occurred in either primary or secondary monitoring parameters and immediately notify the director or his or her designee of the results.
(d) The concentration limit of a hazardous constituent established under 40 CFR 264.94(a) must not exceed the background level of that constituent in groundwater, unless a concentration limit which is not less stringent than that allowed under RCRA has been established under part 31 or 201 of the act, MCL 324.3101 to 324.3134 and 324.20101 to 20142.
(e) To determine whether background values or concentration limits have been exceeded pursuant to 40 CFR 264.97(h), the owner or operator shall use a statistical test approved by the director in the facility operating license and shall determine if the difference between the mean of the constituent at each well, using all replicates taken, and either of the following is significant:

(i) The background value of the constituent as defined in the operating license.

(ii) The mean value of 1 year's initial sampling for the well itself where the 1-year period is specified by the director in the facility operating license.

(f) The director may require compliance monitoring and corrective action under 40 CFR 264.99, R 299.9629, part 31 of the act, MCL 324.3101 to 324.3134, and part 201 of the act, MCL 324.20101 to 324.20142, to be conducted under a consent agreement or other legally binding agreement rather than under an operating license.

(g) Nothing in 40 CFR part 264, subpart F, or this rule must restrict the director from taking action pursuant to section 11148 or 11151 of the act, MCL 324.11148 and 324.11151.

(h) The owner or operator has been granted a waiver by the director under R 299.9611(3).

(2) 40 CFR part 264, subpart F and 40 CFR part 264, appendix IX, excluding 264.94(a)(2) and (3), 264.94(b) and (c), 264.100, and 264.101, are adopted by reference in R 299.11003. For the purposes of adoption, the term "director" replaces the terms "regional administrator" or "administrator," the term "department" replaces the term "agency," the term "part 1 of these rules" replaces the term "§270.1(c)(7)," the term "R 299.9612 and R 299.9629" replaces the term "§§264.91 through 264.100," and the term "operating license" replaces the term "permit."

R 299.9627 Land disposal restrictions.

Rule 627. (1) The owner or operator of a treatment, storage, or disposal facility shall comply with the restrictions on land disposal contained in 40 CFR part 268.

(2) 40 CFR part 268 is are adopted by reference in R 299.11003. For purposes of adoption, the term "director" replaces the terms "administrator" and "assistant administrator," the term "R 299.9305, R 299.9306, and R 299.9307"replaces the term "§§262.15, 262.16, and 262.17," the term "part 6 of these rules" replaces the term "parts 264 and 265 of this chapter," and the term "part 2 of these rules" replaces the term "subparts C and D of part 261 of this chapter," except in 40 CFR 268.5, 268.6, 268.40(b), 268.42(b), and 268.44(a) to (g) and (i) to (o).

PART 8. MANAGEMENT OF SPECIFIC HAZARDOUS WASTES, SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES, AND USED OIL

R 299.9801 Recyclable materials used in manner constituting disposal.

Rule 801. (1) The requirements of this rule apply to recyclable materials that are applied to or placed on the land in either of the following ways:

(a) Without mixing with any other substance.

(b) After mixing or combining with any other substance or substances.

(2) The materials specified in subrule (1) of this rule are referred to in this rule as materials "used in a manner that constitutes disposal."

(3) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation under these rules if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means and if the products are in compliance with the applicable treatment standards specified in R 299.9313, R 299.9413, and R 299.9627, or if no treatment standards have been established, the applicable prohibition levels specified in 40 CFR 268.32 or section 3004(d) of RCRA, 42 USC 6924(d), for each recyclable material that the products contain, and the recycler complies with 40 CFR 268.7(b)(6).

(4) An anti-skid/deicing use of slags that are generated from the high temperature metals recovery (HTMR) processing of K061, K062, and F006 in a manner that constitutes disposal is not covered by the exemption in subrule (3) of this rule and the use remains subject to regulation under part 111 of the act, MCL 324.11101 to 324.11153, and these rules.

(5) Fertilizers that contain recyclable materials are not subject to regulation provided that they meet both of the following conditions:

(a) They are zinc fertilizers excluded from the definition of waste according to R 299.9204(1)(x).

(b) They meet the applicable treatment standards in 40 CFR part 268, subpart D for each hazardous waste they contain.

(6) Generators and transporters of materials that are used in a manner that constitutes disposal are subject to the applicable requirements of parts 3 and 4 of these rules.

(7) Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated pursuant to all of the applicable provisions of parts 5, 6, and 7 of these rules.

(8) Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated pursuant to all of the applicable provisions of parts 5, 6, and 7 of these rules, except that these requirements do not apply to products that contain these recyclable materials pursuant to subrule (3) of this rule.

(9) Waste, used oil, or other material that is contaminated with a hazardous waste must not be used for dust suppression or road treatment.

R 299.9803 Recyclable materials utilized for precious metals recovery.

Rule 803. (1) The requirements of this rule apply to recyclable materials that are reclaimed to recover economically significant amounts of any of the following elements:

(a) Gold.

(b) Silver.

(c) Platinum.

(d) Palladium.

(e) Iridium.

(f) Osmium.

(g) Rhodium.

(h) Ruthenium.

(i) Any combination of the elements listed in subdivisions (a) to (h) of this subrule.

(2) Persons who generate, transport, or store recyclable materials that are regulated under this rule are subject to the following requirements:

(a) For generators, the identification number requirements of R 299.9308 and manifest requirements of R 299.9309.

(b) For transporters, the requirements of part 4 of these rules.

(c) For persons who store, the manifest requirements of R 299.9608.

(d) For persons who export precious metals to, or import precious metals from, designated Organization for Economic Cooperation and Development member countries for the purpose of recovery, the requirements of R 299.9314 and 40 CFR 265.12(a)(2).

(e) For persons who export precious metals to, or import precious metals from, non-Organization for Economic Cooperation and Development member countries for the purpose of recovery, the requirements of R 299.9314.

(3) Persons who store recyclable materials that are regulated under this rule shall keep all of the following records to document that the storage does not constitute speculative accumulation:

(a) Records showing the volume of these materials stored at the beginning of the calendar year.

(b) The amount of these materials generated or received during the calendar year.

(c) The amount of these materials remaining at the end of the calendar year.

(4) Recyclable materials that are regulated under this rule and that are accumulated speculatively are subject to all applicable provisions of these rules.

(5) The director may decide, on a case-by-case basis, that persons accumulating or storing recyclable materials from which precious metals are reclaimed shall be regulated under

R 299.9206(1). The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained or because the materials being accumulated or stored together are incompatible. In making this decision, the director shall consider all of the following factors:

(a) The types of materials accumulated or stored and the amounts accumulated or stored.

(b) The methods of accumulation or storage.

(c) The length of time the materials have been accumulated or stored before being reclaimed.

(d) Whether any contaminants are being released into the environment or are likely to be so released.

(e) Any other relevant factors.

(6) The director shall use the following procedures when determining whether to regulate hazardous waste recycling activities involving recyclable materials from which precious metals are reclaimed under R 299.9206(1) rather than under subrules (1) to (4) of this rule:

(a) If a generator is accumulating the waste, the director shall issue a notice setting forth the factual basis for the decision and stating that the person shall comply with part 3 of these rules. The notice becomes final after 30 days, unless the person served contests the decision under act 306. As part of the appeal procedure under act 306, the director shall hold a public hearing, provide notice of the public hearing, and allow public participation at the hearing. After the appeal procedures of act 306 are completed, the director shall issue a final order stating if compliance with part 3 of these rules is required. The order becomes effective 30 days after service of the decision, unless the director specifies a later date or unless review by the director is requested. The order may be appealed to the director by any person who participated in the public hearing. The director may choose to grant or to deny the appeal. Final action occurs when a final order is issued and appeal procedures under act 306 are exhausted.

(b) If the person accumulating the recyclable material is a storage facility, then the notice must state that the person shall obtain an operating license in accordance with all applicable provisions of part 5 of these rules. The owner or operator shall apply for an operating license within not less than 60 days and not more than 6 months of notice, as specified in the notice. If the owner or operator wishes to contest the director's decision under act 306, then he or she may do so in his or her license application, in a public hearing held on the draft license, or in comments filed on the draft license or in the notice of intent to deny the license. The fact sheet accompanying the license must specify the reasons for the director's determination. The question of whether the director's decision was proper remains open for consideration during all public comment periods and hearings.

R 299.9804 Spent lead acid batteries being reclaimed.

Rule 804. (1) The requirements of this rule apply to persons who generate, collect, transport, store, or regenerate spent lead acid batteries for reclamation purposes.

(2) Persons who manage spent lead acid batteries that will be reclaimed through regeneration are not subject to parts 3 to 7 of these rules except for the requirements of R 299.9302 and R 299.9311(1). These persons shall also comply with the requirements of part 2 of these rules.

(3) Persons who generate, collect, or transport spent lead acid batteries which will be reclaimed by a means other than regeneration are not subject to parts 3 to 7 of these rules except for the requirements of R 299.9302 and R 299.9311(1). These persons shall also comply with the requirements of part 2 of these rules and 40 CFR part 268.

(4) Persons who store spent lead acid batteries that will be reclaimed by a means other than regeneration but do not reclaim the batteries themselves are not subject to parts 3 to 7 of these rules except for the requirements of R 299.9302 and R 299.9311(1). These persons shall also comply with the requirements of part 2 of these rules and 40 CFR part 268.

(5) Persons who store spent lead acid batteries that will be reclaimed by a means other than

regeneration and store these batteries before reclaiming the batteries themselves are subject to all applicable requirements of R 299.9302, R 299.9311(1), and parts 2, 5, 6, and 7 of these rules, except for the manifest requirements of R 299.9608.

(6) Persons who manage spent lead acid batteries that will be reclaimed by a means other than regeneration and do not store these batteries before reclaiming the batteries themselves are not subject to parts 3 to 7 of these rules except for the requirements of R 299.9302 and R 299.9311(1). These persons shall also comply with the requirements of part 2 of these rules and 40 CFR part 268.

(7) Persons who export spent lead acid batteries for reclamation through regeneration or any other means in a foreign country are not subject to parts 3 to 7 of these rules except for the requirements of R 299.9302, R 299.9311(1), and R 299.9314. These persons shall also comply with the requirements of part 2 of these rules.

(8) Persons who transport spent lead acid batteries in U.S. that are to be exported for reclamation through regeneration or any other means in a foreign country are not subject to parts 4 to 7 of these rules. These persons shall comply with the requirements of R 299.9314.

(9) Persons who store spent lead acid batteries imported from a foreign country that will be reclaimed by a means other than regeneration but do not reclaim the batteries themselves are not subject to parts 3 to 7 of these rules except for the requirements of R 299.9302, R 299.9311(1), R 299.9314, and 40 CFR part 268. These persons shall also comply with the requirements of part 2 of these rules.

(10) Persons who store spent lead acid batteries imported from a foreign country that will be reclaimed by a means other than regeneration before reclaiming the batteries themselves are subject to all applicable requirements of R 299.9302, R 299.9311(1), R 299.9314, and parts 2, 5, 6, and 7 of these rules, except for the manifest requirements of R 299.9608.

(11) Persons who import spent lead acid batteries from a foreign country that will be reclaimed by a means other than regeneration and do not store the batteries before reclaiming the batteries themselves are not subject to parts 3 to 7 of these rules except for the requirements of R 299.9302, R 299.9311(1), R 299.9314, and 40 CFR part 268. These persons shall also comply with the requirements of part 2 of these rules.

(12) Instead of managing spent lead acid batteries in accordance with this rule, persons may manage spent lead acid batteries as universal wastes in accordance with the requirements of R 299.9228.

(13) 40 CFR part 268 is adopted by reference in R 299.11003. For the purposes of adoption, the term "R 299.9312(1)" replaces the term "§262.41," the term "R 299.9309" replaces the term "40 CFR 262, subpart B," the term "R 299.9804" replaces the term "40 CFR 266, subpart G," and the term "R 299.9228 and R 299.9229" replaces the term "40 CFR part 273."

R 299.9808 Management of hazardous waste burned in boilers and industrial furnaces.

Rule 808. (1) The requirements of this rule apply to hazardous waste that is burned or processed in a boiler or industrial furnace irrespective of the purpose of the burning or processing, except as noted in subrules (2) to (4) of this rule. For the purposes of this rule, the term "burn" means burning hazardous waste for energy recovery or destruction or processing hazardous waste for materials recovery or as an ingredient.

(2) The following hazardous wastes and facilities are not subject to this rule:

(a) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in R 299.9212. The used oil is subject to regulation under R 299.9809 to R 299.9816.

(b) Gas recovered from hazardous waste or solid waste landfills when the gas is burned for energy recovery.

(c) Hazardous wastes that are exempt from regulation under R 299.9204 and R 299.9206(3)(c) to (f), and hazardous wastes that are subject to the special requirements for very small quantity generators pursuant to R 299.9304.

(d) Coke ovens, if the only hazardous waste burned in an oven is K087.

(3) The following owners or operators are not subject to regulation under this rule, except as noted:

(a) An owner or operator of a smelting, melting, and refining furnace, including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces, that processes hazardous waste solely for metal recovery is exempt from regulation under this rule, except for the requirements of subrules (6) and (8) of this rule, if the owner or operator is in compliance with the requirements of 40 CFR 266.100(d)(1) to (3). The exemption does not apply to cement kilns, aggregate kilns, or halogen acid furnaces that process hazardous waste solely for metals recovery.

(b) An owner or operator of a smelting, melting, and refining furnace, including pyrometallurgical devices such as cupolas, sintering machines, roasters, and foundry furnaces, that processes hazardous waste for recovery of economically significant amounts of the precious metals gold, silver, platinum, palladium, iridium, osmium, rhodium, or ruthenium, or any combination of the metals, is exempt from regulation under this rule, except for the requirements of subrule (8) of this rule, if the owner or operator is in compliance with the requirements of 40 CFR 266.100(g)(1) to (3).

(c) An owner or operator of a facility that burns, in an on-site boiler or industrial furnace that is exempt from regulation under the small quantity provisions of 40 CFR 266.108, hazardous waste that the facility has generated is exempt from regulation under parts 5 to 7 of these rules for storage units that store mixtures of hazardous waste and the primary fuel to the boiler or industrial furnace in tanks that feed the fuel mixture directly to the burner. The storage of hazardous waste before mixing it with the primary fuel is subject to subrule (6) of this rule.

(d) An owner or operator of a facility that burns hazardous waste in an on-site boiler or industrial furnace, if all of the small quantity exemption criteria outlined in 40 CFR 266.108 are met.

(4) Except as noted in this subrule, part 8 of these rules does not apply to owners and operators of a new cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace that becomes subject to the license requirements of these rules after October 12, 2005, or to owners or operators of an existing cement kiln, lightweight aggregate kiln, solid fuel boiler, liquid fuel boiler, or hydrochloric acid production furnace if the owner or operator demonstrates compliance with the air emission standards and limitations in 40 CFR part 63, subpart EEE by conducting a comprehensive performance test and submitting to the director a notification of compliance under 40 CFR 63.1207(j) and 63.1210(d) which documents compliance with the requirements of 40 CFR part 63, subpart EEE. Nevertheless, after this compliance demonstration is made, the operating license conditions that are based on the standards of part 8 of these rules shall continue to be in effect until they are removed from the operating license or the operating license is terminated or revoked, unless the operating license expressly provides otherwise. The director may apply this subrule and subrule (5) of this rule, on a case-by-case basis, for collecting information pursuant to R 299.9504(18) and (20) and R 299.9521(3)(b) and (c).

(5) The maximum achievable control technology standards of 40 CFR part 63, subpart EEE, do not supersede any of the following requirements:

(a) R 299.9601, R 299.9605 to R 299.9610, R 299.9612, R 299.9613, R 299.9630, R 299.9631, R 299.9808(8) and part 7 of these rules and 40 CFR part 265, subparts A to D, F, G, BB, and CC, and 266.102(e)(11), 266.103(l), 266.111, 266.112, except 266.112(a) and (c), as applicable.

(b) The particulate matter standard of 40 CFR 266.105 if the owner or operator elects to comply with the alternative to the particulate matter standard under 40 CFR 63.1216(e) and 63.1217(e).

(c) The following requirements remain in effect for startup, shutdown, and malfunction events even if a person elects to comply with 40 CFR 270.235(a)(1)(i) to minimize emissions of toxic compounds from these events, or for source areas if a person elects to comply with 40 CFR 266.105 to 266.107 and the associated requirements for particulate matter, hydrogen chloride and chlorine gas, and non-mercury metals:

(i) The requirements of 40 CFR 266.102(e)(1) which require that a boiler or industrial furnace operate pursuant to the operating requirements specified in the operating license at all times that hazardous waste is in the unit.

(ii) The requirements of 40 CFR 266.102(e)(2)(iii) which require compliance with the emission standards and operating requirements during startup and shutdown if hazardous waste is in the combustion chamber, except for particular hazardous wastes.

(d) The following requirements remain in effect for owners or operators of a boiler or hydrochloric acid production furnace that is an area source under 40 CFR 63.2 if the owner or operator does not elect to comply with the emission standards under 40 CFR 63.1216, 63.1217, and 63.1218 for particulate matter, semivolatile and low volatile metals, and total chlorine:

(i) The requirements of 40 CFR 266.105.

(ii) The requirements of 40 CFR 266.106.

(iii) The requirements of 40 CFR 266.107.

(6) A generator and a transporter of hazardous waste that is burned in a boiler or industrial furnace shall comply with parts 3 and 4 of these rules, respectively.

(7) An owner or operator of a facility that stores hazardous waste that is burned in a boiler or industrial furnace shall comply with the applicable requirements of parts 5 to 7 of these rules. The requirements of parts 5 to 7 of these rules apply to the storage by the burner and to storage facilities operated by intermediaries, including processors, blenders, distributors, between the generator and the burner.

(8) An owner or operator of a boiler or an industrial furnace that burns hazardous waste shall comply with the applicable requirements of parts 5 to 7 of these rules and 40 CFR part 266, subpart H and appendices I to XIII; except 266.100(a) and (b), 266.101, 266.102(a), and 266.112(a) and (c); and 270.66.

(9) A residue derived from the burning or processing of hazardous waste in a boiler or industrial furnace is not excluded from the definition of hazardous waste under R 299.9204(2)(d), (i), and (k), unless the device and the owner or operator are in compliance with all of the following requirements:

(a) The device meets the following criteria:

(i) If the device is a boiler, it must burn not less than 50% coal on a total heat input or mass input basis, whichever results in the greater mass feed rate of coal.

(ii) If the device is an industrial furnace subject to R 299.9204(2)(i), it must process not less than 50%, by weight, normal, nonhazardous raw materials.

(iii) If the device is a cement kiln, it must process not less than 50%, by weight, normal cement production raw materials.

(b) The owner or operator demonstrates, in writing, to the director's satisfaction, that the hazardous waste does not significantly affect the residue by demonstrating conformance with the criteria outlined in 40 CFR 266.112(b)(1) and (2).

(c) Records sufficient to document compliance with this subrule must be retained until closure of the boiler or industrial furnace unit. At a minimum, the following information must be included in the records, as applicable:

(i) The levels of constituents in 40 CFR part 261, appendix VIII, that are present in waste-derived residues.

(ii) If the waste-derived residue is compared with normal residue under this subrule, then all of the following information must be documented in the records:

(A) The levels of constituents in 40 CFR part 261, appendix VIII, that are present in normal residues.

(B) Data and information, including analyses of samples as necessary, that were obtained to determine if changes in raw materials or fuels would reduce the concentration of toxic constituents of concern in the normal residue.

(10) 40 CFR parts 265, subparts A to D, F, G, BB, and CC, and 266, subpart H and appendices I to XIII, except 40 CFR 266.100(a) and (b), 266.101, 266.102(a), and 266.112(a) and (c), 40 CFR 270.66, and 270.235(a)(1)(i) are adopted by reference in R 299.11003. For the purposes of 40 CFR part 266, subpart H and 270.66, the term "director" replaces the term "regional administrator."

R 299.9809 Used oil regulation; applicability.

Rule 809. (1) Used oil and the following materials are subject to regulation as used oil under R 299.9810 to R 299.9816, unless otherwise specified in subrule (2) of this rule:

(a) A mixture of used oil and hazardous waste, except a mixture of used oil and halogenated hazardous waste listed under R 299.9213 or R 299.9214, generated by a very small quantity generator who is regulated under R 299.9304.

(b) A material that contains, or is otherwise contaminated with, used oil and is burned for energy recovery.

(c) Used oil that is drained or removed from materials that contain, or are otherwise contaminated with, used oil.

(d) A mixture of used oil and fuel.

(e) A material that is produced from used oil and that is burned for energy recovery.

(f) Used oil that is burned for energy recovery and any fuel produced from used oil by processing, blending, or other treatment if it exceeds any of the used oil specifications. Specification used oil is used oil that does not exceed any of the used oil specifications. Off-specification used oil is used oil that exceeds any of the specifications specified in this subdivision. The used oil specifications are as follows:

(i) A maximum arsenic concentration of 5 parts per million.

(ii) A maximum cadmium concentration of 2 parts per million.

(iii) A maximum chromium concentration of 10 parts per million.

(iv) A maximum lead concentration of 100 parts per million.

(v) A minimum flash point of 100 degrees Fahrenheit.

(vi) A maximum total halogen concentration of 4,000 parts per million.

(g) Used oil that is recycled and is also a hazardous waste solely because it exhibits a hazardous characteristic.

(h) Used oil that contains polychlorinated biphenyls at any concentration less than 50 parts per million unless, because of dilution, it is regulated under 40 CFR part 761 as a used oil that contains polychlorinated biphenyls at concentrations of 50 parts per million or greater. Such used oil may also be subject to 40 CFR part 761, including 40 CFR 761.20(d) and (e). Marketers and burners of used oil who market used oil that contains any quantifiable level, 2 parts per million or greater, of polychlorinated biphehyls are also subject to the requirements of 40 CFR 761.20(e).

(2) The following materials are not subject to regulation as used oil under R 299.9810 to R 299.9816, but may be subject to regulation as a hazardous waste under part 111 of the act, MCL 324.11101 to 324.11153, and these rules:

(a) A mixture of used oil and hazardous waste, except as specified in subrule (1)(a) of this rule.

(b) Used oil that contains more than 1,000 parts per million total halogens is presumed to be a hazardous waste and is regulated under part 111 of the act, MCL 324.11101 to 324.11153, and these rules. A person may rebut the presumption by demonstrating that the used oil does not contain hazardous waste. The demonstration may be made by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents that are listed in 40 CFR part 261, appendix VIII. The rebuttable presumption rule does not apply to the following materials:

(i) Metalworking oils or fluids that contain chlorinated paraffins if the oils or fluids are processed through a tolling arrangement as specified in 40 CFR 279.24(c) to reclaim the oils or fluids. The

rebuttable presumption does apply, however, if the oils or fluids are recycled in any other manner or disposed of.

(ii) Used oil that is contaminated with chlorofluorocarbons that have been removed from refrigeration units if the chlorofluorocarbons are destined for reclamation. The rebuttable presumption does apply, however, if the used oil is contaminated with chlorofluorocarbons that have been mixed with used oil from sources other than refrigeration units.

(c) A material that contains, or is otherwise contaminated with, used oil if the used oil has been properly drained or removed to the extent possible so that visible signs of free-flowing oil do not remain in or on the material and the material is not burned for energy recovery.

(d) A mixture of used oil and diesel fuel that is mixed on-site by the generator of the used oil for use in the generator's own vehicles. Before mixing, the used oil is regulated under subrule (1) of this rule.

(e) Used oil and materials that are derived from used oil and that are disposed of or used in a manner constituting disposal.

(f) Used oil rerefining distillation bottoms that are used as a feedstock to manufacture asphalt products.

(g) Wastewater, the discharge of which is subject to regulation pursuant to either section 402 or section 307(b) of the federal clean water act, 33 USC 1342 or 1317(b), including wastewater at facilities that have eliminated the discharge of wastewater, that is contaminated with de minimis quantities of used oil. As used in this subdivision, "de minimis quantities of used oil" means small spills, leaks, or other drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. De minimis quantities of used oil do not include used oil discarded as a result of abnormal manufacturing operations that result in substantial leaks, spills, or other releases or to used oil recovered from wastewaters.

(h) Used oil mixed with crude oil or natural gas liquids for insertion into a crude oil pipeline. Before mixing with crude oil or natural gas liquids, the used oil is regulated under subrule (1) of this rule.

(i) A mixture of used oil and crude oil or natural gas liquids that contains less than 1% used oil if the mixture is being stored, or transported to a crude oil pipeline or petroleum refining facility, for insertion into the refining process at a point before crude distillation or catalytic cracking.

(j) Used oil that is inserted into the petroleum refining facility process before crude distillation or catalytic cracking without prior mixing if the used oil constitutes less than 1% of the crude oil feed to any petroleum refining facility process unit at any given time. Before insertion into the petroleum refining facility, the used oil is regulated under subrule (1) of this rule.

(k) Used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking if the used oil meets the used oil specifications under subrule (1)(f) of this rule. Before insertion into the petroleum refining facility process, the used oil is regulated under subrule (1) of this rule.

(l) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining process. Used oil that is intentionally introduced into a hydrocarbon recovery system or wastewater treatment system is regulated as a used oil under subrule (1) of this rule.

(m) Tank bottoms from stock tanks that contain exempt mixtures of used oil and crude oil or natural gas liquids.

(n) Used oil that is produced on vessels from normal shipboard operations. Once the used oil is transported ashore, which is when the used oil is considered to be generated by the owner or operator of the vessel and the person removing or accepting the used oil from the vessel, then the used oil is regulated under subrule (1) of this rule.

(o) Specification used oil fuel when the person who determined that the used oil fuel is specification used oil fuel demonstrates compliance with the requirements of R 299.9815(3)(b), (c), and (f) and 40 CFR 279.73.

(p) Used oil that contains polychlorinated biphenyls at concentrations of 50 parts per million or greater. This used oil is subject to regulation under 40 CFR part 761. No person may avoid these provisions by diluting used oil that contains polychlorinated biphenyls, unless otherwise specifically provided for under part 8 of these rules or under 40 CFR part 761.

(3) 40 CFR part 761 is adopted by reference in R 299.11003.

PART 9. HAZARDOUS WASTE EMERGENCY

R 299.9902 Declaration of hazardous waste emergency.

Rule 902. (1) The director, or his or her designee, shall declare a hazardous waste emergency based on the following criteria:

(a) The waste meets the criteria of section 11103(3) of the act, MCL 324.11103.

(b) A determination and oral or written report by on-scene emergency response staff to the director, or his or her designee, that the hazardous wastes or hazardous waste constituents have entered the environment or might enter the environment without corrective action or that corrective action must be taken to eliminate a threat to the environment or public health, safety, and welfare.

(2) If a hazardous waste emergency is declared, it must be declared ended by the director, or his or her designee, when the threat to the environment has ended.

PART 10. AVAILABILITY OF REFERENCED MATERIALS

R 299.11001 Publications; adoption by reference.

Rule 1001. (1) The following ASTM standards are adopted by reference in these rules:

(a) D93-15a ($50).
(b) D698-12 (2015) ($50).
(c) D1557-12 ($50).
(d) D1586-11 ($44).
(e) D1946-90 (2015) ($44).
(f) D2216-10 ($44).
(g) D2434-68 (2006) ($40).
(h) D2487-11 ($50).
(i) D2879-10 ($44).
(j) D3278-96 (2011) ($44).
(k) D4318-10 (2014) ($50).
(l) D4809-13 ($44).
(m) D5084-10 ($64).
(n) D5092-04 (2010) ($50).
(o) D5299-14 ($50).
(p) D5580-15 ($50).
(q) D6450-12 (2014) ($44).
(r) D6913-04 (2009)e1 ($64).
(s) D6938-15 ($44).
(t) D7928-16 ($64).
(u) E168-06 ($50).
(v) E169-04 (2014) ($44).
(w) E260-96 (2011) ($50).
(x) E926-94, Test Method C ($48).

(2) The standards listed in subrule (1) of this rule are available from the ASTM International, Sales Services, 100 Barr Harbor Drive, P.O. Box C700, West Conshoshocken, Pennsylvania 19428-2959. The costs identified in subrule (1) reflect the costs when these rules were promulgated. The standards adopted in subrule (1) of this rule are available for inspection and distribution at the Lansing office of the department; Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW. (3403T), Washington, DC 20460, libraryhq@epa.gov; or the National Archives and Records Administration, 202-741-6030, http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(3) The publication entitled "APTI Course 415: Control of Gaseous Emissions," EPA Publication EPA-450/2-81-005, PB91101709, December 1981, is adopted by reference in these rules. The publication is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, 703-605-6000 or 800-553-6847, or the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, 202-512-1800, for $81, the cost when these rules were promulgated. The publication is available for inspection and distribution at the Lansing office of the department; the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, (3403T), Washington, DC 20460, libraryhq@epa.gov; or the National Archives and Records Administration, 202-741-6030, http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(4) The publication entitled "U.S. EPA, Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, EPA Publication No. EPA-454/R-92-019, PB93219095, is adopted by reference in these rules. The publication is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, 703-605-0000 or 800-553-6847, or the U.S. Environmental Protection Agency, Research Triangle Park, North Carolina, 919-541-7645, for $39.50, the cost when these rules were promulgated. The publication adopted in this subrule is available for inspection and distribution at the Lansing office of the department.

(5) The publication entitled "API Publication 2517, Third Edition, Evaporative Loss from External Floating Roof Tanks," February 1989, as amended, is adopted by reference in these rules. The publication is available from the American Petroleum Institute, 1220 L Street, NW, Washington, DC, 20005, for $82, the cost when these rules were promulgated. The publication adopted in this subrule is available for inspection and distribution at the Lansing office of the department.

(6) The publication entitled "Method 1664, Revision A, n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Non-Polar Material) by Extraction and Gravimetry," PB99-121949, is adopted by reference in these rules. The publication is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, 703-605-0000 or 800-553-6847, or the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, 202-512-1800, for $33, the cost when these rules were promulgated. The publication is available for inspection and distribution at the Lansing office of the department; the Library, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, (3403T), Washington, DC 20460, libraryhq@epa.gov; or the National Archives and Records Administration, 202-741-6030, http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

(7) The publications entitled "Guidance Manual for the Control of Transboundary Movements of Recoverable Wastes, Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure and Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedures" (2009) are adopted by reference in these rules. The publications are available for purchase from the Organisation for Economic Co-operation and Development, Environment Directorate, 2 rue Andre Pascal, 75775 Paris Cedex 16, France, at cost. The publications are available for inspection and distribution at the Lansing office of the department.

R 299.11003 Adoption by reference of federal regulations.

Rule 1003. (1) The following federal regulations in 40 CFR are adopted by reference in these rules:
(a) 40 CFR 3.10.
(b) 40 CFR part 60, appendices A and B.
(c) 40 CFR part 63, subparts EEE and LLL.
(d) 40 CFR part 124.
(e) 40 CFR part 144.
(f) 40 CFR part 145.
(g) 40 CFR part 146.
(h) 40 CFR part 147.
(i) 40 CFR 260.4, 260.5, 260.20, 260.21, 260.22, 260.31, 260.32, 260.33, 260.34, and 260.42.
(j) 40 CFR 261.4(h)(4)(i)-(ii), 261.10, 261.11, 261.21(a)(3), 261.32(a), for K181 listing only, (c), and (d), 261.35(b)(2)(iii), 261.39(a)(5), and 261.41, and subparts I, J, M, AA, BB, and CC.
(k) 40 CFR part 261, appendix I, appendix VII, and appendix VIII.
(l) 40 CFR 262.20 to 262.24, 262.27, 262.40(a), (c), and (d), and 262.43, 40 CFR part 262, subpart H, except 40 CFR 262.80, and 40 CFR part 262, subparts K and M, except 40 CFR 262.201 and 262.202.
(m) 40 CFR part 263, subpart B.
(n) 40 CFR part 264, subpart B, subpart C, subpart D, subpart F, subpart G, subpart I, subpart J, subpart K, subpart L, subpart M, subpart N, subpart O, subpart X, subpart W, subpart AA, subpart BB, subpart CC, subpart EE, except 40 CFR 264.15(b)(5), 264.94(a)(2) and (3), (b), and (c), 264.100, 264.101, 264.112(d)(1), 264.115, 264.120, 264.221(f), 264.251(f), 264.301(f), 264.340(a) to (d), 264.344(a)(2) and (b), and 264.1200.
(o) 40 CFR 264.1(j)(1) to (13), 264.71(a), (b), (f), and (h) to (l), 264.72, 264.73, 264.75, 264.94(a)(2), table 1, 264.141, 264.142, 264.144, 264.147(c), (d), and (f), 264.151(g), and 264.554, except 40 CFR 264.554(l).
(p) 40 CFR part 264, appendix I and appendix IX.
(q) 40 CFR part 265, except subparts H, DD, and O, and 40 CFR 265.70, 265.73 to 265.77, 265.112(d)(1), 265.115, and 265.120.
(r) 40 CFR part 265, appendices I and VI.
(s) 40 CFR part 266, subpart H, except 40 CFR 266.100(a) and (b), 266.101, 266.102(a), and 266.112(a) and (c).
(t) 40 CFR 266.203 and 266.205(a), (b), (d), and (e).
(u) 40 CFR part 266, appendices I through XIII.
(v) 40 CFR part 268, including appendices III through XI.
(w) 40 CFR 270.10(e), (g), (k), and (l)(1); 270.11; 270.13; 270.14(b) and (d); 270.15; 270.16; 270.17; 270.18; 270.19(c); 270.20; 270.21; 270.22; 270.23; 270.24; 270.25; 270.26; 270.27; 270.30, except 40 CFR 270.30(l)(1) and (8); 270.31; 270.33; 270.41(a), except 40 CFR 270.41(a)(3); 270.62(a) to (d); 270.64; 270.66; 270.70; 270.71; 270.73; and 40 CFR part 270, subpart H, except 40 CFR 270.80, 270.85, 270.90, 270.155, 270.160, 270.190, and 270.195; and 40 CFR 270.235(a) and (c).
(x) 40 CFR part 273, subpart B, subpart C, subpart D, and subpart E, except 40 CFR 273.10, 273.18(b), 273.30, 273.38(b), 273.50, 273.53, and 273.60.
(y) 40 CFR 279.22, except 40 CFR 279.22(a); 279.23, 279.24, 279.41 to 279.43, 279.45, except 40 CFR 279.45(b); 279.46, 279.51, 279.52, 279.54, except 40 CFR 279.54(a); 279.55 to 279.58, 279.61, 279.62, 279.64, except 40 CFR 279.64(a); 279.65, 279.66, 279.73, and 279.75.
(z) 40 CFR part 280.
(aa) 40 CFR part 302.
(bb) 40 CFR part 761.
(2) Federal hazardous waste regulations are contained in 40 CFR parts 1 to 49, 40 CFR part 60 (appendices), 40 CFR part 63 (Section 63.1200 to 63.1439), 40 CFR parts 100 to 135, 40 CFR 136 to

149, 40 CFR parts 260 to 265, 40 CFR parts 266 to 299, and 40 CFR part 700 to 789, July 1, 2018 editions. These editions are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, 202-512-1800, for $66, 63, $56, $51, $67, $56, $56, and $67, respectively, the costs when these rules were promulgated. 40 CFR parts 261 and 262 were amended in the Federal Register on August 6, 2018. 40 CFR parts 260, 261, 264, 265, 268, 270, and 273 were amended in the Federal Register on December 9, 2019. Reprints of these federal registers are available from Solid Waste Information, U.S. EPA, 26 West St. Clair Street, Cincinnati, Ohio 45268, at no cost. The sections adopted by reference in this rule are available for inspection and distribution at the Lansing office of the department.

R 299.11004 Federal regulations in 10 CFR, 29 CFR, 33 CFR, and 49 CFR; adoption by reference.

Rule 1004. (1) The federal regulations in 10 CFR part 20, 10 CFR part 61, and 10 CFR part 71 are adopted by reference in these rules.

(2) The federal regulations in 29 CFR 1910.120(q) and 1910.132 to 1910.138 and 29 CFR part 1910, subpart L, are adopted by reference in these rules.

(3) The federal regulations in 33 CFR 153.203 are adopted by reference in these rules.

(4) The following federal regulations in 49 CFR are adopted by reference in these rules:

(a) 49 CFR part 107.

(b) 49 CFR part 130.

(c) 49 CFR part 171 to 180.

(d) 49 CFR parts 190 to199.

(e) 49 CFR 390.21.

(5) Federal nuclear regulatory commission regulations are contained in 10 CFR parts 1 to 50 and 10 CFR parts 51 to 199, January 1, 2018 editions. Federal labor regulations are contained in 29 CFR parts 1900 to 1910, July 1, 2018 edition. Federal navigation regulations are contained in 33 CFR parts 125 to 199, July 1, 2018 edition. Federal transportation regulations are contained in 49 CFR parts 100 to 177, 49 CFR parts 178 to 199, and 49 CFR parts 300 to 399, October 1, 2018 editions. These editions are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, for $67, $64, $67, $64, $70, $70, and $37 respectively, the costs when these rules were promulgated. The sections adopted in this rule are available for inspection and distribution at the Lansing office of the department.

R 299.11005 Test methods for evaluating solid waste; adoption by reference.

Rule 1005. (1) Test methods in the publication entitled "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846, Third Edition, November 1986, and its updates I (July 1992), II (September 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), IIIB (November 2004), IVA (February 2007), IVB (February 2007), V (August 2015), and VI (November 2017 and November 2018) are adopted by reference in these rules.

(2) The documents listed in subrule (1) of this rule are available online from the United States EPA, Office of Solid Waste and Emergency Response, https://www.epa.gov/hazardous-waste-test-methods-sw-846, at no cost. The documents listed in subrule (1) of this rule are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161 or the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, 202-512-1800. The documents adopted in this rule are available for inspection and distribution at the Lansing office of the department, the Library, United States EPA, 401 M Street, SW, Washington, DC 20460, and the Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC 20002.

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