

Kansas Administrative Regulations

Department of Health and Environment

Article 31.—Hazardous Waste Management Standards and Regulations

28-31-261. Identification and listing of hazardous waste; adoption and modification of federal regulations.

(a) Adoption. The provisions of 40 CFR part 261, including appendices I, VII, and VIII, as in effect on July 1, 2006, are hereby adopted by reference subject to the following:

- (1) The substitution of terms listed in K.A.R. 28-31-100 through 28-31-100s;
- (2) the exclusions from adoption listed in subsection (b); and
- (3) the modifications listed in subsection (c).

(b) Exclusions. The following portions of 40 CFR part 261 shall be excluded from adoption:

- (1) All comments and all notes;
- (2) 40 CFR 261.4(b)(16) through (18); and
- (3) 40 CFR 261.6(a)(2)(v).

(c) Modifications. The following modifications shall be made to 40 CFR part 261:

(1) Each occurrence of the following phrases shall be deleted:

- (A) "(incorporated by reference, see § 260.11)";
- (B) ", and as incorporated by reference in § 260.11 of this chapter"; and
- (C) ", as incorporated by reference in § 260.11 of this chapter."

(2) In 40 CFR 261.1(b)(2), the phrase "under sections 3007, 3013, and 7003 of RCRA" shall be deleted.

(3) In 40 CFR 261.1(b)(2)(i), the following replacements shall be made:

(A) The phrase "sections 3007 and 3013" shall be replaced with "K.S.A. 65-3431, 65-3437 and 65-3441, and K.A.R. 28-31-12."

(B) The phrase "section 1004(27) of RCRA" shall be replaced with "40 CFR 261.2."

(C) The phrase "section 1004(5) of RCRA" shall be replaced with "K.S.A. 65-3430."

(4) In 40 CFR 261.4(e)(3)(iii), the text "in the Region where the sample is collected" shall be deleted.

(5) 40 CFR 261.5(a) shall be replaced by the definition of "conditionally exempt small quantity generator" in K.A.R. 28-31-260a.

(6) In 40 CFR 261.5(e), (f)(2), and (g)(2), the phrases "that acute hazardous waste" and "those accumulated wastes" shall be replaced with the phrase "the generator's hazardous waste and acute hazardous waste."

(7) In 40 CFR 261.5(g), the phrase "100 kilograms" shall be replaced with the phrase "25 kilograms (55 pounds)."

(8) In 40 CFR 261.5(g)(2), the phrase "generators of between 100 kg and 1000 kg of hazardous waste in a calendar month" shall be replaced with the phrase "small quantity generators."

(9) In 40 CFR 261.5(g)(3), the phrase "or ensure delivery" shall be replaced with "or, subject to the restrictions of K.A.R. 28-31-262a, ensure delivery."

(10) In 40 CFR 261.21(a)(3), the phrase "an ignitable compressed gas as defined in 49 CFR 173.300" shall be replaced with the phrase "a flammable gas as defined in 49 CFR 173.115(a)."

(11) In 40 CFR 261.21(a)(4), the phrase "49 CFR 173.151" shall be replaced with "49 CFR 173.127(a)."

(12) 40 CFR 261.23(a)(8) shall be replaced with the following: "It is a forbidden explosive as defined in 49 CFR 173.54, or it is a division 1.1, 1.2, or 1.3 explosive, as defined in 49 CFR 173.50 and 173.53."

(13) In 40 CFR 261.33(e), the text "be the small quantity exclusion defined in" shall be deleted.

(14) In 40 CFR 261.33(f), the phrase "the small quantity generator exclusion defined in" shall be deleted.

(15) In 40 CFR 261.38(c)(1)(i), the introductory paragraph shall be replaced with "Notice to the secretary."

(16) In 40 CFR part 261, appendix VII, the entries in both columns for "K064," "K065," "K066," "K090," and "K091" shall be deleted.

(Authorized by and implementing K.S.A. 65-3431; effective April 29, 2011.)

***** Authenticated Kansas Administrative Regulation *****