

US EPA ARCHIVE DOCUMENT

**SUPPLEMENT TO THE
DISTRICT OF COLUMBIA CONSOLIDATED
CORPORATION COUNSEL'S STATEMENT:**

**CORPORATION COUNSEL'S STATEMENT UPDATE
FOR FINAL AUTHORIZATION,
INCLUDING CHANGES TO THE
FEDERAL RCRA PROGRAM
FROM JULY 1, 1997 THROUGH JUNE 1998**

CORPORATION COUNSEL'S STATEMENT UPDATE
FOR FINAL AUTHORIZATION FOR CHANGES TO THE
FEDERAL RCRA PROGRAM FROM JULY 1, 1997
THROUGH JUNE 30, 1998
(REVISION CHECKLISTS 160 THROUGH 168)

I hereby certify, pursuant to my authority as Corporation Counsel for the District of Columbia and in accordance with Section 3006(b) of the Resource Conservation and Recovery Act, as amended by the Hazardous and Solid Waste Amendments of 1984 (42 USC 6901 *et seq.*), and 40 CFR 271 that in my opinion the laws of the District of Columbia provide adequate authority to carry out the revised program set forth in the "Program Description" submitted by the District of Columbia Department of Health, Environmental Health Administration. The specific authorities provided are contained in statutes or regulations lawfully adopted at the time this Statement is signed and which are in effect now as specified below. These authorities and this certification supplement the "Consolidated Corporation Counsel's Statement for Final Authorization" (hereinafter referred to as the Consolidated Corporation Counsel's Statement) covering changes to the Federal RCRA program from July 1, 1984 through June 30, 1997 which is being submitted together with this present Corporation Counsel's Statement.

This present supplemental Corporation Counsel's Statement and the Consolidated Corporation Counsel's Statement supercede the "Corporation Counsel's Statement" signed by Judith Rogers dated July 1, 1983 and the "Corporation Counsel's Statement for Final Authorization" signed by Inez Smith Reid dated October 15, 1984 which contain the statement and certification of the authorities for the District of Columbia's "base" hazardous waste program. The prior statements are based upon the authority in the District of Columbia Hazardous Waste Management Act of 1977; D.C. Law 2-64, D.C. Code §6-701 *et seq.*

The District of Columbia Hazardous Waste Management Act is still the statutory authority for the District's program, but has been amended by D.C. Laws 5-103, 6-42, 8-37, 8-229, 10-68 and 12-261 as contained in the D.C. Code §6-701 *et seq.* (1981 ed., 1995 Repl. Vol., 1999 Supplement). These statutory provisions have not changed since 1999.

The District's Hazardous Waste Regulations, while still appearing in Title 20 of the District of Columbia Municipal Regulations (DCMR), have also been amended so that, rather than incorporating by reference, the Federal provisions have been restated and renumbered in the format of the District of Columbia regulations for the benefit of the regulated community. Because of this change in the District's regulations, the Consolidated Corporation Counsel's Statement contains the statement and certification for the District's provisions analogous to the Federal base program and all revisions to that program through June of 1997 (that is, through RCRA Cluster VII).

This Supplemental Corporation Counsel's Statement contains the statement and certification of the District's provisions addressing changes made to the Federal program between July 1, 1997 and July 1, 1998 (HSWA Cluster VIII). The 20 DCMR regulations addressed by this Statement are effective September 29, 2000.

The District's regulatory provisions are documented on Revision Checklists 160 through 168, which are attached to this Supplemental Corporation Counsel's Statement. An "X" in the "Equivalent" column implies that the District provision is identical to the its Federal counterpart. A "D" in this column implies that the District has made modifications to the Federal text, but the provision is equivalent to the

Federal counterpart. Differences between the District's provisions and the Federal provisions are noted on the Revision Checklists.

I. IDENTIFICATION AND LISTING

A. District of Columbia statutes and regulations contain lists of hazardous wastes which encompass all wastes controlled under the following Federal regulations as indicated in the designated Revision Checklists:

- (30) *Listing of one waste type (K140) from the floor sweeping, off-specification product and spent filter media from the production of 2,4,6-tribromophenol, as well as the listing of 2,4,6-tribromophenol as U408, 40 CFR 261.32, 261.33(f), and Part 261 Appendix VII and VIII as amended May 4, 1998 [63 FR 24596] and June 29, 1998 [63 FR 35147], Revision Checklist 165. [This listing has been vacated.]*

Federal Authority: RCRA §3001(b).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a) and 6-705(a)
Title 20 District of Columbia Municipal Regulations (20 DCMR) §§4109.11/Table 5,
4109.12(f)/Table 7, and Chapter 41 Appendices I&II

Remarks of the Corporation Counsel

D.C. Code §§ 6-701(a) and 6-705(a) provide the Mayor with the authority to develop a program to properly handle hazardous waste management which, at D.C. Code § 6-705(a)(1), specifically includes the authority to list wastes as hazardous.

As noted on Revision Checklist 165, on April 9, 1999, the United States Court of Appeals for the District of Columbia in Great Lakes Chemical Corporation versus EPA (Docket No. 98-1312) granted the U.S. Government's motion for a voluntary vacatur of the rules addressed by Revision Checklist 165. However, the District has chosen to list the K140 and U408 wastes. As such, the District's program is both broader in scope and more stringent. The changes required by Revision Checklist 165 rules, prior to the vacatur, have been made and the provisions at 20 DCMR §§4109.11/Table 5 and 4109.12(f)/table 7 and the entries in Chapter 41 Appendices I&II, are identical to their Federal counterparts.

NN. District of Columbia statutes and regulations include an exemption from regulation under RCRA for condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with 40 CFR 63.446(e), as indicated in Revision Checklist 164. This exclusion is limited to combustion at mills generating the condensate.

Federal Authority: RCRA §3001; 40 CFR 261.4(a)(15), as amended April 15, 1998 (63 FR 18504).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §6-701(a) and 6-705(a)
20 DCMR §§4101.1(q)

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) give the Mayor general authority to develop a regulatory program to ensure the proper handling of hazardous waste. Implicit in this authority is the ability to allow exclusion of certain solid and hazardous wastes provided that such exclusions do not jeopardize the safe and effective handling of hazardous waste in the District. The exclusion of condensate gases from kraft mill stream strippers at 20 DCMR §4101.1(q) is identical to its Federal counterpart at 40 CFR 261.4(a)(15).

OO. District of Columbia statutes and regulations provide for secondary materials from mineral processing to be co-processed with normal raw materials in beneficiation operations which generate Bevill exempt wastes, without changing the exempt status of the resulting Bevill waste, provided certain conditions are met as indicated in Revision Checklist 167 E.

Federal Authority: RCRA §3001; 40 CFR 261.4(b)(7) as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §6-701(a) and 6-705(a)
20 DCMR §4101.2(h)

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) give the Mayor general authority to develop a regulatory program to ensure the proper handling of hazardous waste including the authority to allow exclusion of certain solid and hazardous wastes provided that such exclusions do not jeopardize the safe and effective handling of hazardous waste in the District. The exclusion of Bevill wastes at 20 DCMR §4101.2(h) is identical to its Federal counterpart at 40 CFR 261.4(b)(7) and includes the changes addressed by Revision Checklist 167E.

PP. District of Columbia statutes and regulations contain clarifying amendments to requirements regarding exclusion of mixtures under 261.4(b)(7) involving Bevill waste, as indicated in Revision Checklist 167 E.

Federal Authority: RCRA §3001; 40 CFR 261.3(a)(2)(i)&(iii) as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §6-701(a) and 6-705(a)
20 DCMR §4100.12(b)(1)&(3)

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) give the Mayor general authority to develop a regulatory program to ensure the proper handling of hazardous waste including the authority to allow exclusion of certain solid and hazardous wastes provided that such exclusions do not jeopardize the safe and effective handling of hazardous waste in the District. The provisions at 20 DCMR §4100.12(b)(1)&(3) are identical to their Federal counterparts at 40 CFR 261.3(a)(2)(i)&(iii) and include the changes addressed by Revision Checklist 167E.

II. DEFINITION OF SOLID WASTE

D. District of Columbia statutes and regulations provide for a conditional exclusion from the definition of solid wastes for mineral processing secondary materials as indicated in Revision Checklist 167 D.

Federal Authority: RCRA §3001; 40 CFR 261.2(c)(3), 261.2(c)(4)/Table 1, 261.2(e)(1)(iii) and 261.4(a)(16) as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a) and 6-705(a)
20 DCMR §§4100.7(e), 4100.7(f)/Table 1, 4100.9(c) and 4101.1(r)

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) give the Mayor general authority to develop a regulatory program to ensure the proper handling of hazardous waste including the authority to allow exclusion of certain solid wastes provided that such exclusions do not jeopardize the safe and effective handling of hazardous waste in the District. 20 DCMR §§4100.7(e), 4100.7(f)/Table 1, 4100.9(c) and 4101.1(r) as amended, relative to the changes associated with the mineral processing secondary materials exclusion from the definition of a solid waste, are identical to their Federal counterparts at 40 CFR 261.2(c)(3), 261.2(c)(4)/Table 1, 261.2(e)(1)(iii) and 261.4(a)(16).

E. District of Columbia statutes and regulations provide for an exclusion from the definition of solid waste for certain materials generated and recycled by the wood preserving industry as indicated in Revision Checklist 167 F.

Federal Authority: RCRA §3001; 40 CFR 261.4(a)(9)(iii) as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a) and 6-705(a)
20 DCMR §§4101.1(k)

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) give the Mayor general authority to develop a regulatory program to ensure the proper handling of hazardous waste including the authority to allow exclusion of certain solid wastes provided that such exclusions do not jeopardize the safe and effective handling of hazardous waste in the District. 20 DCMR §§4101.1(k), addressing the recycled wood preserving waste waters exclusion from the definition of a solid waste, is identical to 40 CFR 261.4(a)(9)(iii).

F. District of Columbia statutes and regulations exclude from the definition of solid waste fuels which are produced from a hazardous waste, but which are comparable to some currently used fossil fuels, as indicated in Revision Checklist 168.

Federal Authority:- RCRA §§1004, 1006, and 3001; 40 CFR 261.4(a)(16) and 261.38, as amended June 19, 1998 (63 FR 33782).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a) and 6-705(a)
20 DCMR §§4101.1(s), and 4111

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) give the Mayor general authority to develop a regulatory program to ensure the proper handling of hazardous waste including the authority to allow exclusion of certain solid wastes provided that such exclusions do not jeopardize the safe and effective handling of hazardous waste in the District. 20 DCMR §§4101.1(s), addressing the comparable/syngas fuels exclusion from the definition of a solid waste, is identical to 40 CFR 261.4(a)(16). 20 DCMR §4111 is identical to the Federal requirements at 40 CFR 261.38 except that the units burning the excluded fuels must be located outside the District. This additional restriction makes the District's exclusion more stringent than the Federal exclusion.

XV. STANDARDS FOR FACILITIES

W. District of Columbia statutes and regulations provide for organic air emission standards for tanks, surface impoundments and containers and provide that air emission control requirements be added to the permit terms and provisions specified for miscellaneous units as specified in Revision Checklists 154 and 163.

Federal Authority: RCRA § 3004(n); 40 CFR 60 Appendix A, 260, 261, 262, 264, 265, and 270 as amended December 6, 1994 (59 FR 62896); May 19, 1995 (60 FR 26828); September 29, 1995 (60 FR 50426); November 13, 1995 (60 FR 56952); February 9, 1996 (61 FR 4903); June 5, 1996 (61 FR 28508); November 25, 1996 (61 FR 59932); and December 8, 1997 (62 FR 64636)

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a), 6-702(1), 6-705(a), 6-904, 6-905, and 6-906
20 DCMR Chapters 1-6, §§4404.4, 4411.11(f), 4428.2(c), 4428.3, 4428.4, 4428.11, 4445.2(c), 4445.3, 4445.6, 4454.1 through 4454.5, 4456.3(a)&(b), 4458.8(h), 4458.14, 4474.2(a), 4474.3, 4475.2, 4475.3(b)(7)(A)&(B), 4475.3(c), 4475.3(d)(2), 4476.1(b), 4476.2(a), 4477.3(b)(3), 4477.3(b)(3)(B), 4477.5(d), 4477.6(c)(1)(D)(iv), 4477.6(c)(3), 4477.6(d), 4477.10(b)(3), 4400.3, 4018(a), 4478.3(b), 4478.3(d)(1), 4478.4(b), 4478.4(d)(1), 4478.7, 4479.3(c)(2), 4479.3(g), 4481.1, 4481.2(a)(2)(B), 4481.5, 4481.9, 4401, 4603.3(e), and 5400.1.

Remarks of the Corporation Counsel

The District's authority to control air emissions from hazardous waste management units comes from the general authorities at D.C. Code §§6-701(a), 6-705(a), 6-904, 6-905, and 6-906, the definition of "disposal" at D.C. Code §6-702(1) which includes emissions into the air, and 20 DCMR Chapters 1-6.

The District has made all of the changes associated with Revision Checklist 163 and the provisions cited above are identical to the Federal requirements except the introductory language for certain of the provisions has been modified slightly to accommodate the formatting and numbering restrictions of the *District of Columbia Register*. In addition, while none of the District provisions affected by the Revision Checklist 163 changes are affected by this difference, 20 DCMR §§4474 through 4483, the analog to 40 CFR 264 Subpart CC, differ from the Federal requirements in that these requirements are applicable only to tanks and containers because surface impoundments are not allowed in the District. Also, the District's regulations do not contain direct analogs to 40 CFR 264.1082(c)(2)(vii) & (viii), 40 CFR 264.1082(c)(5) and 40 CFR 264.1089(f)(2) which address tanks holding hazardous waste that will be burned in an incinerator or a boiler or industrial furnace. Such a situation is illegal in the District because of the prohibitions at 20 DCMR §§4400.3 and 4018. These differences make the District's program more stringent than the Federal program.

Relative to the District's interim status requirements, at 20 DCMR §4401, facilities which meet the requirements for interim status, specified at 20 DCMR §4401.1, are subject to the requirements of 40 CFR Part 265, as restricted by 20 DCMR §4401.2. The 20 DCMR §4401.2 restrictions are similar to the differences outlined above for 40 CFR Part 264. Therefore, the District is either equivalent to or more stringent than the Federal program.

XVI. REQUIREMENTS FOR PERMITS

BB. District of Columbia statutes and regulations include requirements for hazardous waste combustion facility permit modifications to meet 40 CFR part 63 MACT standards, as indicated in Revision Checklist 168. The District's statutes and regulations also address such changes during interim status.

Federal Authority: RCRA §§ 1006, 3004, 3005, and 7004; 40 CFR 270.42(j), 270.42 Appendix I, and 270.72(b)(8), as amended June 19, 1998 (63 FR 33782).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a), 6-702(1), 6-705(a), 6-904, 6-905, and 6-906
2 DCMR Chapters 1-6, §§ 4400.3, 4018.1, and 4617 Appendix I

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) provide the Mayor with general authority to develop a set of regulations to properly manage hazardous waste. Implicitly this authority includes the ability to develop a permit program including permit modifications. The District's authority to control air emissions from hazardous waste management units comes from the general authorities at D.C. Code §§6-701(a), 6-705(a), 6-904, 6-905, 6-906, the definition of "disposal" which includes emission into the air, and 20 DCMR Chapters 1-6. D.C. Code §§6-701(a)(2) and 6-705(a)(8) specifically address the Mayor's authority to develop regulations to properly manage the marketing, distribution and burning of fuel produced from a hazardous waste or containing a hazardous waste.

The Mayor is authorized to promulgate regulations which are more stringent than the Federal requirements and includes the authority to prohibit certain hazardous waste management and disposal practices, if these requirements are considered necessary to ensure safe and effective hazardous waste management in the District. The District's regulations are more stringent in that the burning of hazardous

waste is prohibited, as is the burning of used oil containing any amount of hazardous waste for energy recovery in incinerators, industrial furnaces, cement kilns, or boilers. The District's Air Regulations at 20 DCMR §504 prohibit single chamber and flue-fed incinerators, as well as the construction of any new incinerators in the District. Existing incinerators are required to have permits which explicitly list what can be burned. These permits prohibit the burning of hazardous waste, any used oil, or any used oil mixed with hazardous waste.

Because of these prohibitions, the District's program does not have direct analogs to 40 CFR 270.42(j) and 270.72(b)(8). On Revision Checklist 168, the prohibitions at 20 DCMR §§4400.3 and 4018.1 are cited. At 20 DCMR §4617, Appendix I (40 CFR 270.42, Appendix I), the entry for item "L(9)" indicates that the burning of hazardous waste or hazardous waste fuel in incinerators, boilers and industrial furnaces is not allowed in the District.

XX. STANDARDS FOR THE MANAGEMENT OF WASTE FUEL AND USED OIL AND FOR THE BURNING OF THESE MATERIALS IN BOILERS AND INDUSTRIAL FURNACES

E. District of Columbia statutes and regulations provide used oil management standards for used oil generators, transporters, processors, re-refiners, burners, and marketers as indicated in Revision Checklists 112, 122, 130, and 166.

Federal Authority: RCRA §§1004, 1006, 2002, 3001-3007, 3010, 3014 and 7004; 40 CFR Parts 260, 261, 266 and 279 as amended September 10, 1992 (57 FR 41566), May 3, 1993 (58 FR 26420), June 17, 1993 (58 FR 33341), March 4, 1994 (59 FR 10550), May 6, 1998 (63 FR 24963), and July 14, 1998 (63 FR 37780).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a), 6-705(a), and 6-713
20 DCMR 4102.10, 4103.3(d)-(f), 4900.14, 4901.6(e), 4903.16(h), 4904.13(h), 4905.1, 4905.2, 4906.9

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) provide the Mayor with general authority to develop a regulatory program to address the proper management of hazardous waste including the management of used oil. The District's waste fuel and used oil authorities are discussed in detail in the Consolidated Corporation Counsel Statement.

This Supplemental Corporation Counsel's Statement only addresses the changes relative to Revision Checklist 166; all of the specific differences between the District's used oil program and Federal program are addressed in the Consolidated Corporation Counsel's Statement and on Consolidated Checklist C10, found in Appendix X of that Statement. The specific differences relating to Revision Checklist 166 are:

- Relative to the 40 CFR 261.5(j) change, at § 4102.10, the District regulates the mixtures addressed by this provision as hazardous waste rather than used oil. As such, this District provision is more stringent than its Federal counterpart.

- Relative to the 40 CFR 279, Subpart G changes, these could not be made because the District's analog to 40 CFR 279, Subpart G consists of two paragraphs at §§ 4905.1 and 4905.2. The first prohibits the burning of any used oil in the District, even by generators. The second points to 40 CFR 279, Subpart G for the requirements for burning off-specification used oil outside the District. This prohibition makes the District's used oil requirements more stringent than the Federal requirements.

XXI. LAND DISPOSAL RESTRICTIONS

U. District of Columbia statutes and regulations provide for an extension of the national capacity variance for spent potliners from primary aluminum production (Hazardous Waste Number K088) so that K088 wastes do not have to be treated to meet LDR treatment standards until October 8, 1997, as indicated in Revision Checklists 155 and 160.

Federal Authority: RCRA §3004(d)-(k), and (m), 40 CFR 268.39(c) as amended January 14, 1997 (62 FR 1992) and July 14, 1997 (62 FR 37694).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a) and 6-705(a)
20 DCMR §5002.7(c)

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) authorize the Mayor to establish a program of regulation over all areas of hazardous waste management including land disposal. The differences between the District's more stringent land disposal requirements and the Federal requirements are documented in the Consolidated Corporation Counsel Statement.

The changes required by Revision Checklist 160 have been made and the provisions at 20 DCMR 5002.7(c) are identical to 40 CFR 268.39(c).

AA. District of Columbia statutes and regulations provide an extension until August 26, 1998, the time that alternate carbamate treatment standards are in place as indicated in Revision Checklist 161.

Federal Authority: RCRA §3004(d)-(k) and (m); 40 CFR 268.40(g) and 268.48(a) as amended on August 28, 1997 (62 FR 45568).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a) and 6-705(a)
20 DCMR §§5003.7, 5003.13, and 4016

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) authorize the Mayor to establish a program of regulation over all areas of hazardous waste management including land disposal. The differences between the District's more stringent land disposal requirements and the Federal requirements are documented in the

Consolidated Corporation Counsel Statement. The changes required by Revision Checklist 161 have been made and the provision at 20 DCMR §§5003.7 is identical to 40 CFR 268.40(g).

20 DCMR 5003.13 incorporates by reference the table at 40 CFR 268.48 as found in the July 1, 1998 CFR (see 20 DCMR §4016). The District's authority for incorporation by reference is set forth in regulations issued pursuant to the District of Columbia Documents Act, D.C. Law 2-153 (D.C. Code, Section 1-1531 *et seq.*, at 1 DCMR 501.6).

BB. District of Columbia statutes and regulations include revisions to the LDR treatment variances at 40 CFR 268.44, and specify that a variance may be granted when treatment to the level or by the method specified in the regulations either is not physically possible or is not appropriate under either technical or environmental circumstances as indicated in Revision Checklist 162.

Federal Authority: RCRA 3004(m); 40 CFR 268.44(a), 268.44(h), and 268.44(m) as amended December 5, 1997 (62 FR 64504).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a) and 6-705(a)
20 DCMR 5003.11

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) authorize the Mayor to establish a program of regulation over all areas of hazardous waste management including land disposal, including the authority to grant variances such as those addressed by 40 CFR 268.44. The differences between the District's more stringent land disposal requirements and the Federal requirements are documented in the Consolidated Corporation Counsel Statement. The changes required by Revision Checklist 162 have been made and the provisions at 20 DCMR 5003.11 are identical to 40 CFR 268.44. However, the District has chosen to leave the authority for approving site specific variances (40 CFR 268.44(h)-(o), 20 DCMR §5003.11(h)-(n)) with the EPA Administrator. The District does not want to assume this responsibility at this time.

CC. District of Columbia statutes and regulations include a waste-specific prohibition and treatment standards for K140 and U408 wastes under the land disposal restrictions program, as indicated in Revision Checklist 165.

Federal Authority: RCRA §3004 (d)-(k) and (m); 40 CFR 268.33, 268.40, and 268.48(a)/Table, as amended May 4, 1998 (63 FR 24596), and June 29, 1998 (63 FR 35147).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a) and 6-705(a)
20 DCMR §§5002.3, 5003.9, 5003.13 and 4016

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) authorize the Mayor to establish a program of regulation over all areas of hazardous waste management including land disposal. The differences between the District's more stringent land disposal requirements and the Federal requirements are documented in the Consolidated Corporation Counsel Statement.

As indicated on Revision Checklist 165, on April 9, 1999, the United States Court of Appeals for the District of Columbia in *Great Lakes Chemical Corporation versus EPA* (Docket No.98-1312) granted the U.S. Government's motion for a voluntary vacatur of the rules addressed by Revision Checklist 165. However, the District has chosen to list the K140 and U408 wastes. As such, the District's program is both broader in scope and more stringent.

The changes required by Revision Checklist 165 rules, prior to the vacatur, have been made and the provisions at 20 DCMR 5002.3(a)-(c) are identical to 40 CFR 268.33. At 20 DCMR §5002.3, an introductory paragraph has been added for clarity and to conform with the formatting requirements of the *District of Columbia Register*. At 20 DCMR §§5003.9, and 5003.13, the District incorporates by reference the tables found at 40 CFR 268.40 and 268.48. The date for the incorporation by reference is given at 20 DCMR §4016. Any references to the Federal regulations are to the version of the those regulations as they appear in the July 1, 1998 Code of Federal Regulations. The District's authority for incorporation by reference is set forth in regulations issued pursuant to the District of Columbia Documents Act, D.C. Law 2-153 (D.C. Code, Section 1-1531 *et seq.*, at 1 DCMR 501.6). Note that while the Revision Checklist 165 rules have been vacated, the changes made by them are present in the July 1, 1998 CFR.

DD. District of Columbia statutes and regulations include prohibitions and treatment standards for metal hazardous constituents in all hazardous wastes including the toxic characteristic wastes as indicated in Revision Checklist 167 A.

Federal Authority: RCRA §§3004(g)(4) and (m); 40 CFR 268.2(i), 268.3(d), 268.34, 268.40(e)&(h), 268.40 table, and 268.48 as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a) and 6-705(a)
20 DCMR §§5400.1, 5000.10, 5002.4, 5003.5, 5003.8, 5003.9, 5003.13 and 4016

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) authorize the Mayor to establish a program of regulation over all areas of hazardous waste management including land disposal. The differences between the District's more stringent land disposal requirements and the Federal requirements are documented in the Consolidated Corporation Counsel Statement. The changes required by Revision Checklist 167A have been made and the provisions at 20 DCMR 5400.1, 5000.10, 5002.4(a)-(e), 5003.5, and 5003.8 are identical to 40 CFR 268.2(i), 268.3(d), 268.34(a)-(e), and 268.40(e)&(h). At 20 DCMR §5002.4, an introductory paragraph has been added for clarity and to conform with the formatting requirements of the *District of Columbia Register*. At 20 DCMR §§5003.9, and 5003.13, the District incorporates by reference the tables found at 40 CFR 268.40 and 268.48. The date for the incorporation by reference is given at 20 DCMR §4016. Any references to the Federal regulations are to the version of the those regulations as they appear in the July 1, 1998 Code of Federal Regulations. The District's authority for incorporation by reference is set forth in regulations issued pursuant to the District of Columbia Documents Act, D.C. Law 2-153 (D.C. Code, Section 1-1531 *et seq.*, at 1 DCMR 501.6).

EE. District of Columbia statutes and regulations include treatment standards for mineral processing wastes as indicated in Revision Checklist 167 A.

Federal Authority: RCRA §§3004(g)(4) and (m); 40 CFR 268.40 and 268.48 as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a) and 6-705(a)
20 DCMR §§5003.9, 5003.13 and 4016

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) authorize the Mayor to establish a program of regulation over all areas of hazardous waste management including land disposal. The differences between the District's more stringent land disposal requirements and the Federal requirements are documented in the Consolidated Corporation Counsel Statement. The changes required by Revision Checklist 167A have been made and the provisions at 20 DCMR §§5003.9 and 5003.13 are identical to 40 CFR 268.40/Table and 40CFR 268.48 Table because at 20 DCMR §§5003.9, and 5003.13, the District incorporates by reference these Federal tables. The date for the incorporation by reference is given at 20 DCMR §4016. Any references to the Federal regulations are to the version of the those regulations as they appear in the July 1, 1998 Code of Federal Regulations. The District's authority for incorporation by reference is set forth in regulations issued pursuant to the District of Columbia Documents Act, D.C. Law 2-153 (D.C. Code, Section 1-1531 *et seq.*, at 1 DCMR 501.6).

FF. District of Columbia statutes and regulations include treatment standards for contaminated soils as indicated in Revision Checklist 167 B.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.2(k), 268.7(a)(1)-(6), 268.7(b)(1)-(3), 268.7(b)(4) intro, 268.7(e), 268.44(h)(3)-(5), 268.49 as amended May 26, 1998 (63 FR 28556).

Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a) and 6-705(a)
20 DCMR §§5400.1, 5000.14, 5000.15, 5000.18, 5003.11(h)(3)-(5), and 5003.14

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) authorize the Mayor to establish a program of regulation over all areas of hazardous waste management including land disposal. The differences between the District's more stringent land disposal requirements and the Federal requirements are documented in the Consolidated Corporation Counsel Statement. The changes required by Revision Checklist 167B have been made and the provisions at 20 DCMR 5400.1, 5000.14, 5000.18, 5003.11(h)(3)-(5), and 5003.14(a)-(e) are identical to 40 CFR 268.2(k), 268.7, 268.44(h)(3)-(5), and 268.49. At 20 DCMR §5003.14, an introductory paragraph has been added for clarity and to conform with the formatting requirements of the *District of Columbia Register*. Note also that the authority to grant site specific variances from a treatment standard has been left with the EPA Administrator relative to 20 DCMR 5003.11(h)(3)-(5). The District does not want to assume this responsibility at this time.

GG. District of Columbia statutes and regulations include corrections and clarifications to the land disposal restrictions as indicated in Revision Checklist 167 C.

Federal Authority: RCRA §§3004(d)-(k) and (m); 40 CFR 268.4(a)(2)(ii)&(iii), 268.7(a)(7), 268.7(b)(3)(ii)/Table, 268.7(b)(4)(iv)&(v), 268.7(b)(5)&(6), 268.40/Table, 268.40(e), 268.42(a), 268.45(a) intro, 268.45(d)(3)&(4), 268.48, 268 Appendices VII & VIII as amended May 26, 1998 (63 FR 28556) and June 8, 1998 (63 FR 31266).

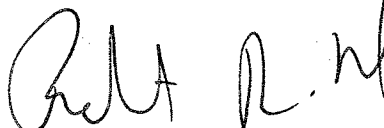
Citation of Laws and Regulations; Date of Enactment and Adoption

D.C. Code §§6-701(a) and 6-705(a)
20 DCMR 5000.11, 5000.14(g), 5000.15(a)(3)(B)/Table 2, 5000.15(a)(5)(D)&(E),
5000.15(a)(6)&(7), 5003.5, 5003.9, 5003.10(a), 5003.12(a), 5003.12(d)(3)&(4), 5003.13,
5005.1(g)&(h) and 4016

Remarks of the Corporation Counsel

D.C. Code §§6-701(a) and 6-705(a) authorize the Mayor to establish a program of regulation over all areas of hazardous waste management including land disposal. The differences between the District's more stringent land disposal requirements and the Federal requirements are documented in the Consolidated Corporation Counsel Statement. The changes required by Revision Checklist 167C have been made and the provisions at 20 DCMR §§5000.14(g), 5000.15(a)(3)(B)/Table 2, 5000.15(a)(5)(D)&(E), 5000.15(a)(6)&(7), 5003.5, 5003.10(a), 5003.12(a), and 5003.12(d)(3)&(4) are identical to 40 CFR 268.7(a)(7), 268.7(b)(3)(ii)/Table, 268.7(b)(4)(iv)&(v), 268.7(b)(5)&(6), 268.40(e), 268.42(a), 268.45(a), and 268.45(d)(3)&(4). 20 DCMR §5000.11, the analog to 40 CFR 268.4, states that surface impoundments are prohibited in the District and refers the regulated community to 40 CFR 268.4 for the regulation of treatment of hazardous waste in surface impoundments outside the District. At 20 DCMR §§5003.9, 5003.13, and 5005.1(g)&(h) the District incorporates by reference the tables found at 40 CFR 268.40 and 268.48 and the 40 CFR 268 Appendices VII&VIII. The date for the incorporation by reference is given at 20 DCMR §4016. Any references to the Federal regulations are to the version of the those regulations as they appear in the July 1, 1998 Code of Federal Regulations. The District's authority for incorporation by reference is set forth in regulations issued pursuant to the District of Columbia Documents Act, D.C. Law 2-153 (D.C. Code, Section 1-1531 *et seq.*, at 1 DCMR 501.6).

Seal of Office



Signature

Robert R. Rigsby

Name (Type or Print)

Corporation Counsel, D.C.

Title

Date May 31, 2001