

US EPA ARCHIVE DOCUMENT

District of Columbia

REGISTER

HIGHLIGHTS

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- * DEPT. OF HUMAN SERVICES GIVES NOTICE OF PROPOSED COMMUNITY-BASED RESIDENTIAL FACILITY
- * DEPT. OF CONSUMER AND REGULATORY AFFAIRS ADOPTS AMENDMENT TO HAZARDOUS WASTE RULES; PROPOSES CONSTRUCTION CODE ADOPTION RULES

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
NOTICE OF FINAL RULEMAKING**

The Director, Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in D.C. law 2-64, the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978, D.C. Code, Sec. 6-701 et seq. (1981 ed.), and Mayor's Order 78-185, effective September 19, 1978 hereby gives notice that final action was taken on September 20, 1984 to amend Chapter 40, 20 DCMR "Hazardous Waste Management Regulations", adopted July 22, 1983 (30 DCR 3714). No comments have been received, and no changes have been made to the text of the proposed rules, as published with the Notice of Proposed Rulemaking in the D.C. Register, on August 3, 1984 at 31DCR 3901. The final rules will be effective upon publication in the D.C. Register.

AMEND SECTION 4000, "ADOPTION OF FEDERAL REGULATIONS", by deleting the current section 4000 and substituting the following new sections:

4000 ADOPTION OF FEDERAL REGULATIONS

4000.1 The federal regulations for hazardous waste management, as set forth in the following parts of Title 40 of the Code of Federal Regulations (CFR), as amended by the provisions of this chapter, shall constitute the rules for hazardous waste management in the District of Columbia:

- (a) 40 CFR Parts 260 through 265 (July 1, 1982 ed.); and
- (b) 40 CFR Part 270 (July 1, 1983 ed.).

4000.2 The federal regulations listed in §4000.1, as amended by the provisions of this chapter, shall be incorporated by reference in this chapter.

AMEND SECTION 4001, "AMENDMENTS TO 40 CFR, PART 260", by deleting the current section 4001 and substituting the following new section:

4001 AMENDMENTS TO 40 CFR, PART 260

4001.1 The following changes shall be made in Part 260:

(a) Where "EPA" appears in Part 260, it shall mean "Department" except as follows:

- (1) 260.1(b)(5)
- (2) 260.10 - In the definition of "Designated Facility".
- (3) 260.10 - In the definition of "EPA identification number".
- (4) 260.10 - In the definition of "EPA Region".
- (5) 260.10 - In the definition of "Regional Administrator".
- (6) 260.11(a) - In reference to "EPA Publication number".
- (7) 260.20(f)
- (8) 260.21(a)

(b) Where "Administrator" appears in Part 260, it shall mean "Director" except as follows:

- (7) "District Agency" shall mean "any department, agency or other instrumentality of the District Government."
- (8) "Hazardous Waste Constituent" shall mean a constituent that caused the Administrator to list the hazardous waste in Part 261, Subpart D, of this chapter or a constituent listed in Table 1 of §261.24 of these regulations.
- (9) In the definition of "Person" add the term "District Agency" before "Federal."
- (10) "RCRA" shall mean "Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §6901 et seq."
- (11) "Uniform Manifest" or "Manifest" shall mean the EPA required shipping document originated and signed by the generator.

(b) The following definitions shall be deleted:

- (1) Constituent;
- (2) Spill; and
- (3) Manifest.

4001.4 The following changes shall be made in §260.11:

- (a) In §260.11(a), the publication "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods" EPA publication number SW-846 is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783-3238.
- (b) In §260.11(b) "Director of the Federal Register" shall mean "Director, District of Columbia Office of Documents."

4001.5 In §260.20, the following subsection 260.20(f) shall be added:

Where the Administrator of EPA has amended the federal regulations pursuant to 40 CFR §260.20, the Director of the Department may in his or her discretion accept the determination and amend the D.C. regulations accordingly, provided, that the Director determines the action is consistent with the policies and purposes of the Hazardous Waste Management Act of 1977 (D.C. Law 2-64).

4001.6 The following changes shall be made in §260.21:

- (a) In §260.21(a), after "may petition," add "EPA";
- (b) In §260.21(d), add "federal" before "regulations";
- (c) Add the following new subsection 260.21(e):

If the Administrator amends the federal regulations as described in (d), the Director may amend the D.C. regulations to

being used, re-used, recycled, or reclaimed is subject to the following requirements with respect to such transportation or storage:

- (1) Notification requirements under Section 3010 RCRA;
- (2) Part 262 of this Chapter;
- (3) Part 263 of this Chapter;
- (4) Applicable provisions of Subparts A through L of Part 264 of this Chapter;
- (5) Applicable provisions of Subparts A through L of Part 265 of this chapter; and
- (6) Parts 270 and §4010 of this chapter, with respect to storage facilities.

4002.8 §261.7 shall be amended to read as follows:

- (a)
 - (1) Any hazardous waste remaining in either (i) an empty container or (ii) an inner liner removed from an empty container, as defined in paragraph (b) of this section, is not subject to regulation under Parts 261 through 265, or Part 270 or §4010 of this chapter.
 - (2) Any hazardous waste in either (i) a container that is not empty or (ii) an inner liner removed from a container that is not empty, as defined in paragraph (b) of this section, is subject to regulation under Parts 261 through 265, and Parts 270 and §4010 of this chapter.
- (b)
 - (1) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified in §261.33(c) of this chapter is empty if:
 - (i) All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating, and
 - (ii) No more than 2.5 centimeters (one inch) of the residue remain on the bottom of the container or inner liner, or
 - (iii)
 - (a) No more than 3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size, or
 - (b) No more than 0.3 percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size.

- 4003.2 The following changes shall be made in §262.10
- (a) In §262.10(c) "United States" shall be replaced with "District"; and
 - (b) In §262.10(e), the citation " §3008" shall be replaced with "§12 of the Hazardous Waste Management Act (D.C. Code, §6-711, 1981)."
- 4003.3 §262.21 shall be amended to read as follows:
- (a) If the State to which the shipment is manifested (consignment State) supplies the Manifest and requires its use, then the generator must use that Manifest.
 - (b) If the consignment State does not supply the Manifest, then the generator may obtain the Manifest from any source.
- 4003.3 - 4003.4 [RESERVED]
- 4003.5 §262.22 shall be amended to read as follows:
- § 262.22 Number of Copies**
The manifest must provide the generator, each transporter, owner, or operator of the designated facility and the Department with one (1) copy each for their records, and two (2) copies to be returned to the generator from the designated facility. The generator shall send one (1) of these to the Department."
- 4003.6 In §262.23, the following new subsections shall be added:
- "(a) §262.23(a)(4), send one (1) copy to the Department within seven (7) days after the shipment is accepted by the initial transporter in accordance with §262.22".
 - "(b) §262.23(e), the generator shall send one (1) of the copies received from the designated facility to the Department within seven (7) days of receipt of the copies."
- 4003.7 In §262.32(b) after the phrase "or public safety authority," the phrase "or the Department of Consumer and Regulatory Affairs" shall be added.
- 4003.8 §262.41(a)(2) shall read "to the Department."
- 4003.9 In §262.42(b), the phrase "EPA Regional Administrator for the Region in which the generator is located" shall be changed to read "Department."
- 4003.10 In §262.43, "§2002(a) and §3002(6)" shall mean "§6 of the Act, D.C. Code, §6-705, 1981, and these regulations."
- 4003.11 In §262.50, the following changes shall be made:

4004.3 In §263.30(c), the following changes shall be made:

- (a) In §263.30(c)(1), the phrase "to the Mayor's Command Center at (202) 727-6161 and" shall be added before the words "to the National Response Center."
- (c) The following new subsection §263.30(c)(3) shall be added:

Send a copy of the report required by (c)(2) to the Department.

AMEND SECTION 4005, "AMENDMENTS TO 40 CFR, PART 264," by deleting the current §4005 and substituting the following new section:

4005 AMENDMENTS TO 40 CFR, PART 264

4005.1 The following changes shall be made in Part 264:

- (a) Where "EPA" appears in Part 264, it shall mean "Department" except when used in the term "EPA identification number," and in the following provisions:
 - (1) §264.151(f)(3); and
 - (2) §264.151(g)(3).
- (b) Where "Administrator" or "Regional Administrator" appears in Part 264, they shall mean "Director," except when used in the following provisions:
 - (1) §264.12(a);
 - (2) §264.74(a); and
 - (3) §264.74(b).
- (c) Where "of this chapter" appears in this part it shall mean "of these regulations."
- (d) Where "Part 122" appears in Part 264, it shall mean "Part 270."
- (e) Where "RCRA" appears in Part 264, it shall mean "HWMA."
- (f) Where "State" appears in Part 264, it shall mean "the District."
- (g) Where "U.S. District Court" appears in Part 264, it shall mean "D.C. Superior Court."
- (h) Where "§3008 of RCRA" appears in Part 264, it shall mean "§12(a) of HWMA (D.C. Code, §6-711(a), 1981)."

4005.2 In §264.1, the following changes shall be made:

- (a) In §264.1(a), the word "National" shall be deleted.
- (b) §264.1(d) shall be deleted.

- 4005.9 In §264.56, §264.56(d)(2) shall read as follows:
"He or she shall immediately notify the Mayor's Command Center at (202) 727-6161. The report shall include."
- 4005.10 In §§264.71(a)(4) and 264.71(b)(4), the words "a copy" shall be replaced with the words "two (2) copies."
- 4005.11 In §264.73(b)(6) insert "\$264.254 and" between "required by" and "264.347."
- 4005.12 In §264.74, the following changes shall be made:
- (a) In §264.74(a) the words "the Department or" shall be added before "EPA."
 - (b) In §264.74(a) the words "the Director or" shall be added before "the Administrator."
 - (c) In §264.74(b), the words "the Director or" shall be added before the words "the administrator."
- 4005.13 §264.110(b) shall be deleted.
- 4005.14 In §264.112, the following citations shall be changed:
- (a) In §264.112(a), change "\$122.25(a)(13)" to "\$270.14."
 - (b) In §264.112(a), change "\$122.29" to "\$270.32."
 - (c) In §264.112(a)(2), "\$122.17" shall read "\$270.42."
 - (d) Delete §264.228.
 - (e) In §264.112(b)[Comment], "\$122.17" shall read "\$270.42(e)-(n)."
- 4005.15 In §264.113(b)(2)[Comment], "\$122.17" shall read "\$270.42."
- 4005.16 §§264.117 through 264.120 shall be deleted.
- 4005.17 §§264.141(c) and (e) shall be deleted.
- 4005.18 In §§264.143(h), the following sentence shall be deleted:
"If the facilities covered by the mechanism are in more than one (1) region, identical evidence of financial assurance shall be submitted to and maintained with the Regional Administrator of all the regions."
- 4005.19 §§264.144 and 265.145 shall be deleted.
- 4005.20 In §264.146, references to post-closure shall be deleted.
- 4005.21 In §264.147, the following changes shall be made:

While a waste pile is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

- (a) Deterioration, malfunctions, or improper operation of run-on and run-off control systems;
- (b) The presence of liquids in leak detection systems, where installed; and
- (c) Proper functioning of wind dispersal control systems, where present.

4005.28 §264.255 shall be deleted.

4005.29 §264.256(a)(1) shall be amended to read:

"The waste is treated, rendered, or mixed before or immediately after placement in the pile so that:

- (i) The resulting waste, mixture or dissolution of material no longer meets the definition of ignitable or reactive waste under §§261.21, or 261.23 of these regulations; and
- (ii) §264.17(b) is complied with."

4005.30 In §264.340(d), the citation "§122.27(b)" shall be changed to "§ 270.62."

4005.31 In §264.341, the following citations shall be changed:

- (a) §122.27(b) shall be changed to "§270.62"; and
- (b) §122.25(b)(5) shall be changed to "§270.19."

4005.32 In §264.342, the citation "§122.27(b)" shall be changed to "§ 270.62."

4005.33 In §264.343(d), the citation "§122.15" shall be changed to "§ 270.41."

4005.34 In §264.344, the following citations shall be changed:

- (a) §122.27(b) shall be changed to §270.62"; and
- (b) §122.(b)(5) shall be changed to §270.19."

AMEND SECTION 4006, "AMENDMENTS TO 40 CFR, PART 265", by deleting the current §4006 and substituting the following new section:

4006 AMENDMENTS TO 40 CFR, PART 265

4006.1 The following changes shall be made in Part 265:

- (a) Where "EPA" appears in Part 265, it shall mean "Department," except when used in the phrase "EPA identification number," and in §265.74(a).

- (a) §265.56(a)(2) shall read "Notify the Mayor's Command Center at (202) 727-6161."
 - (b) In §265.56(d)(1), the words "appropriate local authorities" shall be changed to "the Mayor's Command Center."
 - (c) In §265.56(d)(2), the opening statement shall read "The emergency coordinator shall immediately notify the Mayor's Command Center at (202) 727-6161 and give the following information:"
 - (d) In §265.56(i), the phrase "and appropriate state and local authorities" shall be deleted.
- 4006.9 In §§265.71(a)(4) and 265.71(b)(4), the words "a copy" shall be changed to "two (2) copies."
- 4006.10 In §265.74, the following changes shall be made:
- (a) In §265.74(a), the following changes shall be made:
 - (1) Add "the Department or" before "EPA;" and
 - (2) Add "the Director or" before "the Administrator."
 - (b) In §265.74(b), the words "the Director or" shall be added before "the Administrator."
- 4006.11 §§265.90 through 265.94 shall be deleted.
- 4006.12 §265.110(b) shall be deleted.
- 4006.13 §265.112(a)(1) references to §§265.228, 265.280, 265.310 and 265.404 shall be deleted.
- 4006.14 In §265.113(b) the reference to "§265.112(c)" shall be changed to "§265.112(d)."
- 4006.15 §265.117(a)(1) shall be deleted.
- 4006.16 In §265.118, the following changes shall be made:
- (a) §265.118(a)(1) shall be deleted.
 - (b) In §265.118(d), the last sentence shall be deleted.
- 4006.17 In §§265.143(g) and 265.145(g), the following shall be deleted:
- "If the facilities covered by the mechanisms are in more than one (1) region, identical evidence of financial assurance shall be submitted to and maintained with the Regional Administrators of all the regions".
- 4006.18 In §265.147, the following changes shall be made:

- (f) Where "state" appears in Part 270, it shall mean the "District of Columbia."
- (g) Where "termination" or "terminate" appear in this part, they shall be replaced by "revocation" or "revoke."
- (h) Where "Part 266" appears in this part, it should be deleted.
- (i) Where "40 CFR" appears in this part, it shall mean "District of Columbia Regulation."

4007.2 In §270.1, the following changes shall be made:

- (a) In §270.1(a)(1), the reference to "Subtitle C of the Solid Waste Disposal Act. . . et seq." shall be changed to "D.C. HWMA, D.C. Law 2-64, March 16, 1978 (D.C. Code, §6-701, et seq., 1981)."
- (b) §270.1(a)(2) shall be amended to replace "Code of Federal" with "District of Columbia" and delete "The following chart. . . Federal Regulations," and the Chart.
- (c) §270.1(a)(3) shall be amended to replace "40 CFR Part 264, 266 and 267" with "Part 264."
- (d) In §270.1(b), the following changes shall be made:
 - (1) Change "promulgation" to "adoption"; and
 - (2) Delete "under §301.0" from the first (1st) sentence.
- (e) In §270.1(b), the words "under §301.0" shall be deleted from the sixth (6th) sentence.
- (f) In §270.1(b), the phrase "under §3005(e) of RCRA" shall be deleted.
- (g) In §270.1(b), the phrase "EPA or a State with Interim Authorization for Phase II or final Authorization" shall be changed to the word "Department."
- (h) In §270.1(b), the phrase "or with the analogous provisions of a state program which has received interim or final authorization under part 271" shall be deleted.
 - (i) In §270.1(c), the date "January 26, 1983" shall be changed to "the effective date of these regulations."

4007.3 In §270.2, the following changes shall be made:

- (a) Reference to "271" shall be deleted in the opening remarks.
- (b) The following definitions shall be deleted:
 - (1) Approved Program or Approved State;
 - (2) Final Authorization;

- (g) In §270.10(f)(2), the phrase "if at the time. . . with the State Director." shall be deleted from the second sentence.
 - (h) In §270.10(f)(3), the phrase "After November 19, 1980 but,"; and the phrase "except for landfills, injection wells, land treatment facilities or surface impoundments (as defined in 40 CFR 260.10)," shall be deleted.
 - (i) §270.10(g)(1)(i) shall be deleted.
 - (j) §270.10(g)(1)(ii) shall read "With the Director no later than the effective date of regulatory provisions listing or designating wastes as hazardous in addition to those listed or designated previously if the facility is storing, treating, or disposing of any of those newly listed or designated wastes; or".
 - (k) §270.10(g)(1)(iii) shall read "As necessary to comply with provisions of §270.72 for changes during interim status. Revised Part A applications necessary to comply with §270.72 shall be filed with the Director."
- 4007.8 In §270.12(a), the citation "40 CFR Part 2" shall be changed to "24 DCR 6211."
- 4007.9 §270.17 shall be deleted.
- 4007.10 In §270.18, the following changes shall be made:
- (a) §§270.18(b) through 270.18(e) shall be deleted;
 - (b) §270.18(f) shall read: "A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under §264.258."
- 4007.11 §§270.20 and 270.21 shall be deleted.
- 4007.12 In §270.30 the following changes shall be made:
- (a) In §270.30, the parenthetical phrase "(or the corresponding. . . regulations)" in the second (2nd) sentence shall be deleted from the opening remarks.
 - (b) §270.30(l)(2)(ii)(B) shall be amended such that in the third line, "(c)(1)" is replaced with "(1)(2)(i)."
 - (c) §270.30(l)(9) shall be amended to read "Annual Report: An annual report shall be submitted by March 31st of each year covering facility activities during each preceding calendar year."
- 4007.13 In §270.32, the following changes shall be made:
- (a) In §270.32(a), the phrase "and for EPA issued permits only" shall be deleted.

- 4007.21 In §270.64, the words "two years" shall be change to "one (1) year."
- 4007.22 In §270.70(a)(1), the phrase "of §3010(a) of RCRA" shall be deleted.
- 4007.23 In §270.72(c)(2), the words "or state or local laws." shall be deleted.
- 4008 - 4009 [Reserved]

AMEND SECTION 4010, "PROCEDURES FOR DECISION MAKING," by deleting the current section 4010 and substituting the following new Section:

4010 PROCEDURES FOR DECISION MAKING

- 4010.1 "This section contains procedures for issuing, modifying, suspending and reissuing, or revoking all treatment and storage "permits" other than "emergency permits" (see §270.61) and "permits by rule" (see §270.60). The latter kinds of permits are governed by Part 270. Interim status is covered by specific provisions in Part 270."
- 4010.2 This section describes the steps the Department will follow in receiving permit applications, preparing draft permits, issuing public notice, inviting public comment and holding public hearings on draft permits. This section also covers assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of the final permit decision.
- 4010.3 Terms not defined in this section have the meaning given by the Act and other sections of these regulations.
- "Schedule of compliance" means a schedule of remedial measures included in a "permit," including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the "appropriate Act and regulations."
- 4010.4 Any person who requires a permit under the program shall complete sign, and submit to the Director an application for each permit required under §270.1. Applications are not required for permits by rule (§270.60).
- 4010.5 The Director shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit. See §§270.10, 270.13.
- 4010.6 Permit applications must comply with the signature and certification requirements of 270.11.
- 4010.7 The Director shall review, for completeness, every application for a permit. Each application for a permit submitted by a new HWM facility should be reviewed for completeness by the Director within 30 days of its receipt. Each application for a permit submitted by an existing HWM facility (both Parts A and B of the application) should

and reissuance, or revocation are not subject to public notice, comment, or hearings. Denials by the Director may be appealed to the Mayor by a letter briefly setting forth the relevant facts. The Mayor may direct the Director to begin modification, suspension and reissuance, or revocation proceedings under paragraph (c) of this section. The appeal shall be considered denied if the Mayor takes no action on the letter within 60 days after receiving it. This appeal is a prerequisite to seeking judicial review of action in denying a request for modification, suspension and reissuance, or revocation.

- (c) (1) If the Director tentatively decides to modify or suspend and reissue a permit under 270.41, he or she shall prepare a draft permit under §4010.13 incorporating the proposed changes. The Director may request additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of a suspended and reissued permit, the Director shall require the submission of a new application.
- (2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is suspended and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any suspension and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.
- (3) "Minor modifications" as defined in §270.42 are not subject to the requirements of this section.
- (d) If the Director tentatively decides to revoke a permit under Section 270.43, he or she shall issue a notice of intent to revoke. A notice of intent to revoke is a type of draft permit which follows the same procedures as any draft permit prepared under §4010.13.

4010.13 The procedures for preparing draft permits shall be:

- (a) Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit, or to deny the application.
- (b) If the Director tentatively decides to deny the permit application, he or she shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. See §4010.13(e). If the Director's final decision is that the tentative decision to deny the permit

(3) any other procedures by which the public may participate in the final decision.

(f) Name and telephone number of a person to contact for additional information.

401.0.16 The provisions for public notice of permit actions shall be:

(a) The Director shall give public notice that the following actions have occurred:

(1) A permit application has been tentatively denied under §401.0.13(b);

(2) A draft permit has been prepared under Section 401.0.13(d);

(3) A hearing has been scheduled under §§401.0.23 through 401.0.25.

(b) No public notice is required when a request for permit modification, suspension and reissuance, or revocation is denied under Section 401.0.12(b). Written notice of that denial shall be given to the requester and to the permittee.

(c) Public notices may describe more than one permit or permit action.

401.0.17 Timing for public notice shall be:

(a) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under §401.0.16 shall allow at least 45 days for public comment.

(b) Public notice of a public hearing shall be given at least 30 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.)

401.0.18 Public notice of activities described in §401.0.16(a) shall be given by the following methods:

(a) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this section may waive his or her rights to receive notice for any classes and categories of permits):

(1) The applicant;

(2) Any other agency which the Director knows has issued or is required to issue a RCRA, UIC, PSD, NPDES or 404 permit for the same facility or activity (including EPA);

(3) Federal and D.C. agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone

- (d) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, fact sheet, and the application;
 - (e) A brief description of the comment procedure required by §§401.0.22 through 401.0.25 and the time and place of any hearing that will be held including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision; and
 - (f) Any additional information considered necessary or proper.
- 401.0.20 In addition to the general public notice described in §401.0.19, the public notice of a hearing under §§401.0.23 through 401.0.25 shall contain the following information:
- (a) Reference to the date of previous public notices relating to the permit;
 - (b) Date, time, and place of the hearing; and
 - (c) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures.
- 401.0.21 In addition to the general public notice described in §401.0.19, all persons identified in §401.0.18(a) shall be mailed a copy of the fact sheet, and the draft permit (if any).
- 401.0.22 During the public comment period provided under §§401.0.16 through 401.0.21, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing.
All comments shall be considered in making the final decision and shall be answered as provided in §401.0.26.
- 401.0.23 Provisions for public hearings shall be as follows:
- (a) The Director shall hold a public hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit;
 - (b) The Director may also hold a public hearing at his or her discretion whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision;
 - (c) (1) The Director shall hold a public hearing whenever he or she receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under §401.0.17(a);

DEPARTMENT OF ENVIRONMENTAL SERVICES

NOTICE OF FINAL RULEMAKING

The Director of the Department of Environmental Services, pursuant to the authority set forth in D.C. Law 2-64, the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978, D.C. Code, sec. 6-701 et seq. (1981 ed.), and Mayor's Order 78-185, effective September 19, 1978, hereby gives notice of the adoption of applicable provisions of Parts 260-265, 270, and 124 (Subpart A), Title 40 of the Code of Federal Regulations (CFR).

Notice of Proposed Rulemaking was published in the D.C. Register on June 10, 1983 (30 DCR 2841). No comments were received. Two sections contained in Part 124 (Subpart A) were inadvertently omitted from the Notice of Proposed Rulemaking. They are Sections 124.10(c)(1)(ix) and 124.10(c)(2)(ii). As they do not constitute a substantive change, a new notice of proposed rulemaking is not required.

The Hazardous Waste Management Regulations, with appropriate amendments, were adopted on July 11, 1983 and become effective on the date of publication of this notice in the D.C. Register.

Copies of the Regulations as adopted can be obtained at the Office of the Chief, Division of Pesticides and Hazardous Waste Management, Office of Environmental Standards and Quality Assurance, Department of Environmental Services, 5010 Overlook Ave., S.W., Room 114, Washington, D.C. 20032.

DEPARTMENT OF ENVIRONMENTAL SERVICES

HAZARDOUS WASTE MANAGEMENT REGULATIONS

Title 40, Code of Federal Regulations (CFR) (July 1, 1982 ed.), Parts 260-265, Part 270, and Part 124, Subpart A amended as follows:

AMENDMENTS TO 40 CFR PART 260

Authority: §§4, 5, 6, 8, and 10 of the District of Columbia Hazardous Waste Management Act, D.C. Law 2-64, March 16, 1978 (D.C. Code, §§6-703, 6-704, 6-705, 6-707, and 6-709, (1981)).

Where "EPA" appears in Part 260, it shall mean "Department" except as follows:

260.1 (b)(5)

260.10 - In the definition of "Designated Facility".

260.10 - In the definition of "EPA identification number".

260.10 - In the definition of "EPA Region".

260.10 - In the definition of "Regional Administrator".

260.11(a) - In reference to "EPA publication number".

260.20(f) [NEW SUBSECTION]

260.21(a)

Where "Administrator" appears in Part 260, it shall mean "Director" except as follows:

260.20(f) [NEW SUBSECTION]

260.21(c), (d) and (e) [260.21(e) IS A NEW SUBSECTION.]

"Federal Register" as it appears in Part 260 shall mean "District of Columbia Register" except in:

260.11(b) - In reference to the "Office of the Federal Register".

Where "RCRA" appears in Part 260, it shall mean "HWMA".

Part 122 as it appears in Part 260 shall mean "Part 270."

260.2(a) The reference to the Freedom of Information Act (FOIA) shall read, "authorized by the D.C. Freedom of Information Act, D.C. Law 1-96, D.C. Code, §§1-1521 thru 1-1529, (1981) and regulations implementing FOIA (24 DCR 6211, Jan. 27, 1978) as applicable."

260.2(b) Reference to section 2.203(b) shall read "set forth by the Department."

Replace "in Part 2, Subpart B of this Chapter" with "by the Department and in accordance with the D.C. Freedom of Information Act."

260.10 "Act means the District of Columbia Hazardous Waste Management Act of 1977, D.C. Law 2-64, (HWMA)."

Add "Department means District of Columbia Department of Environmental Services."

In the definition of "designated facility" add "or D.C." after "EPA"; and replace "in accordance with Part 123 of this Chapter" with "by EPA".

Add "Director means Director of the Department of Environmental Services or his or her designee."

Add "District or D.C. means District of Columbia."

Add "District Agency means any Department agency or other instrumentality of the District Government."

In the definition of "Person" add "District Agency" before "Federal".

Add "RCRA means Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 et seq."

260.11(b) "Director of the Federal Register shall mean Director, District of Columbia Office of Documents."

260.20(f) A new subsection shall be added to read as follows:

"Where the Administrator of EPA has amended the Federal Regulations pursuant to 40 CFR 260.20, the Director of the Department may in his discretion, accept such determination and amend the District of Columbia regulations accordingly, provided that the Director determines such action to be consistent with policies and purposes of the Hazardous Waste Management Act of 1977 (D.C. Law 2-64)".

260.21(a) After "may petition" add "EPA".

260.21(d) Add "Federal" before "regulations".

260.21(e) A new subsection shall be added to read as follows:

"If the Administrator amends the federal regulations as described in (d), the Director may amend the District regulations to incorporate the same changes, in accordance with the D.C. Administrative Procedures Act".

Appendix I Add "[Note: Appendix I of this part is for guidance only and any inconsistencies contained herein are superseded by these regulations, as amended.]"

AMENDMENTS TO 40 CFR PART 261

Authority: §§5 and 6 of the District of Columbia Hazardous Waste Management Act, D.C. Law 2-64, March 16, 1978 (D.C. Code, §§6-704 and 6-705, (1981))

Where "EPA" appears in Part 261, it shall mean "Department" except as follows:

261.5(g)(3)(iii)
261.22(a)(1) EPA test method

Where "Administrator" appears in this part, it shall mean "Director" except as follows:

261.21(a)(1) and (3)
261.22(a)(1)

Where "RCRA" appears in this part, it shall mean "HWMA".

Where "Part 122" appears in this part, it shall mean "Part 270".

Where "Section 3010 of RCRA" or "3010 of the Act" appears in this part, it shall mean "these regulations".

261.1(b)(1&2) "Sections 3007, 7003 and 1004(5) of RCRA shall mean "§§8,11 and 3(b) of HWMA respectively, D.C. code §§6-707, 6-710 and 6-702(2) (1981)."

261.5(g)(3)(iii) - Replace "under Part 123 of this chapter" with "by EPA".

261.11(b) "Section 1004(5) of the Act" shall mean "Section 3(b) of HWMA, (D.C. Code, §6-702(2) (1981))."

AMENDMENTS TO 40 CFR PART 262

Authority: §§4, 5, 6, 8, and 10 of the District of Columbia Hazardous Waste Management Act, D.C. Law 2-64, March 16, 1978 (D.C. Code, §§6-703, 6-704, 6-705, 6-707, and 6-709, (1981)).

Where "EPA" appears in this part, it shall mean "Department", except in Section 262.32(b) and Section 262.50 Note.

Where "EPA identification number" appears in this part, it shall mean "EPA identification number".

Where "Administrator" or "Regional Administrator" appears in this part, it shall mean "Director" except in 262.50(b)(1).

262.10(e) - Replace "Section 3008" with "Section 12 of the Hazardous Waste Management Act (D.C. Code, §6-711, (1981))."

262.22 is amended to read as follows:

"§262.22 Number Of Copies

The manifest must provide the generator, each transporter, owner or operator of the designated facility and the Department with one copy each for their records, and two copies to be returned to the generator from the designated facility. The generator must send one of these to the Department."

262.23(a)(4) A new subsection shall be added to read:

"Send one copy to the Department within 7 days after the shipment is accepted by the initial transporter in accordance with 262.22".

262.23(e) A new subsection shall be added to read:

"The generator must send one of the copies received from the designated facility to the Department within 7 days of receipt of the copies."

262.32(b) After "or public safety authority" add "or the Department of Environmental Services".

262.41(a)(2) This Subsection shall read:

"To the Department"

262.42(b) - Replace "EPA Regional Administrator for the Region in which the generator is located" with "Department".

262.43 "Section 2002(a) and Section 3002(b)" shall mean "§6 of the Act, D.C. Code §6-705, (1981) and these regulations".

262.50(b)(1) - Add "and the Director" after "Administrator".

(b)(1)(iii) Add "the Department and" after "sent to:"

262.50 Note Replace "under 40 CFR Part 123" with "by EPA".

NOTE: The regulations set forth in Parts 262 & 263 establish the responsibilities of generators and transporters of hazardous waste in the handling, transportation, and management of that waste. In these regulations, the Department has expressly adopted certain regulations of the U.S. Department of Transportation (DOT) governing the transportation of hazardous materials. These regulations concern, among other things, labeling, marking, placarding, using proper containers, and reporting discharges. These DOT regulations are codified in Title 49, Code of Federal Regulations, Subchapter C, July 1, 1982.

AMENDMENTS TO 40 CFR PART 263

Authority: §§4, 5, 6, 8, and 10 of the District of Columbia Hazardous Waste Management Act, D.C. Law 2-64, March 16, 1978 (D.C. Code §§6-703, 6-704, 6-705, 6-707, and 6-709, (1981)).

Where "EPA" appears in Part 263, it shall mean "Department".

Where "EPA identification number" appears in this part, it shall mean "EPA identification number"

Where "Administrator" appears in Part 263, it shall mean "Director".

263.10(a) "United States" shall mean "District of Columbia".

263.30(c)(1) Add "the Mayor's Command Center at (202) 727-6161 and" before "National Response Center".

263.30(c)(3) shall be added to read "send a copy of the report required by (c)(2) to the Department".

AMENDMENTS TO 40 CFR PART 264

Authority - §§5,6(a), and 8(a) of the District of Columbia Hazardous Waste Management Act, D.C. Law 2-64, March 16, 1978 (D.C. Code §§6-704,6-705(a),and §6-707(a) (1981)).

Where "EPA" appears in this part it shall mean "Department" except in EPA identification number, and in the following sections:

264.151(f)(3)
264.151(g)(3)

Where "Administrator" or "Regional Administrator" appears in this part it shall mean "Director" except as follows:

264.12(a)
264.74(a)
264.74(b)

Where "RCRA" appears in this part it shall mean "HWMA".

Where "U.S. District Court" appears in this part it shall mean "D.C. Superior Court"

Where "Part 122" appears in this part it shall mean "Part 270".

Where "Section 3008 of RCRA" appears in this part it shall mean "Section 12(a) of HWMA (D.C. Code, §6-711(a) (1981)).".

264.1(a) - Delete "national"

264.1(d) - Delete "§122.45 of"

264.1(f) - Delete

264.3 - Replace "--as defined in section 3005(e) of RCRA and regulations under §122.23 of this Chapter--" with "--as defined under §270.70 of this Chapter--"

264.4 - "Section 7003 of RCRA" shall mean "§11 of HWMA(D.C. Code, §6-710 (1981))."

264.18(a)[Comment] "§122.25(a)" shall mean "§270.14(b)(11)".
(b)(2)[Comment] "§122.12" shall mean "§270.3".

264.56(d)(2) Shall read "He must immediately notify the Mayor's Command Center at (202)727-6161. The report must include:"

264.71(a)(4) Replace "a copy" with "two copies".

264.71(b)(4) - Replace "a copy" with "two copies".

264.74(a) - Add "the Department or" before "EPA"; add "the Director or" before "the Administrator".

264.74(b) - Add "the Director or" before "the Administrator".

264.112(a) - Replace "122.25(a)(13)" with "270.14"; replace "122.29" with "270.32".

264.112(a)(2) - Replace "122.17" with "270.42".

264.112(b) In the comment, "122.17(e)" shall read "Section 270.42(e-n)".

264.113(b)(2) In the comment, "122.17" shall read "270.42".

264.118(a) - Replace "122.25(a)(13)" with "270.14"; replace "122.29" with "270.32".

264.143(h) and 264.145(h) - Delete:

"If the facilities covered by the mechanism are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrators of all such regions".

264.147(a)(1)(i) and 264.147(b)(1)(i) - Delete:

"or Regional Administrators if the facilities are located in more than one Region".

264.147(a)(1)(ii) and 264.147(b)(1)(ii) - Replace "one or more States" with "the District".

264.147(c) - Replace "122.25" with "270.14"; Replace "122.15(a)(7)(iii)" with "270.41(a)(5)".

264.147(d) - Replace "122.15(a)(7)(iii)" with "270.41(a)(5)".

264.149 - Delete

264.150 - Delete

264.151 **TRUST AGREEMENT** - Delete "of the Regions in which the facilities are located" before "or their designees", or "for the Region(s) in which the facility(ies) is (are) located," wherever it appears in this Part.

264.151(g)(4) - Replace "either to EPA or a State" with "to the District".

264.340(c) - Replace "122.27(b)" with "270.62".

264.341 - "122.27(b)" shall mean "270.62"; "122.25(b)(5)" shall mean "270.19",

264.342 "122.27(b)" shall mean "270.62".

264.343(d) "122.15" shall mean "270.41".

264.344 "§122.27(b)" shall mean "270.62"; "§122.(b)(5)" shall mean "270.19".

AMENDMENTS TO 40 CFR PART 265

Authority - §§5, 6(a), & 8(a) of the District of Columbia Hazardous Waste Management Act, D.C. Law 2-64, March 16, 1978 (D.C. Code §§ 6-704, 6-705(a), and 6-707(a) (1981)).

Where "EPA" appears in this part, it shall mean "Department" except in "EPA identification number" and in 265.74(a).

Where "Administrator" or "Regional Administrator" appears in this part it shall mean "Director" except as follows:

265.12(a)
265.74(a) & (b)

Where RCRA appears in this part, it shall mean "HWMA".

Where "Part 122" appears in this part it shall mean "Part 270".

Where "Section 3008 of RCRA" appears in this part, it shall mean "§12(a) of HWMA".

265.1(a) - Delete "national".

265.1(b) - Replace "Section 3005(e) of RCRA and § 122.22" with "§ 270.10".

265.1(c)(4) - Delete is

265.4 - "7003 of RCRA" shall mean "11 of HWMA (D.C. Code, §6-710 (1981))"..

265.12(a) - Add "and Director" after "notify the Regional Administrator".

(b) "Section 122.23(c)" shall mean "270.72".

265.56(a)(2) Shall read "Notify the Mayor's Command Center at (202)727-6161".

265.56(d)(1) - Replace "appropriate local authorities" with "the Mayor's Command Center".

265.58(d)(2) - Shall read "The emergency coordinator shall give the Mayor's Command Center the following information:"

265.56(i) - Delete "and appropriate state and local authorities."

265.71(a)(4) - Replace "a copy" with "two copies."

(b)(4) Replace "a copy" with "two copies."

265.74(a) - Add "the Department or" before "EPA" and add "the Director or" before "the Administrator."

265.74(b) - Add "the Director or" before "the Administrator."

265.90-265.94 - Delete.

265.117(a)(1) - Delete.

265.118(a)(1) - Delete.

265.118(d) - Delete the last sentence.

In sections 265.143(g) and 265.145(g), delete:

"If the facilities are covered by the mechanisms are in more than one Region, identical evidence of financial assurance must be submitted to and maintained with the Regional Administrators of all such Regions".

In sections 265.147 (a)(1)(i) and (b)(1)(i), delete:

"or Regional Administrators if the facilities are located in more than one Region".

In sections 265.147(c) and(d) "122.15(a)(7)(iii)" shall mean "270.41(a)(5)."

265.147(f)(4) - Delete "of each Region... are located."

The following sections are deleted :

265.149

265.150

265.220 - 265.230

265.250 - 265.257

265.270 - 265.282

265.300 - 265.316

265.400 - 265.406

265.430

AMENDMENTS TO 40 CFR PART 270

Authority - District of Columbia Hazardous Waste Management Act, D.C. Law 2-64, March 16, 1978 (D.C. Code, §§6-701, et seq. (1981)).

Where "EPA" or "Administration" appears in Part 270, it shall mean the "Department" except as follows:

- 270.2 In the definition of "EPA"
- 270.2 In the definition of "State/EPA Agreement"
- 270.6 In reference to EPA Publication

Where "RCRA" appears in this part, it shall mean the "HWMA" except as follows:

- 270.2 In the definition of RCRA
- 270.13 (k)(1)

Where "Administrator" or "Regional Administrator" appears in this part, it shall mean the "Director" except in:

- 270.2 In the definition of "Administrator" or "Regional Administrator"

Where "Federal Register" appears in this part, it shall mean the "District of Columbia Register" except in 270.6

Where "State" appears in this part, it shall mean the "District of Columbia".

270.1(a)(1) The reference to "Subtitle C of the Solid Waste Disposal Act... et seq.." shall mean "D.C. HWMA, D.C. Law 2-64, March 16, 1978, (D.C. Code, § 6-701, et seq.(1981))."

270.1(a)(2) - Delete "The following chart ... Federal Regulations," and the Chart.

270.1(b) - Replace "promulgation" with "adoption"; Delete "under section 3010" from the first sentence.

270.1(b) - Delete "under section 3010" from the sixth sentence.

270.1(b) - Delete "under section 3005(e) of RCRA."

270.1(b) - Replace "EPA or a State with Interim Authorization for Phase II or final Authorization" with the "Department".

270.1(b) - Delete "or with the analogous provisions of a State program which has recieved interim or final authorization under Part 271."

270.1(c) - Replace "January 26, 1983" with "the effective date of these regulations."

270.2 - Delete the following definitions:

- Approved Program or Approved State
- Final Authorization
- Interim Authorization
- Major facility
- Phase I
- Phase II
- State Director

270.2 - Delete the word "national" and phrase "in approved states" from the definition of "Application."

270.2 - Definition of Director shall read "Director means the Director of the Department of Environmental Services".

270.2 - Delete "or an approved State" in the definition of "Permit".

270.4(c) - Delete "or local"

270.5 - Delete this section

270.6 - Replace "Director of Federal Register" with "Director, D.C. Office of Documents".

270.10(c) - Delete "For EPA Administered programs" in the last sentence.

270.10(e)(3) - Replace "issued under Section 3008" with "§12(a) HWMA (D.C. Code §6-711(a) (1981))."

270.10(e)(4) - Replace "Phase II" with "these regulations" in the first sentence.

270.10(e)(4) - Delete "The State Director... Submission of Part B".

270.10(f)(2) - Delete "after promugation.....such facility" in the first sentence.

270.10(f)(2) - Delete "if at the time.....with the State Director" in the second sentence.

270.10(f)(3) - Delete "After November 19, 1980 but" in the first sentence.

270.10(g)(1)(i) - Delete

- (ii) Shall read "with the Director no later than the effective date of regulatory provisions listing or designating wastes as hazardous in addition to those listed or designated previously if the facility is

storing, treating or disposing of any of those newly listed or designated waste; or"

- (iii) Shall read "As necessary to comply with provisions of §270.72 for changes during interim status. Revised Part A applications necessary to comply with §270.72 shall be filled with the Director".

270.12(a) - Replace "40 CFR Part 2" with "24 DCR 6211."

270.30 - Delete "(or the corresponding....regulations)" in the second sentence.

270.30(l)(9) Should read "Annual Report: An annual report must be submitted covering facility activities during each calendar year".

270.32(a) - Delete "and for EPA issued permits only"

270.32(c) - Delete "For a State issued permit an applicable requirement is a state statutory or regulatory requirement which takes effect prior to final administrative disposition of a permit".

270.50(a) Shall read "HWMA permits shall be effective for a fixed term not to exceed one year".

270.51(a) - Delete "EPA Permits when EPA is the permit-issuing authority".

270.51(a) - Delete "under 5 U.S.C. 558(c)".

270.51(d) - Delete.

270.60(c)(3)(v) Should read "Annual report"

270.64 - Replace "two years" with "one year".

270.70(a)(1) - Delete "of Section 3010(a) of RCRA".

270.72(c)(2) - Delete "or state or local".

40 CFR PART 124 SUBPART A, AS AMENDED

PROCEDURES FOR DECISION MAKING

Authority: D.C. Hazardous Waste Management Act, D.C. Law 2-64, March 16, 1978 (D.C. Code, §6-701 et seq. (1981)).

Subpart A - General Program Requirements

§124.1 Purpose and Scope

- (a) This Part contains procedures for issuing, modifying, revoking and reissuing, or terminating all HWM "permits" other than "emergency permits" (see §§270.816 and "permits by rule" (§270.60). The latter kinds of permits are governed by Part 270. Interim status is covered by specific provisions in Part 270.
- (b) Subpart A describes the steps the Department will follow in receiving permit applications. Preparing draft permits, issuing public notice, inviting public comment and holding public hearings on draft permits. Subpart A also covers assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of the final permit decision.

§124.2 DEFINITIONS

- (a) Terms not defined in this section have the meaning given by the Act and other Parts of these regulations.
"Schedule of compliance" means a schedule of remedial measures included in a "permit," including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the "appropriate Act and regulations."

§124.3 Application for a permit

- (a)
 - (1) Any person who requires a permit under the program shall complete sign, and submit to the Director an application for each permit required under §270.1 .Applications are not required for permits by rule (§270.60).
 - (2) The Director shall not begin the processing of a permit until the applicant has fully complied with the application requirements for that permit. See §§270.10, 270.13.
 - (3) Permit applications must comply with the signature and certification requirements of 270.11.
- (b) [Reserved.]

- (c) The Director shall review for completeness every application for a permit. Each application for a permit submitted by a new HWM facility, should be reviewed for completeness by the Director within 30 days of its receipt. Each application for a permit submitted by an existing HWM facility (both Parts A and B of the application), should be reviewed for completeness within 60 days of receipt. Upon completing the review, the Director shall notify the applicant in writing whether the application is complete. If the application is incomplete, the Director shall list the information necessary to make the application complete. When the application is for an existing HWM facility, the Director shall specify in the notice of deficiency a date for submitting the necessary information. The Director shall notify the applicant that application is complete upon receiving this information. After the application is completed, the Director may request additional information from an applicant but only when necessary to clarify, modify, or supplement previously submitted material. Requests for such additional information will not render an application incomplete.
- (d) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under the applicable statutory provision including HWMA Section 12(a).
- (e) If the Director decides that a site visit is necessary for any reason in conjunction with the processing of an application, he or she shall notify the applicant and a date shall be scheduled.
- (f) The effective date of an application is the date on which the Director notifies the applicant that the application is complete as provided in paragraph (c) of this section.
- (g) For each application from a major new HWM facility, the Director shall no later than the effective date of the application, prepare and

mail to the applicant a project decision schedule. The schedule shall specify target dates by which the Director intends to:

- (1) Prepare a draft permit;
- (2) Give public notice;
- (3) Complete the public comment period, including any public hearing; and
- (4) Issue a final permit.

§124.5 Modification, revocation and reissuance, or termination of permits.

- (a) Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Director's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in §§270.41 or 270.43. All requests shall be in writing and shall contain facts or reasons supporting the request.
- (b) If the Director decides the request is not justified, he or she shall send the requester a brief written response giving a reason for the decision. Denials of request for modification, revocation and reissuance, or termination are not subject to public notice, comment, or hearings. Denials by the Director may be appealed to the Mayor by a letter briefly setting forth the relevant facts. The Mayor may direct the Director to begin modification, revocation and reissuance, or termination proceedings under paragraph (c) of this section. The appeal shall be considered denied if the Mayor takes no action on the letter within 60 days after receiving it. This appeal is a prerequisite to seeking judicial review of action in denying a request for modification, revocation and reissuance, or termination.
- (c)(1) If the Director tentatively decides to modify or revoke and reissue a permit under 270.41, he or she shall prepare a draft permit under §124.6 incorporating the proposed changes. The Director may request

additional information and, in the case of a modified permit, may require the submission of an updated application. In the case of revoked and reissued permits, the Director shall require the submission of a new application.

(2) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding the permittee shall comply with all conditions of the existing permit until a new final permit is reissued.

(3) "Minor modifications" as defined in Section 270.42 are not subject to the requirements of this section.

(d) If the Director tentatively decides to terminate a permit under Section 270.43, he or she shall issue a notice of intent to terminate. A notice of intent to terminate is a type of draft permit which follows the same procedures as any draft permit prepared under Section 124.6.

§124.6 Draft permits.

- (a) Once an application is complete, the Director shall tentatively decide whether to prepare a draft permit, or to deny the application.
- (b) If the Director tentatively decides to deny the permit application, he or she shall issue a notice of intent to deny. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit prepared under this section. See Section 124.6(e). If the Director's final decision (Section 124.15) is that the tentative decision to deny the permit application was incorrect, he or

she shall withdraw the notice of intent to deny and proceed to prepare a draft permit under paragraph (d) of this section.

- (c) **Reserved.**
- (d) If the Director decides to prepare a draft permit, he or she shall prepare a draft permit that contains the following information:
 - (1) All conditions under Sections 270.30 and 270.32;
 - (2) All compliance schedules under Section 270.33;
 - (3) All monitoring requirements under Section 270.31; and
 - (4) Standards for treatment, storage, and/or disposal and other permit conditions under Section 270.30.
- (e) All draft permits prepared under this section shall be accompanied by a fact sheet (Section 124.8), and shall be publicly noticed (Section 124.10) and made available for public comment (Section 124.11). The Director shall give notice of opportunity for a public hearing (Section 124.12), issue a final decision (Section 124.15) and respond to comments (Section 124.17).

§124.8 Fact Sheet.

- (a) A fact sheet shall be prepared for every draft permit for a HWM facility and for every draft permit which the Director finds is the subject of widespread public interest or raises major issues. The fact sheet shall briefly set forth the principal facts and the significant factual, legal, methodological and policy questions considered in preparing the draft permit. The Director shall send this fact sheet to the applicant and, on request, to any other person.
- (b) The fact sheet shall include, when applicable:
 - (1) A brief description of the type of facility or activity which is the subject of the draft permit;
 - (2) The type and quantity of wastes, fluids, or pollutants which are proposed to be or are being treated, stored, or disposed of;

- (3) **Reserved.**
- (4) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions;
- (5) Reasons why any requested variances or alternatives to required standards do or do not appear justified;
- (6) A description of the procedures for reaching a final decision on the draft permit including:
 - (i) The beginning and ending dates of the comment period under §124.10 and the address where comments will be received;
 - (ii) Procedures for requesting a hearing and the nature of that hearing; and
 - (iii) Any other procedures by which the public may participate in the final decision.
- (7) Name and telephone number of a person to contact for additional information.

§124.10 Public notice of permit actions and public comment period.

- (a) **Scope.**
 - (1) The Director shall give public notice that the following actions have occurred:
 - (i) A permit application has been tentatively denied under Section 124.6(b);
 - (ii) A draft permit has been prepared under Section 124.6(d);
 - (iii) A hearing has been scheduled under Section 124.12.
 - (2) No public notice is required when a request for permit modification, revocation and reissuance, or termination is denied under Section 124.5(b). Written notice of that denial shall be given to the requester and to the permittee.
 - (3) Public notices may describe more than one permit or permit action.
- (b) **Timing**

- (1) Public notice of the preparation of a draft permit (Including a notice of intent to deny a permit application) required under paragraph (a) of this section shall allow at least 45 days for public comment.

- (2) Public notice of a public hearing shall be given at least 30 days before the hearing. (Public notice of the hearing may be given at the same time as public notice of the draft permit and the two notices may be combined.)

- (c) Public notice of activities described in paragraph (a)(1) of this section shall be given by the following methods:
 - (1) By mailing a copy of a notice to the following persons (any person otherwise entitled to receive notice under this paragraph may waive his or her rights to receive notice for any classes and categories of permits);
 - (i) The applicant;
 - (ii) Any other agency which the Director knows has issued or is required to issue a RCRA, UIC, PSD, NPDES or 404 permit for the same facility or activity (including EPA);
 - (iii) Federal and D.C. agencies with jurisdiction over fish, shellfish, and wildlife resources and over coastal zone management plans, the Advisory council on Historic Preservation, D.C. Historic Preservation Officers, and other appropriate government authorities,
 - (iv) Reserved.

 - (v) Reserved.
 - (vi) Reserved.
 - (vii) Reserved.

 - (viii) Persons on a mailing list:
 - (A) Including those who request in writing to be on the list;

- (B) Soliciting persons for "area lists" from participants in past permit proceedings in that area; and
 - (C) Notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as D.C. funded newsletters, environmental bulletins, or D.C. law journals. (The Director may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Director may delete from the list the name of any person who fails to respond to such a request.)
- (ix) For HWMA permits:
- (A) To any unit of local government having jurisdiction over the area where the facility is proposed to be located; and
 - (B) To each state agency having any authority under state law with respect to the construction or operation of such facility.
- (2) Publication of a notice in a daily or weekly newspaper within the area affected by the facility and in the District Register and broadcast of the notice over local radio stations..
 - (3) In a manner constituting legal notice to the public under D.C. Law.
 - (4) Any other method reasonably calculated to give actual notice of the action in question to the person potentially affected by it, including press releases or any other forum or medium to elicit public participation.

(d) Contents

- (1) All public notices issued under this Part shall contain the following minimum information:
 - (i) Name and address of the office processing the permit action for which notice is being given;
 - (ii) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit.
 - (iii) A brief description of the business conducted at the facility or activity described in the permit application.
 - (iv) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit fact sheet, and the application; and
 - (v) A brief description of the comment procedure required by §§124.11 and 124.12 and the time and place of any hearing that will be held including a statement of procedures to request a hearing (unless a hearing has already been scheduled) and other procedures by which the public may participate in the final permit decision.
 - (vi) Reserved.
 - (vii) Reserved.
 - (viii) Reserved.
 - (ix) Any additional information considered necessary or proper.
- (2) In addition to the general public notice described in paragraph (d)(1) of this section, the public notice of a hearing under §124.12 shall contain the following information:

- (i) Reference to the date of previous public notices relating to the permit;
 - (ii) Date, time, and place of the hearing;
 - (iii) A brief description of the nature and purpose of the hearing, including the applicable rules and procedures;
- (e) In addition to the general public notice described in paragraph (d)(1) of this section, all persons identified in paragraphs (c)(1)(i), (ii), (iii), and (iv) of this section shall be mailed a copy of the fact sheet, the permit application (if any) and the draft permit (if any).

§ 124.11 Public comments and requests for public hearings.

During the public comment period provided under §124.10, any interested person may submit written comments on the draft permit and may request a public hearing, if no hearing has already been scheduled. A request for a public hearing shall be in writing and shall state the nature of the issues proposed to be raised in the hearing. All comments shall be considered in making the final decision and shall be answered as provided in §124.11.

§124.12 Public hearings.

- (1) The Director shall hold a public hearing whenever he or she finds, on the basis of requests, a significant degree of public interest in a draft permit;
- (2) The Director may also hold a public hearing at his or her discretion, whenever for instance, such a hearing might clarify one or more issues involved in the permit decision;
- (3)(i) The Director shall hold a public hearing whenever he or she receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice under §124.10(b)(1);

(ii) whenever possible the Director shall schedule a hearing under this section at a location convenient to the nearest population center to the proposed facility;

(4) Public notice of the hearing shall be given as specified in §124.10.

(b) Reserved.

(c) Any person may submit oral or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under §124.10 shall automatically be extended to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(d) A tape recording or written transcript of the hearing shall be made available to the public.

§ 124.17 Response to comments.

The Director shall issue a response to comments when a final permit is issued.

This response shall:

- (1) Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and
- (2) Briefly describe and respond to all significant comments raised during the public comment period, or during any hearing.

(b) Reserved.

(c) The response to comments shall be available to the public.