

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

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46 This amendment corrects an inconsistency in paragraph (b) of § 261.5 of the Colorado Hazardous Waste
47 Regulations (6 CCR 1007-3) that was created when amendments to the Part 263 Transfer Facility
48 regulations were adopted by the Solid and Hazardous Waste Commission on May 18, 2010. As part of
49 the Part 263 amendments, a new paragraph (b) was added to § 263.10, which specifies that transfer
50 facilities handling only conditionally exempt small quantity generator (CESQG) waste are subject to the
51 requirements of Subparts A (General Requirements), C (Hazardous Waste Discharges), D (Spills at
52 Transfer Facilities) and E (Closure of a Transfer Facility). Transfer facilities handling only CESQG waste
53 are not subject to the manifest requirements in Subpart B.

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55 As documented in the Statement of Basis and Purpose from the May 18, 2010 Hearing (See § 8.73 of the
56 Regulations), the Part 263 amendments were developed as part of a review of the Part 263 regulations
57 conducted by the Hazardous Materials and Waste Management Division (the "Division"). This was done
58 for the purpose of updating and improving the existing regulations that apply to transfer facilities in
59 Colorado in order to ensure protection of public health and safety and the environment. Input from key
60 stakeholders, including eight transfer facilities and representatives of the Colorado Emergency Planning
61 Commission and the South Metro Fire Rescue Authority, was also incorporated into the development of
62 these regulations.

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64 The Division's review of the Part 263 regulations was initiated by a request from the Solid and Hazardous
65 Waste Commission following a February 2009 briefing regarding a fire that occurred on October 5, 2006
66 at the Environmental Quality Co. (EQ) hazardous waste transfer facility in Apex, North Carolina. Mr.
67 William Wright of the United States Chemical Safety and Hazard Investigation Board (CSB) provided a
68 presentation on the North Carolina Apex Incident at the February 17, 2009 Commission hearing. The
69 CSB conducted a formal investigation into the fire, and published a case study, Fire and Community
70 Evacuation in Apex, North Carolina (2007-01-I-NC, April 16, 2008, which is available online at
71 <http://www.csb.gov/>). The amendments in the May 2010 rulemaking upgraded the transfer facility
72 requirements so as to prevent, or enable more effective response, to a similar incident in Colorado.

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74 In general, transfer facilities are lightly regulated under the hazardous waste regulations. The May 2010
75 amendments required certain operational improvements at transfer facilities without creating an undue
76 regulatory burden.

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78 Pursuant to the current wording § 261.5(b), CESQG waste would not be subject to the Part 263
79 regulations. This amendment corrects this unintended omission in the regulations and provides
80 consistency with the Part 263 requirements.

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82 This amendment is more stringent than the federal regulations. The Commission has evaluated the
83 information presented at the rulemaking hearing, as well as the information in the Statement of Basis and
84 Purpose. The Commission considers this information sufficient to justify adopting the proposed rule. The
85 Commission finds that this rule is necessary to protect public health and the environment.