1	DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT
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3 4	Solid and Hazardous Waste Commission/Hazardous Materials and
4 5	Waste Management Division
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8 9	6 CCR 1007-3
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11	HAZARDOUS WASTE
12 13	Proposed Amendment of § 261.5 (Special requirements for hazardous waste generated
14	by conditionally exempt small quantity generators).
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17	1) Paragraph (b) of § 261.5 is revised to read as follows:
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20	§ 261.5 Special requirements for hazardous waste generated by conditionally exempt small
21	quantity generators.
22	(a) ******
23 24	(b)(1) Except as provided in paragraph (b)(2), (b)(4), and (b)(5) of this section, a conditionally exempt small quantity generator's hazardous wastes are not subject to regulation under Part <del>s</del> 262 AND PARTS 264
24 25	through 268 and Part 100, and the notification requirements of Part 99 of these regulations, provided the
26	generator complies with the requirements of paragraphs (e), (f), (g), and (j) of this section. TRANSFER
27 28	FACILITIES HANDLING CESQG WASTE ARE SUBJECT TO THE REQUIREMENTS OF SUBPARTS A, C, D & E OF PART 263 OF THESE REGULATIONS.
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30 21	
31 32	2) Section 8.85 (Statement of Basis and Purpose for the Rulemaking Hearing of February
33	16, 2016} is added to Part 8 of the Regulations to read as follows:
34 35	Statement of Basis and Purpose
36 37	Rulemaking Hearing of February 16, 2016
38	8.85 Basis and Purpose.
39 40	This amendment to 6 CCR 1007-3, Part 261 is made pursuant to the authority granted to the Solid and
41	Hazardous Waste Commission in § 25-15-302(2), C.R.S.
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Proposed Amendment of § 261.5 February 16, 2016 S&HW Commission Hearing Page 1 of 2

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

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This amendment corrects an inconsistency in paragraph (b) of § 261.5 of the Colorado Hazardous Waste 46 47 Regulations (6 CCR 1007-3) that was created when amendments to the Part 263 Transfer Facility 48 regulations were adopted by the Solid and Hazardous Waste Commission on May 18, 2010. As part of 49 the Part 263 amendments, a new paragraph (b) was added to § 263.10, which specifies that transfer 50 facilities handling only conditionally exempt small quantity generator (CESQG) waste are subject to the 51 requirements of Subparts A (General Requirements), C (Hazardous Waste Discharges), D (Spills at 52 Transfer Facilities) and E (Closure of a Transfer Facility). Transfer facilities handling only CESQG waste 53 are not subject to the manifest requirements in Subpart B. 54 55 As documented in the Statement of Basis and Purpose from the May 18, 2010 Hearing (See § 8.73 of the 56 Regulations), the Part 263 amendments were developed as part of a review of the Part 263 regulations 57 conducted by the Hazardous Materials and Waste Management Division (the "Division"). This was done 58 for the purpose of updating and improving the existing regulations that apply to transfer facilities in 59 Colorado in order to ensure protection of public health and safety and the environment. Input from key 60 stakeholders, including eight transfer facilities and representatives of the Colorado Emergency Planning 61 Commission and the South Metro Fire Rescue Authority, was also incorporated into the development of 62 these regulations. 63

- 64 The Division's review of the Part 263 regulations was initiated by a request from the Solid and Hazardous 65 Waste Commission following a February 2009 briefing regarding a fire that occurred on October 5, 2006 66 at the Environmental Quality Co. (EQ) hazardous waste transfer facility in Apex, North Carolina. Mr. William Wright of the United States Chemical Safety and Hazard Investigation Board (CSB) provided a 67 68 presentation on the North Carolina Apex Incident at the February 17, 2009 Commission hearing. The 69 CSB conducted a formal investigation into the fire, and published a case study, Fire and Community 70 Evacuation in Apex, North Carolina (2007-01-I-NC, April 16, 2008, which is available online at http://www.csb.gov/). The amendments in the May 2010 rulemaking upgraded the transfer facility 71 72 requirements so as to prevent, or enable more effective response, to a similar incident in Colorado.
- In general, transfer facilities are lightly regulated under the hazardous waste regulations. The May 2010
  amendments required certain operational improvements at transfer facilities without creating an undue
  regulatory burden.
- 76 regulatory bi
- Pursuant to the current wording § 261.5(b), CESQG waste would not be subject to the Part 263 regulations. This amendment corrects this unintended omission in the regulations and provides
- 80 consistency with the Part 263 requirements.
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- 82 This amendment is more stringent than the federal regulations. The Commission has evaluated the
- information presented at the rulemaking hearing, as well as the information in the Statement of Basis and
- 84 Purpose. The Commission considers this information sufficient to justify adopting the proposed rule. The
- 85 Commission finds that this rule is necessary to protect public health and the environment.