NEBRASKA ADMINISTRATIVE CODE

Title 128 - Department of Environmental Quality

Chapter 1 - GENERAL

001 Purpose, scope, and applicability. This Chapter provides definitions of terms, general standards and information applicable to this Title.

002 Availability of information; confidentiality of information.

002.01 Any information provided to the Department under this Title will be made available to the public to the extent and in the manner authorized by Title 115, Rules of Practice and Procedures, Nebraska Department of Environmental Quality.

002.02 Any person who submits information to the Department in accordance with this Title may assert a claim of business confidentiality covering part or all of that information in accordance with Title 115, Rules of Practice and Procedures, Nebraska Department of Environmental Quality.

003 References. Publications and testing methods used in this Title are defined in 40 CFR 260.11, which is hereby adopted and incorporated by reference herein.

003.01 General provisions pertaining to the adoption of regulations by reference are provided in Chapter 26.

004 When used in this Title, the following terms have the meaning given in Sections 005 through ~~147~~154 of this Chapter.

005 "Aboveground tank" means a device meeting the definition of "tank" in this Chapter, and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding ground surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

006 "Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Director receives certification of final closure.

007 "Active portion" means that portion of a facility where treatment, storage, or disposal operations are being or have been conducted after the effective date of regulations causing these operations to be regulated and which is not a closed portion. (See also "closed portion" and "inactive portion.")

008 "Acute Hazardous Waste" means waste listed with the code "H" in Chapter 3, 013 through 016. This waste is regulated at 1 kilogram.

009 "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 a storage or treatment tank(s), between hazardous waste storage and treatment tanks to a point of disposal onsite, or to a point of shipment for disposal off-site.

010 "Aquifer" means a geologic formation, group of formations, or part of a formation that is capable of yielding usable amounts of water to a well, spring, or other point of discharge.

011 "ASTM" means the American Society for Testing and Materials.

012 "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

013 "Boiler" means an enclosed device using controlled flame combustion and having the following characteristics:

013.01 The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

013.02 The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as waterwalls and superheaters) must be physically formed into one manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) 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 integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

013.03 While in operation, the unit must maintain a thermal energy recovery efficiency of at least 60 percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

013.04 The unit must export and utilize at least 75 percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

013.05 The unit is one which the Director has determined, on a case-by-case basis, to be a boiler, after considering the standards in Chapter 5, 002.

014 "Carbon regeneration unit" means any enclosed thermal treatment device used to regenerate spent activated carbon.

015 "Cathode ray tube" or "CRT" shall mean a vacuum tube, composed primarily of glass, which is the visual or video display component of an electronic device. A used, intact CRT means 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.

016 "Certification" means a statement of professional opinion based upon knowledge and belief.

017 "CFR" means the Code of Federal Regulations published by the Office of the Federal Register.

018 "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements. (See also "active portion" and "inactive portion.")

019 "Commercial Hazardous Waste Management Facility" means a facility which accepts hazardous waste for treatment, storage or disposal which is generated by any person other than the person who owns or operates such facility.

020 "Component" means either the tank or ancillary equipment of a tank system.

021 "Conditionally exempt small quantity generator" means a generator who generates no more than 100 kilograms of hazardous waste in a month, and accumulates no more than a total of 1,000 kilograms of hazardous waste. If a conditionally exempt small quantity generator also generates acute hazardous waste, those acute hazardous wastes are subject to the exemptions and regulations of Chapter 8.

022 "Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

023 "Contained" means held in a unit (including a land-based unit as defined in this Chapter) that meets the following criteria:

023.01 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 the hazardous secondary materials, to prevent releases of hazardous secondary 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, but are not limited to, releases through surface transport by precipitation runoff,

releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures;

023.02 The unit is properly labeled or otherwise has a system (such as a log) to immediately identify the hazardous secondary materials in the unit; and

023.03 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.

023.04 Hazardous secondary materials in units that meet the applicable requirements of Chapters 21 and 22 of this Title are presumptively contained.

~~023~~024 "Container" means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.

~~024~~025 "Containment Building" means a hazardous waste management unit that is used to store or treat hazardous waste under the provisions of Chapter 21, 022, or Chapter 22, 022.

~~025~~026 "Contingency plan" means a document setting 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 which could threaten human health or the environment.

~~026~~027 "Corrective action management unit" or "CAMU" means an area within a facility that is designated by the Director under Chapter 21, 016, for the purpose of implementing corrective action requirements under 40 CFR 264.101, which is incorporated by reference in Chapter 21, 006, and RCRA Section 3008(h). A CAMU shall only be used for the management of remediation wastes pursuant to implementing such corrective action requirements at the facility.

~~027~~028 "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. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) 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.

~~028~~029 "Council" means the Nebraska Environmental Quality Council.

~~029~~030 "CRT collector" shall mean a person who receives used, intact CRT's for recycling, repair, resale, or donation.

031 "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 such export.

~~030~~032 "CRT glass manufacturer" shall mean an operation or part of an operation that uses a furnace to manufacture CRT glass.

~~031~~033 "CRT processing" shall mean conducting all of the following activities:

~~031~~033.01 Receiving broken or intact CRT's; and

~~031~~033.02 Intentionally breaking intact CRT's or further breaking or separating broken CRT's; and

~~031~~033.03 Sorting or otherwise managing glass removed from CRT monitors.

~~032~~034 "DEQ/EPA hazardous waste number" or "waste code" means the number assigned by the Council to each hazardous waste listed in Chapter 3, 011 through 016 and to each characteristic identified in Chapter 3, 005 through 010.

~~033~~035 "DEQ/EPA identification number" means the number assigned by DEQ to each generator, transporter, and treatment, storage, or disposal facility.

~~034~~036 "Department" or "DEQ" means the Department of Environmental Quality.

~~035~~037 "Designated facility" means a hazardous waste treatment, storage, or disposal facility which: (1) has received a permit or interim status in accordance with the requirements of 40 CFR Part 270 and 124, (2) has received a permit or interim status under Chapters 12 through 15, and, 22 of this Title or from a State authorized in accordance with 40 CFR Part 271, or (3) is regulated under Chapter 7, 006 or 011 and (4) that has been designated on the manifest by the generator pursuant to Chapter 10, 002.

~~035~~037.01 "Designated facility" also means a generator site designated on the manifest to receive its waste as a return shipment from a facility that has rejected the waste in accordance with 40 CFR Part 264.72(f) or Part 265.72(f), which is incorporated by reference in Chapter 21, 005, and Chapter 22, 005, respectively.

~~035~~037.02 If a waste is destined for a facility in an authorized State which has not yet obtained authorization to regulate that particular waste as hazardous, then the designated facility must be a facility allowed by the receiving State to accept such waste.

~~036~~038 "Dike" means an embankment or ridge of either natural or man-made materials used to prevent the movement of liquids, sludges, solids, or other materials.

~~037~~039 "Dioxins and furans (D/F) " means tetra, penta, hexa, hepta, and octa-chlorinated dibenzo dioxins and furans.

~~038~~040 "Director" means the Director of the Nebraska Department of Environmental Quality or the Director's designated representative.

~~039~~041 "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, water, or air.

~~040~~042 "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent, decomposition by-product, or reaction by-product thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwater.

~~041~~043 "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water, and at which waste will remain after closure. The term "disposal facility" does not include a corrective action management unit into which remediation wastes are placed.

~~042~~044 "DOT" means the United States Department of Transportation.

~~043~~045 "Drip pad" means an engineered structure consisting of a curbed, free-draining base, constructed of non-earthen materials and 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.

~~044~~046 "Elementary neutralization unit" means a device which:

~~044~~046.01 Is used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic defined in Chapter 3, 008 or are listed in Chapter 3, 011 through 016 only for this reason; and

~~044~~046.02 Meets the definition of tank, tank system, container, transport vehicle or vessel in this Chapter.

~~045~~047 "EPA" means the United States Environmental Protection Agency.

~~046~~048 "Equivalent method" means any testing or analytical method approved by the Council in accordance with Chapter 6, 001 and 002.

~~047~~049 "Existing hazardous waste management (HWM) facility" or "existing facility" means a facility which was in operation or for which construction commenced on or before November 19,

1980. A facility has commenced construction if the owner or operator has obtained the Federal, State, and local approvals or permits necessary to begin physical construction; and either:

~~047~~049.01 A continuous on-site, physical construction program has begun; or

~~047~~049.02 The owner or operator has entered into contractual obligations, which cannot be canceled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

~~048~~050 "Existing portion" means that land surface area of an existing hazardous waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

~~049~~051 "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 is commenced on or prior to July 14, 1986. Installation will be considered to have 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 (1) a continuous on-site physical construction or installation program has begun, or (2) the owner or operator has entered into contractual obligations - which cannot be canceled or modified without substantial loss - for physical construction of the site or installation of the tank system to be completed within a reasonable time.

~~050~~052 "Facility" means:

~~050~~052.01 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 prior to reclamation. A facility may consist of several treatment, storage, or disposal operational units (e.g., one or more landfills, surface impoundments, or combinations of them).

~~050~~052.02 For the purpose of implementing corrective action under 40 CFR 264.101, which is incorporated by reference in Chapter 21, 006, all contiguous property under the control of the owner or operator seeking a permit under subtitle C of RCRA. This definition also applies to facilities implementing corrective action under RCRA section 3008(h).

~~050~~052.03 Notwithstanding 050.02 of this definition, a remediation waste management site is not a facility that is subject to 40 CFR 264.101, which is incorporated by reference in Chapter 21, 006, but is subject to corrective action requirements if the site is located within such a facility.

~~051~~053 "Federal Act" or "RCRA" means the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §6901 et. seq.

~~052~~054 "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 Government Printing Office.

~~053~~055 "Federal, State and local approvals or permits necessary to begin physical construction" means permits and approvals required under Federal, State or local hazardous waste control statutes, regulations or ordinances.

~~054~~056 "Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under Chapters 21 and 22 are no longer conducted at the facility unless subject to the provisions for accumulation time in Chapters 8 through 10.

~~055~~057 "Food-chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

~~056~~058 "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

~~057~~059 "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike, and the surface of the waste contained therein.

~~058~~060 "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in Chapter 3 or whose act first causes a hazardous waste to become subject to regulation.

~~059~~061 "Groundwater" means water which occurs, moves, seeps, filters or percolates through the ground beneath the land surface in a zone of saturation.

~~060~~062 "Hazardous waste" means a hazardous waste as defined in Chapters 2 and 3.

063 "Hazardous secondary material" means a secondary material (e.g., spent material, by-product, or sludge) that, when discarded, would be a hazardous waste as defined in Chapters 2 and 3.

064 "Hazardous secondary material generator" means any person whose act or process produces hazardous secondary materials at the generating facility. For purposes of this paragraph, “generating facility” means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator. For the purposes of Chapter 2, Section 008.25, a facility that collects hazardous secondary materials from other persons is not the hazardous secondary material generator.

~~061~~065 "Hazardous waste constituent" means a constituent that caused the Council to list the hazardous waste in Chapters 3, 011 through 016 or a constituent listed in Table 3 of Chapter 3, 010.

~~062~~066 "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

~~063~~067 "Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and 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.

~~064~~068 "In operation" refers to a facility which is treating, storing, or disposing of hazardous waste.

~~065~~069 "Inactive portion" means that portion of a facility which is not operated after May 19, 1980. (See also "active portion" and "closed portion.")

~~066~~070 "Incinerator" means any enclosed device that:

~~066~~070.01 Uses controlled flame combustion and neither meets the criteria for classification as a boiler, sludge dryer, or carbon regeneration unit, nor is listed as an industrial furnace; or

~~066~~070.02 Meets the definition of infrared incinerator or plasma arc incinerator.

~~067~~071 "Incompatible waste" means a hazardous waste which is unsuitable for:

~~067~~071.01 Placement in a particular device or facility because it may cause corrosion or decay of containment materials (e.g., container inner liners or tank walls); or

~~067~~071.02 Commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

~~068~~072 "Individual generation site" means the contiguous site at or on which one or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

~~069~~073 "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use thermal treatment to accomplish recovery of materials or energy, including:

~~069~~073.01 Cement kilns;

~~069~~073.02 Lime kilns;

~~069~~073.03 Aggregate kilns;

~~069~~073.04 Phosphate kilns;

~~069~~073.05 Coke ovens;

~~069~~073.06 Blast furnaces;

~~069~~073.07 Smelting, melting and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machine, roasters, and foundry furnaces);

~~069~~073.08 Titanium dioxide chloride process oxidation reactors;

~~069~~073.09 Methane reforming furnaces;

~~069~~073.10 Pulping liquor recovery furnaces;

~~069~~073.11 Combustion devices used in the recovery of sulfur values from spent sulfuric acid;

~~069~~073.12 Halogen acid furnaces (HAFs) 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 fuel, hazardous waste fed to the furnace has a minimum halogen content of 20% as-generated;

~~069~~073.13 Such other devices as the Council may, after notice and comment, add to this list on the basis of one or more of the following factors:

~~069~~073.13A The design and use of the device primarily to accomplish recovery of material products;

~~069~~073.13B The use of the device to burn or reduce raw materials to make a material product;

~~069~~073.13C 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;

~~069~~073.13D The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;

~~069~~073.13E The use of the device in common industrial practice to produce a material product; and

~~069~~073.13F Other factors, as appropriate.

~~070~~074 "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 which is not listed as an industrial furnace.

~~071~~075 "Inground tank" means a device meeting the definition of "tank" in this Chapter, whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

~~072~~076 "Injection well" means a well into which fluids are injected. (See also "underground injection.")

~~073~~077 "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained waste or reagents used to treat the waste.

~~074~~078 "Installation inspector" means a person who, by reason of 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.

079 “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 such material.

~~075~~080 "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

081 "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.

~~076~~082 "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a pile, a land treatment facility, a surface impoundment, an underground injection well, a salt dome formation, a salt bed formation, an underground mine, a cave, or a corrective action management unit.

~~077~~083 "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

~~078~~084 "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

~~079~~085 "Large quantity generator" means a generator who generates in a calendar month, a total quantity of hazardous waste that is greater than or equal to 1000 kilograms. If a large quantity generator also generates acute hazardous waste, those acute hazardous wastes are subject to the exemptions and regulations of Chapter 10.

~~080~~086 "Leachate" means any liquid, including any suspended components in the liquid, that has percolated through or drained from hazardous waste.

~~081~~087 "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. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of aboveground tanks) or consist of an interstitial monitoring device designed to detect, continuously and automatically, the failure of the primary or secondary containment structure or the presence of a release of hazardous waste into the secondary containment structure.

~~082~~088 "Liner" means a continuous layer of natural or man-made materials, beneath or on the sides of a surface impoundment, landfill, or landfill cell, which restricts the downward or lateral escape of hazardous waste, hazardous waste constituents, or leachate.

~~083~~089 "Manifest" shall mean the form used for identifying the quantity, composition, origin, routing, and destination of hazardous waste during its transportation from the point of generation to the point of disposal, treatment, or storage. Under these regulations, form means the shipping document EPA form 8700-22 (including, if necessary, EPA form 8700-22A), originated and signed by the generator or offeror in accordance with the instructions included in the Appendix to 40 CFR Part 262, as incorporated by reference in Chapter 10, 002, and the applicable requirements of this Title.

~~084~~090 “Manifest tracking number” means: The alphanumeric identification number (i.e., a unique three letter suffix preceded by nine numerical digits), which is pre-printed in Item 4 of the Manifest by a registered source.

~~085~~091 "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

~~086~~092 "Miscellaneous unit" means a hazardous waste management unit where hazardous waste is treated, stored, or disposed of and that is not a container, tank, surface impoundment, pile, land treatment unit, landfill, incinerator, boiler, industrial furnace, underground injection well with appropriate technical standards under ~~40 CFR Part 146~~ Title 122, Rules and Regulations

for Underground Injection and Mineral Production Wells, containment building, corrective action management unit, unit eligible for a research, development, and demonstration permit under Chapter 12, 001.04E,or staging pile.

~~087~~093 "Movement" means that hazardous waste transported to a facility in an individual vehicle.

~~088~~094 "New hazardous waste management facility" or "new facility" means a facility which began operation, or for which construction commenced after October 21, 1976. (See also "Existing hazardous waste management facility.")

~~089~~095 "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; except, however, for purposes of 40 CFR 264.193(g)(2) and 40 CFR 265.193(g)(2) as incorporated by reference in Chapters 21 and 22 respectively, a new tank system is one for which construction commences after July 14, 1986. (See also "existing tank system.")

~~090~~096 "No free liquids" means the definition in 40 CFR 260.10, revised as of July 1, 2014, which is adopted and incorporated by this reference.

~~091~~097 "On ground tank" means a device meeting the definition of "tank" in this Chapter, 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.

~~092~~098 "On-site" means the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a cross-roads intersection, and access is by crossing as opposed to going along, the right-of-way. Non-contiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access, is also considered on-site property.

~~093~~099 "Open burning" means the combustion of any material without utilizing the following characteristics:

~~092~~099.01 Control of combustion air to maintain adequate temperature for efficient combustion;

~~092~~099.02 Containment of the combustion-reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

~~092~~099.03 Control of emissions of the gaseous combustion products. (See also "incineration" and "thermal treatment.")

~~094~~100 "Operator" means the person responsible for the overall operation of a facility.

~~095~~101 "Owner" means the person who owns a facility or part of a facility.

~~096~~102 "Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of 40 CFR Parts 264 and 265, as incorporated by reference in Chapters 21 and 22, respectively, 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), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

~~097~~103 "Person" shall mean any: Individual; partnership; limited liability company; association; public or private corporation; trustee; receiver; assignee; agent; municipality or other governmental subdivision; public agency; other legal entity; or any officer or governing or managing body of any public or private corporation, municipality, governmental subdivision, public agency, or other legal entity.

~~098~~104 "Personnel" or "facility personnel" means all persons who work at, or oversee the operation of, a hazardous waste facility, and whose actions or failure to act may result in noncompliance with the requirements of 40 CFR Part 264 or 265, as incorporated by reference in Chapters 21 and 22, respectively.

~~099~~105 "Pile" means any non-containerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage and that is not a containment building.

~~100~~106 "Plasma arc incinerator" means any enclosed device using 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.

~~101~~107 "Point source" means any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

~~102~~108 "Publicly owned treatment works" or "POTW" means any device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a state or municipality as defined by Section 212(2)(A) of the Clean Water Act, 33 U.S.C. §1292(2)(A). This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment.

~~103~~109 "Qualified Ground-Water 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 ground-water hydrology and related fields as may be demonstrated by state registration, professional certifications, or completion of accredited university courses

that enable that individual to make sound professional judgements regarding ground-water monitoring and contaminant fate and transport.

110 "Remanufacturing" means processing a higher-value hazardous secondary material in order 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.

~~104~~111 "Remediation waste" means all solid and hazardous wastes, and all media (including ground water, surface water, soils, and sediments) and debris, that are managed for implementing cleanup.

~~105~~112 "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 40 CFR 264.101, which is incorporated by reference in Chapter 21, 006, but is subject to corrective action requirements if the site is located in such a facility.

~~106~~113 "Replacement unit" means a landfill, surface impoundment, or waste pile unit (1) from which all or substantially all of the waste is removed, and (2) that is subsequently reused to treat, store, or dispose of hazardous waste. “Replacement unit” does not apply to a unit from which waste is removed during closure, if the subsequent reuse solely involves the disposal of waste from that unit and other closing units or corrective action areas at the facility, in accordance with an approved closure plan or EPA or State approved corrective action.

~~107~~114 "Representative sample" means a sample of a whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the whole.

~~108~~115 "Run-off" means any precipitation, leachate, or other liquid that drains over land from a facility.

~~109~~116 "Run-on" means any precipitation, leachate, or other liquid that drains over land onto any part of a facility.

~~110~~117 "Saturated zone" or "zone of saturation" means that part of the earth's crust in which all voids are filled with water.

~~111~~118 "Sludge" means any solid, semi-solid, 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.

~~112~~119 "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/lb of sludge treated on a wet-weight basis.

~~113~~120 "Small quantity generator" means a generator who generates in a calendar month a total quantity of hazardous waste greater than 100 kilograms and less than 1,000 kilograms, and accumulates no more than 6,000 kilograms of hazardous waste at any one time. If a small quantity generator also generates acute hazardous waste those acute hazardous wastes are subject to the exemptions and regulations of Chapter 9.

~~114~~121 "Solvent-contaminated wipe" means the definition in 40 CFR 260.10, revised as of July 1, 2014, which is adopted and incorporated by this reference.

~~115~~122 "Sorbent" means a material that is used to soak up free liquids by either adsorption or absorption, or both. "Sorb" means to either adsorb or absorb, or both.

~~116~~123 “Staging pile” means an accumulation of solid, non-flowing remediation waste (as defined in this section) 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 according to the requirements of 40 CFR 264.554.

~~117~~124 "State Act" means the Nebraska Environmental Protection Act, Neb. Rev. Stat. §81-1501 through 81-1533, as amended.

~~118~~125 "Storage" when used in conjunction with hazardous waste, shall mean the containment of hazardous waste, either on a temporary basis or for a period of years, in such manner as not to constitute disposal of such hazardous waste. Under these regulations, 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.

~~119~~126 "Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serves to collect hazardous waste for transport to hazardous waste storage, treatment, or disposal facilities except that as used in the landfill, surface impoundment, and waste pile rules, "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 subsequent removal from the system.

~~120~~127 "Surface impoundment" or "impoundment" means a facility or part of a facility which 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), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

~~121~~128 "Tank" means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provides structural support.

~~122~~129 "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment systems.

~~123~~130 "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.

~~124~~131 "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge. (See also "incinerator" and "open burning.")

~~125~~132 "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which waste acid is neutralized.

~~126~~133 "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.

~~127~~134 "Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

~~128~~135 "Transportation" means the movement of hazardous waste by air, rail, highway, or water.

~~129~~136 "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

~~130~~137 "Treatability study" means a study, other than a means to commercially treat or dispose of hazardous waste, in which a hazardous waste is subjected to a treatment process to determine:

~~130~~137.01 Whether the waste is amenable to the treatment process;

~~130~~137.02 What pre-treatment (if any) is required;

~~130~~137.03 The optimal process conditions needed to achieve the desired treatment;

~~130~~137.04 The efficiency of a treatment process for a specific waste or wastes; or

~~130~~137.05 The characteristics and volumes of residuals from a particular treatment process; or

~~130~~137.06 For the purposes of Chapter 2, 012 and 013 to determine liner compatibility, corrosion, and other material compatibility studies and toxicological and health effect studies.

~~131~~138 "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste non-hazardous, or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

~~132~~139 "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

~~133~~140 "Underground 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. (See also "injection well.")

~~134~~141 "Underground tank" means a device meeting the definition of "Tank" in this Chapter, whose entire surface area is totally below the surface of and covered by the ground.

~~135~~142 "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.

~~136~~143 "United States" means the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

~~137~~144 "Universal waste" means certain hazardous wastes that are defined and managed under the universal waste requirements of Title 128, Chapter 25.

~~138~~145 "Unsaturated zone" or "zone of aeration" means the zone between the land surface and the water table.

~~139~~146 "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

~~140~~147 "Used oil" means any oil that has been refined from crude oil, or any synthetic oil, that has been used and as a result of such use is contaminated by physical or chemical impurities.

~~141~~148 "Vessel" includes every description of watercraft, used or capable of being used as a means of transportation on the water.

~~142~~149 "Wastewater treatment unit" means a device which:

~~142~~149.01 Is part of a wastewater treatment facility which is subject to regulations under either Section 307(B) of the Clean Water Act or Title 119, Rules and Regulations Pertaining to the Issuance of Permits Under the National Pollutant Discharge Elimination System, Nebraska Department of Environmental Quality; and

~~142~~149.02 Receives and treats or stores an influent wastewater that is a hazardous waste as defined in Chapter 2, or that generates and accumulates a wastewater treatment sludge which is a hazardous waste as defined in Chapter 2, or treats or stores a wastewater treatment sludge which is a hazardous waste as defined in Chapter 2; and

~~142~~149.03 Meets the definition of a tank or tank system as defined in this Chapter.

~~143~~150 "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

~~144~~151 "Water Table" means an imaginary surface within an unconfined aquifer at which the pressure is at atmosphere (Lohman, 1972) U. S. Geological Survey.

~~145~~152 "Well" means any excavation that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for the purpose of exploring for ground water, monitoring ground water, utilizing the geothermal properties of the ground, or extracting water from or injecting water into the underground water reservoir. Well shall not include any excavation made for obtaining or prospecting for oil, natural gas, minerals, or products mined or quarried or for inserting media to repressure oil or natural gas bearing formations.

~~146~~153 "Wipe" means the definition in 40 CFR 260.10, revised as of July 1, 2014, which is adopted and incorporated by this reference.

~~147~~154 "Zone of engineering control" means an area under the control of the owner/operator that, upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to ground water or surface water.

Enabling Legislation: Neb. Rev. Stat. §81-1505(13)

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