



# COLORADO

## Solid & Hazardous Waste Commission

Department of Public Health & Environment

### NOTICE OF PROPOSED RULEMAKING HEARING BEFORE THE COLORADO SOLID AND HAZARDOUS WASTE COMMISSION

#### SUBJECT:

For consideration of the amendments to 6 CCR 1007-3, Parts 260, 261, 264, 265, 267, and 100, along with the accompanying Statement of Basis and Purpose, the following will be considered:

#### **Amendment of 6 CCR 1007-3, Parts 260, 261, 264, 265, 267, and 100 - Regulations Pertaining to Hazardous Waste - Corrections of Typographical Errors and Inadvertent Omissions for Incinerators, Boilers and Industrial Furnaces**

These modifications are made pursuant to the authority granted to the Solid and Hazardous Waste Commission in Section 25-15-302(2), C.R.S.

These amendments correct typographical errors and inadvertent omissions that exist in Sections 260.10, 261.6, 264.1, 264.340, 264.341, 264.342, 264.344, 264.345, 264.346, 264.347, Appendix VII to Section 264.348, Appendix IX to Section 264.348, 265.140, 265.340, 265.347, 265.352, Part 267 Table of Contents, Subpart D of Part 267, 100.28, 100.41, and Appendix I to 100.63.

These amendments provide state equivalency with the applicable federal requirements, and include amendments being made in response to comments received from the Environmental Protection Agency (EPA) regarding EPA's review of Colorado's regulations for incinerators, boilers and industrial furnaces.

Any information that is incorporated by reference in these proposed rules is available for review at the Colorado Department of Public Health and Environment, Hazardous Materials and Waste Management Division and any state publications depository library.

Pursuant to C.R.S. §24-4-103(3), a notice of proposed rulemaking was submitted to the Secretary of State on April 14, 2020. Copies of the proposed rulemaking will be mailed to all persons on the Solid and Hazardous Waste Commission's mailing list on or before the date of publication of the notice of proposed rulemaking in the Colorado Register on April 25, 2020.

The proposed rulemaking materials may also be accessed at <https://www.colorado.gov/pacific/cdphe/shwc-rulemaking-hearings>.



WRITTEN TESTIMONY

Any alternative proposals for rules or written comments relating to the proposed amendment of the regulation will be considered. The Solid and Hazardous Waste Commission will accept written testimony and materials regarding the proposed alternatives. **The commission strongly encourages interested parties to submit written testimony or materials to the Solid and Hazardous Waste Commission Office, via email to [cdphe.hwcrequests@state.co.us](mailto:cdphe.hwcrequests@state.co.us) by Wednesday, May 6, 2020, at 11:59 p.m. Written materials submitted in advance will be distributed to the commission members prior to the day of the hearing.** Submittal of written testimony and materials on the day of the hearing will be accepted, but is strongly discouraged.

HEARING SCHEDULE:

DATE: Tuesday, May 19, 2020  
TIME: 9:00 a.m.  
PLACE: Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South  
Building A, Sabin Conference Room  
Denver, CO 80246

**-OR-**

**Due to possible social distancing requirements due to COVID-19, the meeting will be held online only at:**

[https://zoom.us/meeting/register/v5Yvdeusrz0vvIb7\\_LvFlaHucqX8a1ILEQ](https://zoom.us/meeting/register/v5Yvdeusrz0vvIb7_LvFlaHucqX8a1ILEQ)

Please check for the official location of the meeting on the commission's website:

<https://www.colorado.gov/pacific/cdphe/shwc>

Oral testimony at the hearing regarding the proposed amendments may be limited.



Brandy Valdez Murphy, Administrator



1 DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

2  
3  
4 Solid and Hazardous Waste Commission/Hazardous Materials and  
5 Waste Management Division  
6

7  
8 6 CCR 1007-3  
9

10 HAZARDOUS WASTE  
11

12  
13  
14 Miscellaneous Corrections of Typographic Errors and Inadvertent Errors  
15

16  
17 1) Section 260.10 is amended by revising the definition of “sludge dryer” to read as  
18 follows:  
19

20 § 260.10 Definitions  
21

22 \*\*\*\*\*  
23

24 “Sludge dryer” means any enclosed thermal [treatment](#) device that is used to dehydrate sludge and that  
25 has a maximum total thermal input, excluding the heating value of the sludge itself, of 2,500 Btu/lb of  
26 sludge treated on a wet-weight basis.  
27

28 \*\*\*\*\*  
29

30  
31 2) Section 261.6 is amended by revising paragraphs (a)(2) – (a)(2)(iv) to read as follows:  
32

33 § 261.6 Requirements for recyclable materials.  
34

35 (a)(1) \*\*\*\*\*  
36

37 (2) The following recyclable materials are not subject to the requirements of this section but are  
38 regulated under [Part 264, Subpart O; Part 265, Subpart H; Part 265, Subpart O; or](#) Subparts C through  
39 [GM](#) of Part 267 of these regulations and all applicable provisions in Parts 268 and 100 of these  
40 regulations:  
41

- 42 (i) Recyclable materials used in a manner constituting disposal (See [Part 267](#), Subpart C);  
43  
44 (ii) Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not  
45 regulated under Subpart O of Part 264 or 265 of these regulations (see Subpart D);  
46  
47 (iii) Recyclable materials from which precious metals are reclaimed (see [Part 267](#), Subpart F);  
48  
49 (iv) Spent lead acid batteries that are being reclaimed (see [Part 267](#), Subpart G).  
50

51  
52  
53  
54  
55  
56  
57  
58  
59  
60  
61  
62  
63  
64  
65  
66  
67  
68  
69  
70  
71  
72  
73  
74  
75  
76  
77  
78  
79  
80  
81  
82  
83  
84  
85  
86  
87  
88  
89  
90  
91  
92  
93  
94  
95  
96  
97  
98  
99  
100  
101  
102

\*\*\*\*\*

**3) Section 264.1 is amended by revising paragraph (g)(2) to read as follows:**

**§ 264.1 Purpose, scope and applicability.**

\*\*\*\*\*

(g) The requirements of this part do not apply to:

(1) The owner or operator of a facility permitted, licensed, or registered by the State to manage municipal or industrial solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under this part by § 262.14 of these regulations.

(2) The owner or operator of a facility managing recyclable materials described in § 261.6(a)(2), (3), and (4) of these regulations (except to the extent they are referred to in Part 279 or Subparts C, ~~D~~, F, or G of Part 267 of these regulations).\*

\* Note: Hazardous wastes burned in boilers and industrial furnaces are also subject to the requirements of Part 264, Subpart O and Part 265, Subpart H of these regulations.

\*\*\*\*\*

**4) Section 264.340 is amended by revising paragraph (b) to read as follows:**

**§ 264.340 Applicability.**

\*\*\*\*\*

(b) After consideration of the waste analysis included with Part B of the permit application, the Department, in establishing the permit conditions, may exempt the applicant from all requirements of this subpart except § 264.341 (Waste analysis) and § 264.346(h)(Closure), § 264.346(f) (standards for direct transfer), § 264.347 (regulation of residues) and the applicable requirements of subparts [A through H](#), BB and CC of Parts 264 and 265 of these regulations.

\*\*\*\*\*

**5) Section 264.340 is amended by revising paragraph (f) to read as follows:**

**§ 264.340 Applicability.**

\*\*\*\*\*

(f) ~~[Reserved].~~ [The management standards for residues under § 264.347 apply to any incinerator, boiler or industrial furnace burning hazardous waste.](#)

\*\*\*\*\*

103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140  
141  
142  
143  
144  
145  
146  
147  
148  
149  
150  
151  
152  
153  
154

**6) Section 264.341 is amended by revising paragraph (a) to read as follows:**

**§ 264.341 Waste analysis.**

(a) In addition to the general waste analysis requirements in § 264.13 of these regulations, and as a portion of the trial burn plan required by § 100.28 of these regulations, the owner or operator must have included an analysis of the waste feed sufficient to provide all information required by § 100.28(c) of these regulations. The owner or operator must provide an analysis of the hazardous waste that quantifies the concentration of any constituent identified in Appendix VIII of Part 261 of this chapter that may reasonably be expected to be in the waste. Such constituents must be identified and quantified if present, at levels detectable by using appropriate analytical procedures. The Appendix VIII, Part 261 constituents excluded from this analysis must be identified and the basis for their exclusion explained. This analysis will be used to provide all information required by this subpart and §§ 100.41(b)(5) and 100.28(c) of these regulations and to enable the permit writer to prescribe such permit conditions as necessary to protect human health and the environment. Such analysis must be included as a portion of the part B permit application, or, for facilities operating under the interim status standards of this subpart, as a portion of the trial burn plan that may be submitted before the part B application under provisions of § 100.28(g) of these regulations as well as any other analysis required by the permit authority in preparing the permit. Owners or operators of new hazardous waste incinerators, boilers or industrial furnaces must provide the information required by § 100.28(b)(3) or § 100.41(b)(5) of these regulations to the greatest extent possible.

\*\*\*\*\*

**7) Section 264.342 is amended by revising paragraph (b)(3) to read as follows:**

**§ 264.342 Risk Based Performance Standards for Hazardous Constituents**

\*\*\*\*\*

**(b) Performance standards to control organic emissions.**

\*\*\*\*\*

(3) **Dioxin-listed waste.** An incinerator or boiler or industrial furnace burning hazardous waste containing (or derived from) EPA Hazardous Wastes Nos. F020, F021, F022, F023, F026, or F027 must achieve a destruction and removal efficiency (DRE) of 99.9999% for each POHC designated (under paragraph (b)(2) of this section) in its permit. This performance must be demonstrated on POHCs that are more difficult to burn than tetra-, penta-, and hexachlorodibenzo-p-dioxins and dibenzofurans. DRE is determined for each POHC from the equation in paragraph (b)(1) of this section. In addition, the owner or operator of the boiler or industrial furnace must notify the Director of intent to burn EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, or F027.

\*\*\*\*\*

**8) Section 264.342 is amended by revising paragraph (i) to read as follows:**

**§ 264.342 Risk Based Performance Standards for Hazardous Constituents**

155 \*\*\*\*\*

156 (i) **Use of emissions test data to demonstrate compliance and establish operating limits.**

157  
158 Compliance with the requirements of this section must be demonstrated simultaneously by emissions  
159 testing or during separate runs under identical operating conditions. Further, data to demonstrate  
160 compliance with the CO and HC limits of this section or to establish alternative CO or HC limits under this  
161 section must be obtained during the time that DRE testing and, as applicable, PCDD/PCDF testing under  
162 paragraph (g) of this section, [comprehensive organic emissions testing under paragraph \(h\) of this](#)  
163 [section](#), and hazardous constituent emissions testing under paragraph (a) of this section is conducted.

164 \*\*\*\*\*

165  
166  
167  
168 **9) Section 264.344 is amended by revising paragraphs (b)(1)(i)(A), (b)(1)(ii)(A) and**  
169 **(b)(1)(ii)(B) to read as follows:**

170  
171 **§ 264.344 Performance standards to control emissions of metallic compounds.**

172 \*\*\*\*\*

173  
174  
175 (b) **Tier I feed rate screening limits.**

176  
177 Feed rate screening limits for metals are specified in Appendix I of this Subpart, as a function of  
178 terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. Criteria for  
179 facilities that are not eligible to comply with the screening limits are provided in paragraph (b)(7) of this  
180 section.

181  
182 (1) **Noncarcinogenic metals.** The feed rates of antimony, barium, lead, mercury, thallium, silver,  
183 nickel and selenium in all feed streams, including hazardous waste and fuels, shall not exceed  
184 the screening limits specified in Appendix I of this Subpart.

185  
186 (i) The feed rate screening limits for antimony, barium, mercury, thallium, silver, nickel and  
187 selenium are based on either:

188  
189 (A) An hourly rolling average as defined in § 264.346(~~f)(1)(ii)~~(c)(6)(i)(b); or

190  
191 (B) An instantaneous limit not to be exceeded at any time.

192  
193 (ii) The feed rate screening limit for lead is based on one of the following:

194  
195 (A) An hourly rolling average as defined in § 264.346(~~f)(1)(ii)~~(c)(6)(i)(b);

196  
197 (B) An averaging period of 2 to 24 hours as defined in § 264.346(~~f)(2)~~(c)(6)(ii) with an  
198 instantaneous feed rate limit not to exceed 10 times the feed rate that would be allowed  
199 on an hourly rolling average basis; or

200  
201 (C) An instantaneous limit not to be exceeded at any time.

202 \*\*\*\*\*

203  
204  
205  
206

207 **10) Section 264.344 is amended by revising paragraph (b)(2)(ii)(B) to read as follows:**

208  
209 **§ 264.344 Performance standards to control emissions of metallic compounds.**

210  
211 \*\*\*\*\*

212  
213 **(b) Tier I feed rate screening limits.**

214  
215 Feed rate screening limits for metals are specified in Appendix I of this Subpart, as a function of  
216 terrain-adjusted effective stack height and terrain and land use in the vicinity of the facility. Criteria for  
217 facilities that are not eligible to comply with the screening limits are provided in paragraph (b)(7) of this  
218 section.

219  
220 \*\*\*\*\*

221  
222 **(2) Carcinogenic metals.**

223  
224 (i) \*\*\*\*\*

225  
226 (ii) The feed rate screening limits for the carcinogenic metals are based on either:

227  
228 (A) An hourly rolling average; or

229  
230 (B) An averaging period of 2 to 24 hours as defined in § 264.346(f)(2)(c)(6)(ii) with an  
231 instantaneous feed rate limit not to exceed 10 times the feed rate that would be allowed  
232 on an hourly rolling average basis.

233  
234 \*\*\*\*\*

235  
236  
237 **11) Section 264.344 is amended by revising paragraph (b)(6) to read as follows:**

238  
239 **§ 264.344 Performance standards to control emissions of metallic compounds.**

240  
241 \*\*\*\*\*

242  
243 **(b) Tier I feed rate screening limits.**

244  
245 Feed rate screening limits for metals are specified in Appendix I of this Subpart, as a function of terrain-  
246 adjusted effective stack height and terrain and land use in the vicinity of the facility. Criteria for facilities  
247 that are not eligible to comply with the screening limits are provided in paragraph (b)(7) of this section.

248  
249 \*\*\*\*\*

250 **(6) Multiple stacks.** Owners and operators of facilities with more than one on-site stack from an  
251 incinerator, boiler, industrial furnace, or other thermal treatment unit subject to controls of metals  
252 emissions under a Federal or State RCRA operating permit or interim status controls must comply  
253 with the screening limits for all such units assuming all hazardous waste is fed into the device with the  
254 worst-case stack based on dispersion characteristics. The worst-case stack is determined from the  
255 following equation as applied to each stack:

256  
257 
$$K = HVT \tag{10}$$

258

259 Where:  
260  
261  $K$  = a parameter accounting for relative influence of stack height and plume rise;  
262  
263  $H$  = physical stack height (meters);  
264  
265  $V$  = stack gas flow rate (m<sup>3</sup>/second); and  
266  
267  $T$  = exhaust temperature (°K).

268 The stack with the lowest value of  $K$  is the worst-case stack.

270 \*\*\*\*\*

271  
272  
273  
274 **12) Section 264.344 is amended by revising paragraph (c)(3) to read as follows:**

275  
276 **§ 264.344 Performance standards to control emissions of metallic compounds.**

277 \*\*\*\*\*

278  
279 **(c) Tier II emission rate screening limits.**

281 \*\*\*\*\*

282  
283  
284 **(3) Implementation.** The emission rate limits must be implemented by limiting feed rates of the  
285 individual metals to levels during the trial burn (for new facilities or an interim status facility applying  
286 for a permit) or the periodic compliance test. The feed rate averaging periods are the same as  
287 provided by paragraphs (b)(1)(i) and (ii) and (b)(2)(ii) of this section. The feed rate of metals in each  
288 feedstream must be monitored to ensure that the feed rate limits for the feedstreams specified under  
289 § 264.346 [or § 265.140](#) are not exceeded.

290 \*\*\*\*\*

291  
292  
293  
294 **13) Section 264.344 is amended by revising paragraph (d) to read as follows:**

295  
296 **§ 264.344 Performance standards to control emissions of metallic compounds.**

297 \*\*\*\*\*

298  
299  
300 **(d) Tier III and Adjusted Tier I site-specific risk assessments. [The requirements of this paragraph](#)**  
301 **[apply to facilities complying with either the Tier III or Adjusted Tier I controls, except where](#)**  
302 **[specified otherwise.](#)**

303  
304 **(1) General.** Conformance with the Tier III metals controls must be demonstrated by emissions  
305 testing to determine the emission rate for each metal. In addition, conformance with either the Tier III  
306 or Adjusted Tier I metals controls must be demonstrated by air dispersion modeling to predict the  
307 maximum annual average off-site ground level concentration for each metal, and a demonstration  
308 that acceptable ambient levels are not exceeded.

309 \*\*\*\*\*



311 **14) Section 264.344 is amended by revising paragraph (d)(6) to read as follows:**

312  
313 **§ 264.344 Performance standards to control emissions of metallic compounds.**

314  
315 \*\*\*\*\*

316  
317 **(d) Tier III and Adjusted Tier I site-specific risk assessments**

318  
319 \*\*\*\*\*

320  
321 **(6) Implementation.** Under Tier III, the metals controls must be implemented by limiting feed rates of  
322 the individual metals to levels during the trial burn (for new facilities or an interim status facility  
323 applying for a permit) or the periodic compliance test. The feed rate averaging periods are the same  
324 as provided by paragraphs (b)(1)(i) and (ii) and (b)(2)(ii) of this section. The feed rate of metals in  
325 each feedstream must be monitored to ensure that the feed rate limits for the feedstreams specified  
326 under § 264.346 or § 265.140 are not exceeded.

327  
328 \*\*\*\*\*

329  
330  
331 **15) Section 264.344 is amended by revising paragraph (h) to read as follows:**

332  
333 **§ 264.344 Performance standards to control emissions of metallic compounds.**

334  
335 \*\*\*\*\*

336  
337 **(h) Dispersion modeling.**

338  
339 Dispersion modeling required under this section shall be conducted according to methods recommended  
340 in appendix W of 40 CFR Part 51 ("Guideline on Air Quality Models (Revised)" (1986) and its  
341 supplements), the "Hazardous Waste Combustion Air Quality Screening Procedure" provided in Appendix  
342 IX to § 264.348 of these regulations, or in "Screening Procedures for Estimating Air Quality Impact of  
343 Stationary Sources, Revised" (incorporated by reference in § 260.11) to predict the maximum annual  
344 average off-site ground level concentration. However, on-site concentrations must be considered when a  
345 person resides on-site.

346  
347 \*\*\*\*\*

348  
349  
350 **16) Section 264.345 is amended by revising paragraph (d)(1) to read as follows:**

351  
352 **§ 264.345 Standards to control hydrogen chloride (HCl) and chlorine gas (Cl<sub>2</sub>) emissions.**

353  
354 \*\*\*\*\*

355  
356 **(d) Averaging periods.**

357  
358 The HCl and Cl<sub>2</sub> controls are implemented by limiting the feed rate of total chlorine and chloride in all  
359 feedstreams, including hazardous waste, fuels, and industrial furnace feedstocks. Under Tier I, the feed  
360 rate of total chlorine and chloride is limited to the Tier I Screening Limits. Under Tier II and Tier III, the  
361 feed rate of total chlorine and chloride is limited to the feed rates during the trial burn (for new facilities or  
362 an interim status facility applying for a permit) or the periodic compliance test. The feed rate limits are  
363 based on either:

- 364  
365 (1) An hourly rolling average as defined in § 264.346~~(f)(c)(6)~~; or  
366  
367 (2) An instantaneous basis not to be exceeded at any time.  
368

369 \*\*\*\*\*

370  
371  
372 **17) Section 264.346 is amended by revising paragraphs (b), (b)(1), (b)(3), (b)(3)(iii) and**  
373 **(b)(3)(iv) to read as follows:**

374  
375 **§ 264.346 Permit standards for burners.**

376  
377 (a) **General.**

378 An incinerator, boiler, or industrial furnace burning hazardous waste must be operated in accordance with  
379 the operating requirements of this section and the emission standards of §§ 264.342 through 264.345 and  
380 as specified in the permit at all times where there is hazardous waste in the unit.

381  
382 (b) **Permits.**

383  
384 (1) The owner or operator of a hazardous waste incinerator, boiler, or industrial furnace may burn  
385 only wastes specified in the facility's permit and only under operating conditions specified for those  
386 wastes under [paragraph \(c\) of](#) this section, except under exemptions created by § 264.340, and §  
387 261.4(e) and (f).  
388

389 (2) Other hazardous wastes may be burned only after operating conditions have been specified in a  
390 new permit or a permit modification as applicable. Operating requirements for new wastes may be  
391 based on either trial burn results or alternative data included with Part B of a permit application under  
392 § 100.41(b)(5) of these regulations.  
393

394 (3) A permit for a new hazardous waste incinerator, boiler, or industrial furnace must establish  
395 appropriate conditions for each of the applicable requirements of this Subpart, including but not  
396 limited to allowable waste feeds and operating conditions necessary to meet the requirements of this  
397 section, in order to comply with the following standards:  
398

399 (i) For the period beginning with initial introduction of hazardous waste to the incinerator and  
400 ending with initiation of the trial burn, and only for the minimum time required to establish  
401 operating conditions required in paragraph (c)(2) of this section, not to exceed a duration of 720  
402 hours operating time for treatment of hazardous waste, the operating requirements must be those  
403 most likely to ensure compliance with the performance standards of § 264.342, § 264.343, §  
404 264.344, and § 264.345, based on the Director's engineering judgement. The Department may  
405 extend the duration of this period once for up to 720 additional hours when good cause for the  
406 extension is demonstrated by the applicant.  
407

408 (ii) For the duration of the trial burn, the operating requirements must be sufficient to demonstrate  
409 compliance with the performance standards of § 264.342, § 264.343, § 264.344, and § 264.345,  
410 and must be in accordance with the approved trial burn plan;  
411

412 (iii) For the period immediately following completion of the trial burn, and only for the minimum  
413 period sufficient to allow sample analysis, data computation, submission of the trial burn results  
414 by the applicant, and review of the trial burn results and modification of the facility permit by the  
415 Department [to reflect the trial burn results](#), the operating requirements must be those most likely

416 to ensure compliance with the performance standards of § 264.342, § 264.343, § 264.344, and §  
417 264.345, based on the Director's engineering judgement.

418  
419 (iv) For the remaining duration of the permit, the operating requirements must be those  
420 demonstrated, in a trial burn or by alternative data specified in § 100.41(b)(5)(~~iii~~)(v) of these  
421 regulations, as sufficient to ensure compliance with the performance standards of § 264.342, §  
422 264.343, § 264.344, and § 264.345.

423  
424 \*\*\*\*\*

425  
426  
427 **18) Section 264.346 is amended by revising paragraphs (c)(2)(i)(A), (c)(2)(i)(E) and**  
428 **(c)(2)(i)(F) to read as follows:**

429  
430 **§ 264.346 Permit standards for burners.**

431  
432 \*\*\*\*\*

433  
434 **(c) Operating Requirements:**

435  
436 \*\*\*\*\*

437  
438 **(2) Organic emission standards.**

439  
440 (i) **DRE standard.** Operating conditions will be specified either on a case-by-case basis for each  
441 hazardous waste burned as those demonstrated in a trial burn or by alternative data as specified  
442 in § 100.41(b)(5) to be sufficient to comply with the destruction and removal efficiency (DRE)  
443 performance standard of § 264.342(a). Each set of operating requirements will specify the  
444 composition of the hazardous waste (including acceptable variations in the physical and chemical  
445 properties of the hazardous waste which will not affect compliance with the DRE performance  
446 standard) to which the operating requirements apply. For each such hazardous waste, the permit  
447 will specify acceptable operating limits including, but not limited to, the following conditions as  
448 appropriate:

449  
450 (A) Feed rate of hazardous waste and other fuels measured and specified as prescribed in  
451 paragraph ~~(f)(c)(6)~~ of this section;

452  
453 (B) Minimum and maximum device production rate when producing normal product  
454 expressed in appropriate units, measured and specified as prescribed in paragraph (6) of this  
455 section;

456  
457 (C) Appropriate controls of the hazardous waste firing system;

458  
459 (D) Allowable variation in incinerator, boiler and industrial furnace system design or operating  
460 procedures;

461  
462 (E) Minimum combustion gas temperature measured at a location indicative of combustion  
463 chamber temperature, measured and specified as prescribed in paragraph ~~(f)(c)(6)~~ of this  
464 section;

465  
466 (F) An appropriate indicator of combustion gas velocity, measured and specified as  
467 prescribed in paragraph ~~(f)(c)(6)~~ of this section, unless documentation is provided under §  
468 100.28 demonstrating adequate combustion gas residence time; and

469  
470 (G) Such other operating requirements as are necessary to ensure that the DRE performance  
471 standard of § 264.342(b) is met.  
472

473 \*\*\*\*\*

474  
475 **19) Section 264.346 is amended by revising paragraphs (c)(4)(ii)(B) and (c)(4)(ii)(J) to read**  
476 **as follows:**

477  
478 **§ 264.346 Permit standards for burners.**  
479

480 \*\*\*\*\*

481  
482 **(c) Operating Requirements:**

483 \*\*\*\*\*

484  
485  
486 **(4) Requirements to ensure conformance with the metals emissions standard.**

487 \*\*\*\*\*

488  
489  
490 (ii) For conformance with the Tier II metals emission rate screening limits under § 264.344(c) and  
491 the Tier III metals controls under § 264.344(d), the permit shall specify the following operating  
492 requirements:

493 \*\*\*\*\*

494  
495  
496 (B) Feed rate of total hazardous waste and pumpable hazardous waste, each measured and  
497 specified as prescribed in paragraph (c)(6)(i) of this section;

498 \*\*\*\*\*

499  
500  
501 (J) Such other operating requirements as are necessary to ensure that the metals standards  
502 under § 264.344(c) or (d) are met.

503 \*\*\*\*\*

504  
505  
506  
507 **20) Section 264.346 is amended by revising paragraph (c)(4)(iii)(B) to read as follows:**

508  
509 **§ 264.346 Permit standards for burners.**

510 \*\*\*\*\*

511  
512  
513 **(c) Operating Requirements:**

514 \*\*\*\*\*

515  
516  
517 **(4) Requirements to ensure conformance with the metals emissions standard.**

518 \*\*\*\*\*

519  
520

521 (iii) For conformance with an alternative implementation approach approved by the Director under  
522 § 264.344(f), the permit will specify the following operating requirements:

523 \*\*\*\*\*  
524

525  
526 (B) Feed rate of total hazardous waste and pumpable hazardous waste, each measured and  
527 specified as prescribed in paragraph (c)(6)(i) of this section;

528 \*\*\*\*\*  
529

530  
531 **21) Section 264.346 is amended by revising paragraph (c)(5)(ii)(G) to read as follows:**

532  
533 **§ 264.346 Permit standards for burners.**

534 \*\*\*\*\*  
535

536  
537 **(c) Operating Requirements:**

538 \*\*\*\*\*  
539

540  
541 **(5) Requirements to ensure conformance with the hydrogen chloride and chlorine gas**  
542 **standards.**

543 \*\*\*\*\*  
544

545  
546 (ii) For conformance with the Tier II HCl and Cl<sub>2</sub> emission rate screening limits under §  
547 264.345(b)(2) and the Tier III HCl and Cl<sub>2</sub> controls under § 264.345(c), the permit will specify the  
548 following operating requirements:

549 \*\*\*\*\*  
550

551  
552 (G) Such other operating requirements as are necessary to ensure that the HCl and Cl<sub>2</sub>  
553 standards under § 264.345(b)(2) or (c) are met.

554 \*\*\*\*\*  
555

556  
557  
558 **22) Section 264.346 is amended by revising paragraphs (c)(6)(i) and (c)(6)(ii) to read as**  
559 **follows:**

560  
561 **§ 264.346 Permit standards for burners.**

562 \*\*\*\*\*  
563

564  
565 **(c) Operating Requirements:**

566 \*\*\*\*\*  
567

568  
569 **(6) Measuring parameters and establishing limits based on trial burn data.**  
570

571 (i) **General requirements.** As specified in paragraphs (c)(~~3~~2) through (c)(5) of this section,  
572 each operating parameter shall be measured, and permit limits on the parameter shall be  
573 established, according to either of the following procedures:

574 \*\*\*\*\*  
575

576 (ii) Rolling average limits for carcinogenic metals and lead. Feed rate limits for the carcinogenic  
577 metals (i.e., arsenic, beryllium, cadmium, nickel and chromium) and lead may be established  
578 either on an hourly rolling average basis as prescribed by paragraph (c)(6)(i) of this section or on  
579 (up to) a 24 hour rolling average basis. If the owner or operator elects to use an average period  
580 from 2 to 24 hours:  
581

582 \*\*\*\*\*  
583  
584  
585

586 **23) Section 264.346 is amended by revising paragraph (n)(5) to read as follows:**

587 **§ 264.346 Permit standards for burners.**

588 \*\*\*\*\*  
589

590 (n) **Emergency Planning and Response for incineration, boiler or industrial furnace facilities;**  
591 **Additional requirements.**

592 \*\*\*\*\*  
593

594 (5) The owner or operator shall provide appropriate training to those employees responsible for  
595 implementing the contingency/emergency plan, in accordance with the training plan requirements of §  
596 264.16 and § ~~264.347(h)-264.346(m)~~ of these regulations.  
597

598 \*\*\*\*\*  
599  
600

601 **24) Section 264.347 is amended by revising the introductory paragraph to read as**  
602 **follows:**

603 **§ 264.347 Regulation of residues.**

604 A residue derived from the burning or processing of hazardous waste in ~~an~~ a boiler or industrial furnace is  
605 not excluded from the definition of a hazardous waste under § 261.4(b) (4), (7), or (8) unless the device  
606 and the owner or operator meet the following requirements:  
607

608 \*\*\*\*\*  
609  
610  
611

612 **25) Appendix VII to Section 264.348 is amended by correcting the spelling of the**  
613 **constituent listing for Methyl hydrazine in the table for Nonmetals--Residue**  
614 **Concentration Limits to read as follows:**  
615  
616  
617  
618  
619

620

Nonmetals--Residue Concentration Limits

Constituent	CAS No.	Concentration limits for residues (mg/kg)
***** .....	*****	*****
Methyl hydrazine hydrazine .....	60-34-4	3xE-04
***** .....	*****	*****

621

622

623

624 **26) Appendix IX to Section 264.348 is amended by revising Section 4.0 and Section 9.2 of**  
625 **the Table of Contents to read as follows:**

626

627 **Appendix IX to § 264.348 -- Methods Manual for Compliance With the BIF Regulations**

628 ***Burning Hazardous Waste in Boilers and Industrial Furnaces***

629 ***Table of Contents***

630 \*\*\*\*\*

631 4.0 Procedure for Estimating the Toxicity Equivalency-Equivalence of Chlorinated Dibenzo-P-Dioxin and  
632 Dibenzofuran Congeners

633 \*\*\*\*\*

634 9.0 Procedures for Determining Default Values for Partitioning of Metals, Ash, and Total  
635 Chloride/Chlorine

636 9.1 Partitioning Default Value for Metals

637 9.2 Special Procedures for Chlorine, HCl, and Cl<sub>2</sub>

638 9.3 Special Procedures for Ash

639 9.4 Use of Engineering Judgement to Estimate Partitioning and APCS RE Values

640 9.5 Restrictions on Use of Test Data

641 \*\*\*\*\*

642 **27) Appendix IX to Section 264.348 is amended by revising footnote 1 of Table 2.1.1 to**  
643 **read as follows:**

644

645

Table 2.1-1--Performance Specifications of CO and O<sub>2</sub> Monitors

Parameter	CO monitors		O <sub>2</sub> monitors
	Low range	High range	
Calibration drift 24 hours	≤6 ppm <sup>1</sup>	≤90 ppm	≤0.5% O <sub>2</sub>
Calibration error	≤10 ppm <sup>1</sup>	≤150 ppm	≤0.5% O <sub>2</sub>
Response time	≤2 min	≤2 min	≤2 min

Miscellaneous Corrections

May 19, 2020 S&HW Commission Hearing

Page 13 of 27

Relative accuracy <sup>2</sup>	( <sup>3</sup> )	( <sup>3</sup> )	(incorporated in CO RA calculation)
--------------------------------	------------------	------------------	-------------------------------------

646  
647  
648  
649  
650  
651  
652  
653  
654  
655  
656  
657  
658  
659  
660  
661  
662  
663  
664  
665  
666  
667  
668  
669  
670  
671  
672  
673  
674  
675  
676  
677  
678  
679  
680  
681  
682  
683  
684  
685  
686  
687  
688  
689  
690  
691  
692  
693  
694  
695

<sup>1</sup> For Tier II, CD and CE are ≤3% and ≤5% ~~of~~ or twice the permit limit, respectively.  
<sup>2</sup> Expressed as the sum of the mean absolute value plus the 95% confidence interval of a series of measurements.  
<sup>3</sup> The greater of 10% of PTM or 10 ppm.

**28) Section 265.140 is amended by revising paragraph (b)(2) to read as follows:**

**§ 265.140 Interim status standards for burners.**

(b) **Certification of precompliance--(1) General.** The owner or operator must provide complete and accurate information specified in paragraph (b)(2) of this section to the Director on or before August 21, 1991 (or within 180 days of the effective date of the regulations which first require the owner or operator to comply with the standards set forth in Part 265), and must establish limits for the operating parameters specified in paragraph (b)(3) of this section. Such information is termed a “certification of precompliance” and constitutes a certification that the owner or operator has determined that, when the facility is operated within the limits specified in paragraph (b)(3) of this section, the owner or operator believes that, using best engineering judgment, emissions of particulate matter, metals, and HCl and Cl<sub>2</sub> are not likely to exceed the limits provided by §§ 264.343, 264.344, and 264.345. The facility may burn hazardous waste only under the operating conditions that the owner or operator establishes under paragraph (b)(3) of this section until the owner or operator submits a revised certification of precompliance under paragraph (b)(8) of this section or a certification of compliance under paragraph (c) of this section, or until a permit is issued.

(2) **Information required.** The following information must be submitted with the certification of precompliance to support the determination that the limits established for the operating parameters identified in paragraph (b)(3) of this section are not likely to result in an exceedance of the allowable emission rates for particulate matter, metals, and HCl and Cl<sub>2</sub>.

**29) Section 265.140 is amended by revising paragraphs (c)(7)(ii)(B), (c)(7)(ii)(B)(1)(i), and (c)(7)(ii)(B)(2) to read as follows:**

**§ 265.140 Interim status standards for burners.**

(c) **Certification of compliance.** The owner or operator shall conduct emissions testing to document compliance with the emissions standards of §§ 264.342(b) through (g), 264.343, 264.344, 264.345, and paragraph (a)(5)(i)(D) of this section, under the procedures prescribed by this paragraph, except under extensions of time provided by paragraph (c)(7). Based on the compliance test, the owner or operator shall submit to the Director on or before August 21, 1992 (*or within one year of the effective date of the regulations which first require the owner or operator to comply with the standards set forth in Part 265*) a complete and accurate “certification of compliance” (under paragraph (c)(4) of this section) with those emission standards establishing limits on the operating parameters specified in paragraph (c)(1).

(7) **Extensions of time.** (i) If the owner or operator does not submit a complete certification of compliance for all of the applicable emissions standards of §§ 264.342, 264.343, 264.344, and 264.345 by August 21, 1992 (*or within one year of the effective date of the regulations which first require the owner or operator to comply with the standards set forth in Part 265*), he/she must either:

\*\*\*\*\*



696  
697 (ii) The owner or operator may request a case-by-case extension of time to extend any time limit  
698 provided by paragraph (c) of this section if compliance with the time limit is not practicable for  
699 reasons beyond the control of the owner or operator.

700  
701 (A) In granting an extension, the Director may apply conditions as the facts warrant to ensure  
702 timely compliance with the requirements of this section and that the facility operates in a  
703 manner that does not pose a hazard to human health and the environment;

704  
705 (B) When an owner or operator requests an extension of time to enable the facility to comply  
706 with the alternative hydrocarbon provisions of § ~~264.344(h)~~ 264.342(h) and obtain a RCRA  
707 operating permit because the facility cannot meet the HC limit of § ~~264.344(d)~~ 264.342(d) of  
708 these regulations:

709  
710 (1) The Director shall, in considering whether to grant the extension:

711  
712 (i) Determine whether the owner and operator have submitted in a timely manner a  
713 complete part B permit application that includes information required under §  
714 100.41(b)(5)(vii) of these regulations; and

715  
716 (ii) Consider whether the owner and operator have made a good faith effort to certify  
717 compliance with all other emission controls, including the controls on dioxins and  
718 furans of § 264.342(g) and the controls on PM, metals, and HCl/Cl<sub>2</sub>.

719  
720 (2) If an extension is granted, the Director shall, as a condition of the extension, require  
721 the facility to operate under flue gas concentration limits on CO and HC that, based on  
722 available information, including information in the part B permit application, are baseline  
723 CO and HC levels as defined by § ~~264.344(h)(1)~~ 264.342(h)(1).

724  
725 \*\*\*\*\*

726  
727  
728 **30) Section 265.340 is amended by revising paragraph (a) to read as follows:**

729  
730 **§ 265.340 Applicability.**

731  
732 (a) (Effective January 1, 1986) The regulations in this subpart apply to owners or operators of facilities  
733 that incinerate hazardous waste, except as § ~~264.4265.1~~ provides otherwise. The following facility  
734 owners or operators are considered to incinerate hazardous waste:

735  
736 \*\*\*\*\*

737  
738  
739 **31) Section 265.347 is amended by revising paragraph (a) to read as follows:**

740  
741 **§ 265.347 Monitoring and inspections.**

742  
743 The owner or operator must conduct, as a minimum, the following monitoring and inspections when  
744 incinerating hazardous waste:

745  
746 (a) Existing instruments which relate to combustion and emission control must be monitored at least every  
747 15 minutes. Appropriate corrections to maintain steady state combustion conditions must be made

748 immediately either automatically or by the operator. Instruments which relate to combustion and emission  
749 control would normally include ~~these~~ those measuring waste feed, auxiliary fuel feed, air flow, incinerator  
750 temperature, scrubber flow, scrubber pH, and relevant level controls.

751  
752 \*\*\*\*\*

753  
754  
755 **32) Section 265.352 is amended by revising paragraphs (b) – (b)(3) to read as follows:**

756 **§ 265.352 Interim Status Incinerators Burning Particular Hazardous Wastes.**

757  
758 \*\*\*\*\*

759  
760  
761 (b) The following standards and procedures will be used in determining whether to certify an incinerator:

762  
763 (1) The owner or operator will submit an application to the Department containing applicable  
764 information in §§ 100.41 and 100.28 demonstrating that the incinerator can meet the performance  
765 standards in Subpart O of Part 264 when they burn these wastes.

766  
767 (2) The Department will issue a tentative decision as to whether the incinerator can meet the  
768 performance standards in Subpart O of Part 264. Notification of this tentative decision will be  
769 provided by newspaper advertisement and radio broadcast in the jurisdiction where the incinerator is  
770 located. The Department will accept comment on the tentative decision for 60 days. The Department  
771 also may hold a public hearing upon request or at its discretion.

772  
773 (3) After the close of the public comment period, the Department will issue a decision whether or not  
774 to certify the incinerator.

775  
776  
777 **33) The Table of Contents for Part 267 is revised by deleting and reserving Subpart D**  
778 **(Hazardous Waste Burned for Energy Recovery) to read as follows:**

779  
780 **PART 267 STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS**  
781 **WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE**  
782 **MANAGEMENT FACILITIES.**

783  
784  
785 **Subpart A – B – (Reserved).**

786  
787 **Subpart C – Recyclable Materials Used In A Manner Constituting Disposal**

788  
789 **Sec.**  
790 267.20 Applicability.  
791 267.21 Standards applicable to generators and transporters of materials used in a manner that constitute  
792 disposal.  
793 267.22 Standards applicable to storers of materials that are to be used in a manner that constitutes  
794 disposal who are not the ultimate users.  
795 267.23 Standards applicable to users of Hazardous Waste that are used in a manner that constitutes  
796 disposal.

797  
798  
799 **Subpart D – [Reserved] Hazardous Waste Burned for Energy Recovery**

800  
801  
802  
803  
804  
805  
806  
807  
808  
809  
810  
811  
812  
813  
814  
815  
816  
817  
818  
819  
820  
821  
822  
823  
824  
825  
826  
827  
828  
829  
830  
831  
832  
833  
834  
835  
836  
837  
838  
839  
840  
841  
842  
843  
844  
845  
846  
847  
848  
849  
850  
851  
852

~~267.30 Applicability.~~  
~~267.31 Prohibitions.~~  
~~267.32 Standards applicable to generators of hazardous waste fuel.~~  
~~267.33 Standards applicable to transporters of hazardous waste fuel.~~  
~~267.34 Standards applicable to marketers of hazardous waste fuel.~~  
~~267.35 Standards applicable to burners of hazardous waste fuel.~~

**Subpart E – [Reserved]**

**Subpart F – Recyclable Materials Utilized for Precious Metal Recovery**

267.70 Applicability and requirements.

**34) Subpart D of Part 267 is amended by deleting Subpart D (Consisting of Sections 267.30 – 267.35) in its entirety and reserving Subpart D to read as follows:**

**Subpart D - ~~[Reserved] Hazardous Waste Burned for Energy Recovery~~**

**~~§ 267.30 Applicability~~**

~~(a) The regulations of this subpart apply to hazardous wastes that are burned for energy recovery in any boiler or industrial furnace that is not regulated under Subpart O of Part 264 and 265 of these regulations, except as provided by paragraph (b) of this section. Such hazardous wastes burned for energy recovery are termed "hazardous waste fuel". Fuel produced from hazardous waste by processing, blending or other treatment is also hazardous waste fuel. (These regulations do not apply, however, to gas recovered from hazardous waste management activities when such gas is burned for energy recovery.)~~

~~(b) The following hazardous wastes are not regulated under this subpart:~~

~~(1) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in Subpart C of Part 261 of these regulations. Such used oil is subject to regulation under Part 279 of these regulations.~~

~~(2) Hazardous wastes that are exempt from regulation under §§ 261.4 and 261.6(a)(3)(iv) through (vi) of these regulations, and hazardous wastes that are generated by very small quantity generators as defined in § 260.10 of these regulations.~~

**~~§ 267.31 Prohibitions.~~**

~~(a) A person may market hazardous waste fuel only:~~

~~(1) To persons who have notified EPA or the Department of their hazardous waste fuel activities and have a U.S. EPA Identification Number; and~~

~~(2) If the fuel is burned, to persons who burn the fuel in boilers or industrial furnaces identified in paragraph (b) of this section.~~

- 853 ~~(b) Hazardous waste fuel may be burned for energy recovery in only the following devices:~~  
854  
855 ~~(1) Industrial furnaces identified in § 260.10 of these regulations;~~  
856  
857 ~~(2) Boilers, as defined in § 260.10 of these regulations, that are identified as follows:~~  
858  
859 ~~(i) Industrial boilers located on the site of a facility engaged in a manufacturing process where~~  
860 ~~substances are transformed into new products, including the component parts of products, by~~  
861 ~~mechanical or chemical processes; or~~  
862  
863 ~~(ii) Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or~~  
864 ~~fluids for sale.~~  
865  
866 ~~(c) No fuel which contains any hazardous waste may be burned in any cement kiln which is located within~~  
867 ~~the boundaries of any incorporated municipality with a population greater than 500,000 (based on the~~  
868 ~~most recent census statistics) unless such kiln fully complies with these regulations that are applicable to~~  
869 ~~incinerators.~~

870  
871  
872 ~~**§ 267.32 Standards applicable to generators of hazardous waste fuel.**~~  
873

- 874 ~~(a) Generators of hazardous waste that is used as a fuel or used to produce a fuel are subject to Part 262~~  
875 ~~of these regulations.~~  
876  
877 ~~(b) Generators who market hazardous waste fuel to a burner also are subject to § 267.34.~~  
878  
879 ~~(c) Generators who are burners also are subject to § 267.35.~~  
880

881  
882 ~~**§ 267.33 Standards applicable to transporters of hazardous waste fuel.**~~  
883

884 ~~Transporters of hazardous waste fuel (and hazardous waste that is used to produce a fuel) are subject to~~  
885 ~~Part 263 of these regulations.~~  
886

887  
888 ~~**§ 267.34 Standards applicable to marketers of hazardous waste fuel.**~~  
889

890 ~~Persons who market hazardous waste fuel are called "marketers", and are subject to the following~~  
891 ~~requirements. Marketers include generators who market hazardous waste fuel directly to a burner, and~~  
892 ~~persons who receive hazardous waste from generators and produce, process, or blend hazardous waste~~  
893 ~~fuel from these hazardous wastes and persons who distribute but do not process or blend hazardous~~  
894 ~~waste fuel.~~

895  
896 ~~(a) **Prohibitions.** The prohibitions under § 267.31(a) apply to marketers of hazardous waste fuel.~~  
897

898 ~~(b) **Notification of hazardous waste fuel activities.** Even if marketer has previously notified EPA or this~~  
899 ~~Department of his/her hazardous waste management activities and obtained a U.S. EPA Identification~~  
900 ~~Number, he/she must renotify to identify his/her hazardous waste fuel activities.~~  
901

902 ~~(c) **Storage.** The applicable provisions of Part 262, Subpart A, and Subparts A through L of Part 264,~~  
903 ~~Subparts A through L of Part 265, Part 266 and Part 100 of these regulations;~~  
904

905 ~~(d) Off site shipment.~~ The standards for generators in Part 262 of these regulations when a marketer  
906 initiates a shipment of hazardous waste fuel;

907  
908 ~~(e) Required notices.~~

909  
910 ~~(1) Before a marketer initiates the first shipment of hazardous waste fuel to a burner or another~~  
911 ~~marketer, he/she must obtain a one time written and signed notice from the burner or marketer~~  
912 ~~certifying that:~~

913  
914 ~~(i) The burner or marketer has notified EPA or the Department pursuant to Part 99 and identified~~  
915 ~~his/her waste as fuel activities; and~~

916  
917 ~~(ii) If the recipient is a burner, the burner will burn the hazardous waste fuel only in an industrial~~  
918 ~~furnace or boiler identified in § 267.31(b).~~

919  
920 ~~(2) Before a marketer accepts the first shipment of hazardous waste fuel from another marketer,~~  
921 ~~he/she must provide the other marketer with a one time written and signed certification that he/she~~  
922 ~~has notified EPA or the Department pursuant to Part 99 and identified his/her hazardous waste fuel~~  
923 ~~activities; and~~

924  
925 ~~(f) Recordkeeping.~~ In addition to the applicable recordkeeping requirements of Parts 262, 264, 265 and  
926 266 of these regulations, a marketer must keep a copy of each certification notice he/she receives or  
927 sends for three years from the date he/she last engages in a hazardous waste fuel marketing transaction  
928 with the person who sends or receives the certification notice.

929  
930  
931 ~~§ 267.35 Standards applicable to burners of hazardous waste fuel.~~

932  
933 ~~Owners or operators who burn or process hazardous waste in boilers or industrial furnaces are subject to~~  
934 ~~the requirements of Part 264, Subpart O of these regulations.~~

935  
936  
937 **35) Section 100.28 is amended by revising paragraph (b)(1) to read as follows:**

938  
939 **§ 100.28 Permits for incinerators, boilers, and industrial furnaces burning hazardous waste.**

940  
941 (a) **General.** Owners and operators of new incinerators, boilers and industrial furnaces (those not  
942 operating under the interim status standards of Subparts O or H, Part 265 of these regulations) are  
943 subject to paragraphs (b) through (f) of this section. Incinerators operating under the interim status  
944 standards of Subpart O of Part 265, and boilers and industrial furnaces operating under the interim status  
945 standards of Subpart H of Part 265 of these regulations are subject to paragraph (g) of this section.

946  
947 (b) **Permit operating periods for new incinerators, boilers and industrial furnaces.** A permit for a  
948 new incinerator, boiler or industrial furnace shall specify appropriate conditions for the following operating  
949 periods:

950  
951 (1) **Pretrial burn period.** For the purposes of determining operational readiness following completion  
952 of physical construction, the Director must establish permit conditions, including but not limited to  
953 allowable waste feeds and operating conditions, in the permit to a new hazardous waste incinerator,  
954 boiler or industrial furnace. These permit conditions will be effective for the minimum time required to  
955 bring the incinerator, boiler or industrial furnace to a point of operational readiness sufficient to  
956 conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The  
957 Director may extend the duration of this operational period once, for up to 720 additional hours, at the

958 request of the applicant when good cause is shown. The permit may be modified to reflect the  
959 extension according to § ~~100.60 (Modification of permits)~~ 100.63 of these regulations.

960  
961 (i) Applicants must submit a statement, with part B of the permit application, which suggests the  
962 conditions necessary to operate in compliance with the standards of §§ 264.342 through 264.345  
963 of these regulations during this period. This statement should include, at a minimum, restrictions  
964 on the applicable operating requirements identified in § 264.346 of these regulations.  
965

966 (ii) The Director will review this statement and any other relevant information submitted with part  
967 B of the permit application and specify requirements for this period sufficient to meet the  
968 performance standards of §§ 263.342 through 264.345 of these regulations based on his/her  
969 engineering judgment.  
970

971 \*\*\*\*\*

972  
973  
974 **36) Section 100.28 is amended by revising paragraphs (c)(5), (c)(8) and (c)(10) to read as**  
975 **follows:**

976  
977 **§ 100.28 Permits for incinerators, boilers, and industrial furnaces burning hazardous waste.**

978 \*\*\*\*\*

979  
980  
981 (c) **Requirements for trial burn plans.** The trial burn plan must include the following information. The  
982 Director, in reviewing the trial burn plan, shall evaluate the sufficiency of the information provided and  
983 may require the applicant to supplement this information, if necessary, to achieve the purposes of this  
984 paragraph:

985 \*\*\*\*\*

986  
987  
988 (5) A detailed test schedule for each hazardous waste for which the trial burn is planned, including  
989 date(s), duration, quantity of hazardous waste to be burned, and other factors relevant to the  
990 Director's decision under paragraph ~~(b)(2)~~ (d)(2) of this section.

991 \*\*\*\*\*

992  
993  
994 (8) Procedures for rapidly stopping the hazardous waste feed, shutting down the incinerator, and  
995 controlling emissions in the event of an equipment malfunction.  
996

997 \*\*\*\*\*

998  
999 (10) Such other information as the Director reasonably finds necessary to determine whether to  
1000 approve the trial burn plan in light of the purposes of this paragraph and the criteria in paragraph  
1001 ~~(b)(2)~~ (d)(2) of this section.  
1002

1003 \*\*\*\*\*

1004  
1005  
1006 **37) Section 100.28 is amended by revising paragraph (d)(4) to read as follows:**

1007  
1008 **§ 100.28 Permits for incinerators, boilers, and industrial furnaces burning hazardous waste.**  
1009

1010 \*\*\*\*\*

1011  
1012 (d) **Trial burn procedures.** (1) A trial burn must be conducted to demonstrate conformance with the  
1013 standards of §§ 264.342 through 264.345 of these regulations under an approved trial burn plan.

1014 \*\*\*\*\*

1015  
1016  
1017 (4) The applicant must submit to the Director a certification that the trial burn has been carried out in  
1018 accordance with the approved trial burn plan, and must submit the results of all the determinations  
1019 required in paragraph ~~(e)~~(f) of this section. This submission shall be made within 90 days of  
1020 completion of the trial burn, or later if approved by the Director.

1021 \*\*\*\*\*

1022  
1023  
1024  
1025 **38) Section 100.28 is amended by revising paragraph (f)(2)(iii) to read as follows:**

1026  
1027 **§ 100.28 Permits for incinerators, boilers, and industrial furnaces burning hazardous waste.**

1028 \*\*\*\*\*

1029  
1030 (f) **Determinations based on trial burn.** During each approved trial burn (or as soon after the burn as is  
1031 practicable), the applicant must make the following determinations:

1032  
1033 (1) A quantitative analysis of the levels of antimony, arsenic, barium, beryllium, cadmium, chromium,  
1034 lead, mercury, thallium, silver, and chlorine/chloride, in the feed streams (hazardous waste, other  
1035 fuels, and industrial furnace feedstocks);

1036  
1037 (2) For determining compliance with the DRE trial burn:

1038  
1039 (i) A quantitative analysis of the trial POHCs in the hazardous waste feed;

1040  
1041 (ii) A quantitative analysis of the stack gas for the concentration and mass emissions of the trial  
1042 POHCs; and

1043  
1044 (iii) A computation of destruction and removal efficiency (DRE), in accordance with the DRE  
1045 formula specified in § 264.342(b) of these regulations;

1046  
1047 (3) A quantitative analysis of the stack gas for the concentration and mass emission rate of the  
1048 2,3,7,8-chlorinated tetra-octa congeners of chlorinated dibenzo-p-dioxins and furans, and a  
1049 computation showing conformance with the emission standard;

1050  
1051  
1052 **39) Section 100.28 is amended by revising paragraph (g) to read as follows:**

1053  
1054 **§ 100.28 Permits for incinerators, boilers, and industrial furnaces burning hazardous waste.**

1055 \*\*\*\*\*

1056  
1057  
1058 (g) **Interim status incinerators, boilers and industrial furnaces.** For the purpose of determining  
1059 feasibility of compliance with the performance standards of §§ 264.342 through 264.345 of these  
1060 regulations and of determining adequate operating conditions under Part 265, Subpart O of these  
1061 regulations for incinerators and under Part 265, Subpart H of these regulations for boilers or industrial  
1062 furnaces, applicants owning or operating existing incinerators, boilers or industrial furnaces operated



1063 under the interim status standards of Subpart O or Subpart H of Part 265 of these regulations must either  
1064 prepare and submit a trial burn plan and perform a trial burn in accordance with the requirements of this  
1065 section or submit other information as specified in § 100.41(b)(5)(~~iii~~)(v). The Director must announce his  
1066 or her intention to approve of the trial burn plan in accordance with the timing and distribution  
1067 requirements of paragraph (d)(3) of this section. The contents of the notice must include: the name and  
1068 telephone number of a contact person at the facility; the name and telephone number of a contact office  
1069 at the permitting agency; the location where the trial burn plan and any supporting documents can be  
1070 reviewed and copied; and a schedule of the activities that are required prior to permit issuance, including  
1071 the anticipated time schedule for agency approval of the plan and the time periods during which the trial  
1072 burn would be conducted. Applicants who submit a trial burn plan and receive approval before  
1073 submission of the part B permit application must complete the trial burn and submit the results specified  
1074 in paragraph (f) of this section with the part B permit application. If completion of this process conflicts  
1075 with the date set for submission of the part B application, the applicant must contact the Director to  
1076 establish a later date for submission of the part B application or the trial burn results. If the applicant  
1077 submits a trial burn plan with part B of the permit application, the trial burn must be conducted and the  
1078 results submitted within a time period prior to permit issuance to be specified by the Director.

1079 \*\*\*\*\*

1080  
1081  
1082  
1083 **40) Section 100.41 is amended by revising paragraphs (b)(5) and (b)(5)(ii) to read as**  
1084 **follows:**

1085  
1086 **§ 100.41 STATE RCRA PERMIT. CONTENTS OF APPLICATION (PART B).**

1087 \*\*\*\*\*

1088  
1089 (b) **Specific information requirements.** The following additional information is required from owners or  
1091 operators of specific types of HWM facilities that are used or to be used for storage or treatment:

1092 \*\*\*\*\*

1093  
1094 (5) **For facilities that incinerate, process or otherwise burn hazardous waste in incinerators,**  
1095 **boilers, or industrial furnaces,** except as § 264.340 of these regulations provides otherwise, the  
1096 applicant must fulfill the requirements of paragraphs (b)(5)(i), (ii) and (iii) as applicable to the trial burn  
1097 for metals emissions, ~~(iii)~~ (iv) as applicable to the trial burn for total chloride or chlorine emissions, ~~(iv)~~  
1098 and (v) of this section. All Applicants must follow the procedures of C.R.S. 25-15-Part 5 for obtaining  
1099 a certificate of designation (CD) for a facility applying for a permit to burn hazardous waste under the  
1100 requirements of Part 264-Subpart O.

1101  
1102 (i) When seeking exemption under § 264.340(b) or (c) of these regulations (ignitable, corrosive or  
1103 reactive wastes only):

1104  
1105 (A) Documentation that the waste is listed as a hazardous waste in Part 261, Subpart D, of  
1106 these regulations solely because it is ignitable (Hazard Code I), corrosive (Hazard Code C),  
1107 or both; or

1108  
1109 (B) Documentation that the waste is listed as a hazardous waste in Part 261, Subpart D, of  
1110 these regulations solely because it is reactive (Hazard Code R) for characteristics other than  
1111 those listed in § 261.23(a)(4) and (5) of these regulations, and will not be burned when other  
1112 hazardous wastes are present in the combustion zone; or

1113



1114 (C) Documentation that the waste is a hazardous waste solely because it possesses the  
1115 characteristic of ignitability, corrosivity, or both, as determined by the tests for characteristics  
1116 of hazardous wastes under Part 261, Subpart C, of these regulations; or  
1117  
1118 (D) Documentation that the waste is a hazardous waste solely because it possesses the  
1119 reactivity characteristics listed in § 261.23(a)(1), (2), (3), (6), (7), or (8) of these regulations,  
1120 and that it will not be burned when other hazardous wastes are present in the combustion  
1121 zone; or  
1122

1123 (ii) Submit a trial burn plan or the results of a trial burn, including all required determinations, in  
1124 accordance with § 100.28(h); or  
1125

1126 \*\*\*\*\*

1127  
1128  
1129 **41) Section 100.41 is amended by revising paragraphs (b)(5)(iv)(D) and (b)(5)(iv)(E) to**  
1130 **read as follows:**

1131  
1132 **§ 100.41 STATE RCRA PERMIT. CONTENTS OF APPLICATION (PART B).**

1133 \*\*\*\*\*

1134  
1135 (b) **Specific information requirements.** The following additional information is required from owners or  
1137 operators of specific types of HWM facilities that are used or to be used for storage or treatment:  
1138

1139 \*\*\*\*\*

1140 (5) **For facilities that incinerate, process or otherwise burn hazardous waste in incinerators,**  
1141 **boilers, or industrial furnaces,** except as § 264.340 of these regulations provides otherwise, the  
1142 applicant must fulfill the requirements of paragraphs (b)(5)(i), (ii) and (iii) as applicable to the trial burn  
1143 for metals emissions, ~~(iii)~~ (iv) as applicable to the trial burn for total chloride or chlorine emissions, ~~(iv)~~  
1144 and (v) of this section. All Applicants must follow the procedures of C.R.S. 25-15-Part 5 for obtaining  
1145 a certificate of designation (CD) for a facility applying for a permit to burn hazardous waste under the  
1146 requirements of Part 264-Subpart O.  
1147

1148 \*\*\*\*\*

1149  
1150 (iv) **Waiver of trial burn for HCL and Cl<sub>2</sub>.** When seeking to be permitted under the Tier I (or  
1151 adjusted Tier I) feed rate screening limits for total chloride and chlorine provided by §  
1152 264.345(b)(1) and (e) of these regulations that control emissions of hydrogen chloride (HCl) and  
1153 chlorine gas (Cl<sub>2</sub>) without requiring a trial burn, the owner or operator must submit:  
1154

1155 (A) Documentation of the feed rate of hazardous waste, other fuels, and industrial furnace  
1156 feed stocks;

1157 (B) Documentation of the levels of total chloride and chlorine in the hazardous waste, other  
1158 fuels, and industrial furnace feedstocks, and calculations of the total feed rate of total chloride  
1159 and chlorine;  
1160

1161 (C) Documentation of how the applicant will ensure that the Tier I (or adjusted Tier I) feed  
1162 rate screening limits provided by § 264.345(b)(1) or (e) of these regulations will not be  
1163 exceeded during the averaging period provided by that paragraph;  
1164  
1165

1166 (D) Documentation to support the determination of the terrain-adjusted effective stack height,  
1167 good engineering practice stack height, terrain type, and land use as provided by §  
1168 264.345(b)(3) of these regulations;

1169  
1170 (E) Documentation of compliance with the provisions of § ~~264.345(b)(6)~~ 264.345(b)(4) of  
1171 these regulations, if applicable, for facilities with multiple stacks;

1172  
1173 (F) Documentation that the facility does not fail the criteria provided by § 264.345(b)(3) of  
1174 these regulations for eligibility to comply with the screening limits; and

1175  
1176 (G) Proposed sampling and analysis plan for total chloride and chlorine for the hazardous  
1177 waste, other fuels, and industrial furnace feed stocks.

1178  
1179 \*\*\*\*\*

1180  
1181  
1182 **42) Section 100.41 is amended by revising paragraph (b)(5)(x) to read as follows:**

1183  
1184 **§ 100.41 STATE RCRA PERMIT. CONTENTS OF APPLICATION (PART B).**

1185  
1186 \*\*\*\*\*

1187  
1188 (b) **Specific information requirements.** The following additional information is required from owners or  
1189 operators of specific types of HWM facilities that are used or to be used for storage or treatment:

1190  
1191 \*\*\*\*\*  
1192 (5) **For facilities that incinerate, process or otherwise burn hazardous waste in incinerators,**  
1193 **boilers, or industrial furnaces,** except as § 264.340 of these regulations provides otherwise, the  
1194 applicant must fulfill the requirements of paragraphs (b)(5)(i), (ii) as applicable to the trial burn for  
1195 metals emissions, (iii) as applicable to the trial burn for total chloride or chlorine emissions, (iv) and  
1196 (v) of this section. All Applicants must follow the procedures of C.R.S. 25-15-Part 5 for obtaining a  
1197 certificate of designation (CD) for a facility applying for a permit to burn hazardous waste under the  
1198 requirements of Part 264-Subpart O.

1199  
1200 \*\*\*\*\*

1201  
1202 (x) **Direct transfer.** Owners and operators that use direct transfer operations to feed hazardous  
1203 waste from transport vehicles (containers, as defined in § 264.346(f) of these regulations) directly  
1204 to the incinerator, boiler or industrial furnace shall submit information supporting conformance  
1205 with the standards for direct transfer provided by § 264.346(f) of these regulations.

1206  
1207 \*\*\*\*\*

1208  
1209  
1210 **43) Appendix I of Section 100.63 is amended by revising Item L.7.b. to read as follows:**

1211

Appendix I to § 100.63 -- Classification of Permit Modification

Modifications	Class
---------------	-------

**Appendix I to § 100.63 -- Classification of Permit Modification**

Modifications	Class
*****	
<b>L. Incinerators, Boilers, and Industrial Furnaces</b>	
1. Changes to increase by more than 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
2. Changes to increase by up to 25% any of the following limits authorized in the permit: A thermal feed rate limit, a feedstream feed rate limit, a chlorine/chloride feed rate limit, a metal feed rate limit, or an ash feed rate limit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	2
3. Modification of an incinerator, boiler or industrial furnace unit by changing the internal size or geometry of the primary or secondary combustion units, by adding a primary or secondary combustion unit, by substantially changing the design of any component used to remove HCl/Cl <sub>2</sub> , metals, or particulate from the combustion gases, or by changing other features of the incinerator, boiler or industrial furnace that could affect its capability to meet the regulatory performance standards. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
4. Modification of an incinerator, boiler or industrial furnace unit in a manner that would not likely affect the capability of the unit to meet the regulatory performance standards but which would change the operating conditions or monitoring requirements specified in the permit. The Director may require a new trial burn to demonstrate compliance with the regulatory performance standards.	2
5. Operating requirements:	
a. Modification of the limits specified in the permit for minimum or maximum combustion gas temperature, minimum combustion gas residence time, oxygen concentration in the secondary combustion chamber, flue gas carbon monoxide and hydrocarbon concentration, maximum temperature at the inlet to the particulate matter emission control system, or operating parameters for the air pollution control system. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
b. Modification of any stack gas emission limits specified in the permit, or modification of any conditions in the permit concerning emergency shutdown or automatic waste feed cutoff procedures or controls.	3
c. Modification of any other operating condition or any inspection or recordkeeping requirement specified in the permit.	2
6. Burning of different wastes:	

**Appendix I to § 100.63 -- Classification of Permit Modification**

<b>Modifications</b>	<b>Class</b>
a. If the waste contains a POHC that is more difficult to burn than authorized by the permit or if burning of the waste requires compliance with different regulatory performance standards than specified in the permit. The Director will require a new trial burn to substantiate compliance with the regulatory performance standards unless this demonstration can be made through other means.	3
b. If the waste does not contain a POHC that is more difficult to burn than authorized by the permit and if burning of the waste does not require compliance with different regulatory performance standards than specified in the permit.	2
<b>Note:</b> See § 100.63(g) for modification procedures to be used for the management of newly listed or identified wastes.	
7. Shakedown:	
a. Modification of permit conditions applicable during the shakedown period for determining operational readiness after construction, with prior approval of the Director.	2
b. Authorization of <u>up to</u> an additional 720 hours of waste burning during the shakedown period for determining operational readiness after construction, with the prior approval of the Director.	11
8. Trial Burn:	
a. Changes in the approved trial burn plan for conducting an initial trial burn, provided the change is minor and has received the prior approval of the Director.	11
b. Changes in the approved trial burn plan for conducting an initial trial burn, if the change is not minor.	2
c. Changes in the approved trial burn plan to conduct additional trial burn testing under revised conditions if the unit has not met one or more conditions of a previous trial burn.	2
d. Modification of permit conditions applicable during the post-trial burn period, with prior approval of the Director.	2
e. Changes in the operating requirements set in the permit to reflect the results of the trial burn. (*Modification of the trial permit to incorporate final operating conditions will be either a Class 2 or 3 permit modification following the procedures of § 100.63(d)).	2 or 3*
9. Substitution of an alternative type of nonhazardous waste fuel that is not specified in the permit.	1
*****	

1212

1213 FOOTNOTE: \*Class 1 Modifications requiring prior Department approval.

1214 Note: Permittees should use the procedures in §100.63(d) if a proposed modification is not listed in this appendix.

1215 An attached statement of basis and purpose for these regulations has been adopted by the Board of Health and is  
1216 hereby incorporated by reference in these regulations pursuant to C.R.S. 1973, 24-4-103.

1217  
1218 \*\*\*\*\*

1219  
1220  
1221 **44) Section 8.95 (Statement of Basis for the Rulemaking Hearing of May 19, 2020) is**  
1222 **added to Part 8 of the Regulations to read as follows:**

1223  
1224  
1225 **Statement of Basis and Purpose**  
1226 **Rulemaking Hearing of May 19, 2020**

1227  
1228 **8.95 Basis and Purpose.**

1229  
1230 These amendments to 6 CCR 1007-3, Parts 260, 261, 264, 265, 267 and 100 are made pursuant to the  
1231 authority granted to the Solid and Hazardous Waste Commission in § 25-15-302(2), C.R.S.

1232  
1233 **Correction of Typographical Errors and Inadvertent Omissions**

1234  
1235  
1236 These amendments correct typographical errors and inadvertent omissions that exist in §§ 260.10, 261.6,  
1237 264.1, 264.340, 264.341, 264.342, 264.344, 264.345, 264,346, 264.347, Appendix VII to Section  
1238 264.348, Appendix IX to Section 264.348, 265.140, 265.340, 265.347, 265.352, Part 267 Table of  
1239 Contents, Subpart D of Part 267, 100.28, 100.41, and Appendix I to 100.63.

1240  
1241 These amendments provide state equivalency with the applicable federal requirements, and include  
1242 amendments being made in response to EPA comments regarding review of Colorado’s regulations for  
1243 incinerators, boilers and industrial furnaces.