This technical guidance document (TGD) explains the steps involved in making a waste determination and the associated documentation requirements for businesses, government agencies, institutions, and other entities that generate waste in Kansas as required by federal regulations adopted by reference in KAR 28-31-261.

Introduction
Hazardous waste determinations can be complicated and must be done for every waste stream generated at a facility. This guidance is not designed for every waste stream and should not be used without consulting the regulations. Generally, the only waste stream that is not required to have a documented waste determination is office trash. Breaking the waste determination into steps can make it easier to complete the process.

Making Waste Determinations

Step 1
Make a list of all waste streams being generated at the facility. List what process generates each waste stream and document how many pounds of each waste stream are generated each month (don’t average over months).

Step 2
Check to see if each waste meets the definition of “solid waste” as found in the Code of Federal Regulations, 40 CFR 261.2. Waste is considered solid waste if it:

- Is a solid or a liquid (or in some cases a gas) that is discarded, abandoned, recycled, or considered inherently waste-like; and
- Is not otherwise exempt from the definition of solid waste under 40 CFR 261.4(a).

One common way that materials become exempt from the definition of solid waste is when they are discharged to a sewer or drain that is regulated under the Clean Water Act, for example an NPDES discharge point, a pre-treatment system, or a publicly owned treatment works.

Step 3
For each waste that meets the definition of “solid waste”, check to see if the waste meets the definition of “hazardous waste” as found in 40 CFR 261.3. Use knowledge of how the waste was generated (process knowledge) and/or have the waste analyzed at a Kansas Department of Health and Environment (KDHE) certified laboratory using EPA-approved test methods. Some wastes may need to be evaluated using both process knowledge and analysis, while others can be evaluated using one or the other alone.

Hazardous waste is divided into two broad categories: listed waste and characteristic waste. A hazardous waste can be both listed and characteristic. For more details on listed and characteristic hazardous wastes and determining waste codes, please refer to TGD HW-2011-G2, Characteristic and Listed Hazardous Wastes.
Step 4
Prepare a document stating whether or not the waste is hazardous. If it is hazardous, list the applicable waste codes (D001, F003, U183, etc.). This is the very important final step in the hazardous waste determination process.

Documenting Waste Determinations
Maintain documentation of Steps 1 through 4. This documentation must be kept for 3 years from the last date the waste was shipped off-site.

Adequate documentation will include a statement about whether or not the waste is hazardous as well as copies of all documents used in Steps 1 through 3. Documentation is required for all wastes, both non-hazardous and hazardous. Some examples of documentation that may be included with the waste determination statement are:
- Safety Data Sheets (SDSs);
- Process flow diagrams;
- Analytical test results from a KDHE-certified laboratory; and
- Chemical reaction diagrams.

None of these documents is acceptable as an adequate waste determination by itself, as none of them will state conclusively whether the waste is hazardous or non-hazardous.

Another document that is inadequate by itself is a Waste Profile from a contractor. These forms are often filled out by hazardous waste contractors through interviews with generators and frequently are not supported by any real investigation into the process generating the waste. In addition, they may be based on analytical tests done in laboratories that are not certified by KDHE. Always ask the contractor to use a KDHE-certified laboratory for all analytical testing to ensure that repeat waste determination analysis is not required. Also, if a Waste Profile is used as part of the hazardous waste determination, all supporting documentation, including those documents previously listed, must be attached.

Adequately documenting waste determinations can be difficult. To assist with this process, KDHE has created the attached example document that may be used. This specific form is not required and may be modified to meet the specific needs of individual facilities.

Summary
Conducting an adequate determination for each waste stream and properly documenting that determination will help facilities stay in compliance and avoid costly mistakes. Adequate determinations are the foundation of any good hazardous waste management program and will help reduce management and disposal costs.

Certified Laboratories
A list of KDHE-certified laboratories can be found at: www.kdheks.gov/envlab/disclaimer.html

For additional information regarding proper management of solid or hazardous waste in Kansas, you may contact the Bureau of Waste Management at (785) 296-1600 or the address at the beginning of this document, or visit the Bureau’s website at www.kdheks.gov/waste/.
Waste Determination Documentation Form

It is strongly recommended that the guidance in this TGD (HW-2011-G1) and HW-2011-G2, Characteristic and Listed Hazardous Wastes, be reviewed when making waste determinations.

The free mobile Kansas Waste Determination application is available for both Android and Apple operating systems in both the Google Play Store and Apple App Store, respectively.

### Step 1

<table>
<thead>
<tr>
<th>Facility Name:</th>
<th>EPA ID:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Waste Name:</td>
<td></td>
</tr>
<tr>
<td>Process Generating Waste:</td>
<td></td>
</tr>
<tr>
<td>Maximum pounds generated in a calendar month:</td>
<td></td>
</tr>
</tbody>
</table>

**Waste description** (Mark all that apply):
- Solid □
- Liquid □
- Gas □
- Sludge □

### Step 2 (check one and explain under Description of knowledge used in Step 4)

- [ ] Waste is generated in an industrial, construction, manufacturing, repair or similar setting and is subject to the hazardous waste determination requirements of 40 CFR 262.11. **(If checked, continue to Step 3)**

- [ ] Waste does not meet the definition of solid waste under 40 CFR 261.2 (i.e., is not discarded, abandoned, recycled or inherently waste-like).

- [ ] Waste is excluded under 40 CFR 261.4(a) from the definition of solid waste (e.g., is regulated under the Clean Water Act or other edict, or variance).

### Step 3 (check one and explain under Description of knowledge used in Step 4)

- [ ] Waste is a nonhazardous waste
- [ ] Waste is a hazardous waste

- [ ] Waste is excluded under 40 CFR 261.4(b) from the definition of hazardous waste (wastes from specific sources, and/or meeting specific management practices)

### Step 3a – If a hazardous waste (check all that apply)

- [ ] Waste is a F-, K-, P-, or U-listed hazardous waste.
- [ ] Waste is a characteristic hazardous waste.

### Step 4 (check all that apply)

All applicable waste codes: ________________

- [ ] Determination was made using analysis by KDHE-certified laboratory (as required by K.A.R. 28-31-262(c)(2)).

<table>
<thead>
<tr>
<th>Laboratory Name:</th>
<th>Analytical Report Date:</th>
</tr>
</thead>
</table>

- [ ] Determination was made using process knowledge.

  Description of knowledge used: ________________________________________________________________________

  ________________________________________________________________________

- [ ] **Required:** All records used to make the determination (Safety Data Sheet (SDS), process description/flow diagrams, etc.) are attached or otherwise maintained on site.

Determination was made by:

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Date</th>
</tr>
</thead>
</table>