

US EPA ARCHIVE DOCUMENT

**CHAPTER 45   STANDARDS FOR THE MANAGEMENT OF  
SPECIFIC HAZARDOUS WASTES AND SPECIFIC  
TYPES OF HAZARDOUS WASTE MANAGEMENT  
FACILITIES**

**4502   RECYCLABLE MATERIALS USED IN A MANNER CONSTITUTING DISPOSAL**

- 4502.1   This section applies to recyclable materials that are applied to or placed on the land as follows:
- (a)   Without mixing with any other substance(s); or
  - (b)   After mixing or combination with any other substance(s). These materials shall be referred to throughout §4502 as "materials used in a manner that constitutes disposal".
- 4502.2   Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not presently subject to regulation if the recyclable materials have undergone a chemical reaction in the course of producing the products so as to become inseparable by physical means and if the products meet the applicable treatment standards in §5003 for each recyclable material (for example, hazardous waste) that they contain.
- 4502.3   Commercial fertilizers that are produced for the general public's use that contain recyclable materials are not presently subject to regulation provided they meet these same treatment standards or prohibition levels for each recyclable material that they contain. However, zinc-containing fertilizers using hazardous waste K061 that are produced for the general public's use are not presently subject to regulation.
- 4502.4   Anti-skid/deicing uses of slags, which are generated from high temperature metals recovery (HTMR) processing of hazardous waste K061, K062, and F006, in a manner constituting disposal, are not covered by the exemptions in §§4502.2 and 4502.3 and remain subject to regulation.
- 4502.5   Generators and transporters of materials that are used in a manner that constitutes disposal are subject to the applicable requirements of Chapters 42 and 43 of this subtitle, and the notification requirement under RCRA §3010.
- 4502.6   Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated under all applicable provisions of §§4400 through 4417 and Chapters 46 and 47 of this subtitle and the notification requirement under RCRA §3010.
- 4502.7   Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of, §§4400 through 4417 and 4418 and Chapters 46, 47, and 50 of this subtitle and the notification requirement under RCRA §3010.

These requirements do not apply to products that contain these recyclable materials under the provisions of §§4502.2 through 4502.3.

- 4502.8 The use of waste or used oil or other material, that is contaminated with dioxin or any other hazardous waste (other than a waste identified solely on the basis of ignitability) for dust suppression or road treatment is prohibited.

4503 [RESERVED]

4504 [RESERVED]

**4505 RECYCLABLE MATERIALS UTILIZED FOR PRECIOUS METAL RECOVERY**

- 4505.1 This section applies to recyclable materials that are reclaimed to recover economically significant amounts of gold, silver, platinum, paladium, iridium, osmium, rhodium, ruthenium, or any combination of these.

- 4505.2 Persons who generate, transport, or store recyclable materials that are regulated under this section are subject to the following requirements:

- (a) Notification requirements under RCRA §3010;
- (b) §§4201 (for generators), 4301.1 through 4301.10 (for transporters), and 4411.4 through 4411.9 (for persons who store) of this subtitle; and
- (c) For precious metals exported to or imported from designated OECD member countries for recovery, §§4207 and 4402.5. For precious metals exported to or imported from non-OECD countries for recovery, §§4204 and 4205.

- 4505.3 Persons who store recycled materials that are regulated under §4505 shall keep the following records to document that they are not accumulating these materials speculatively (as defined in §5400.1):

- (a) Records showing the volume of these materials stored at the beginning of the calendar year;
- (b) The amount of these materials generated or received during the calendar year; and
- (c) The amount of materials remaining at the end of the calendar year.

- 4505.4 Recyclable materials that are regulated under §4505 that are accumulated speculatively (as defined in §5400.1) are subject to all applicable provisions of Chapters 42 through 44, 46 and 47 of this subtitle.

**4506 SPENT LEAD-ACID BATTERIES BEING RECLAIMED**

- 4506.1 This section applies to persons who reclaim spent lead-acid batteries that are recyclable materials ("spent batteries"). Persons who generate, transport, or collect spent batteries, who regenerate spent batteries, or who store spent batteries but do not reclaim them are not subject to regulation under Chapters 42 through 47 of this subtitle, and also are not subject to the requirements of RCRA §3010.
- 4506.2 Owners or operators of facilities that store spent lead acid batteries before reclaiming them are subject to the following requirements:
- (a) Notification requirements under RCRA §3010; and
  - (b) All applicable provisions in §§4400 through 4402, 4403.7 through 4403.9, 4404 through 4410, (except waste analysis), 4411 (except 4411.4 through 4411.9 (dealing with the use of the manifest and manifest discrepancies)), and 4412 through 4417;
  - (c) All applicable provisions in subparts A, B (except 40 CFR 265.13 (waste analysis)), C, D, E (except 40 CFR 265.71 and 40 CFR 265.72 (dealing with use of the manifest and manifest discrepancies)), and F through L of 40 CFR part 265, subject to the restrictions outlined at §4401.2
  - (d) All applicable provisions in Chapters 46 and 47 of this subtitle.

**4507 HAZARDOUS WASTE BURNED IN BOILERS AND INDUSTRIAL FURNACES**

- 4507.1 No hazardous waste may be burned or processed in a boiler or industrial furnace (as defined in §5400.1) in the District of Columbia, irrespective of the purpose of the burning or processing. However, hazardous waste may be generated in the District and transported outside the District for burning or processing. The requirements for generation, transport and storage are found at §§4507.2 through 4507.3. The requirements that apply to boilers and industrial furnaces outside the District that burn or process hazardous waste are found at 40 CFR 266, Subpart H.
- 4507.2 Used oil that will be burned for energy recovery outside the District that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in §4108 is not subject to regulation under §4507. Instead, the used oil is subject to regulation under Chapter 49 of this subtitle.
- 4507.3 Hazardous wastes exempt from regulation under §§4101 and 4103.3(d) through (g) are not subject to regulation under §4507.
- 4507.4 Generators of hazardous waste that is burned in a boiler or industrial furnace outside the District are subject to Chapter 42 of this subtitle.
- 4507.5 Transporters of hazardous waste that is burned in a boiler or industrial furnace outside the District are subject to Chapter 43 of this subtitle.
- 4507.6 Owners and operators of facilities that store hazardous waste that will be burned in a boiler or industrial furnace outside the District are subject to the applicable provisions of Chapters 44 and 46 of this subtitle. These standards also apply to storage facilities operated by

intermediaries (for example, processors, blenders, distributors) between the generator and the burner.

**4508-4511 [RESERVED]****4512 Military Munitions**

4512.1 This section identifies when military munitions become a solid waste, and, if these wastes are also hazardous under Chapter 41, the management standards that apply to these wastes.

4512.2 Unless otherwise specified in this section, all applicable requirements in Chapters 40 through 46 and 50 apply to waste military munitions.

4512.3 A military munition is not a solid waste when:

(a) Used for its intended purpose, including:

- (1) Use in training military personnel or explosives and munitions emergency response specialists (including training in proper destruction of unused propellant or other munitions);
- (2) Use in research, development, testing, and evaluation of military munitions, weapons, or weapon systems; or
- (3) Recovery, collection, and on-range destruction of unexploded ordnance and munitions fragments during range clearance activities at active or inactive ranges. However, "use for intended purpose" does not include the on-range disposal or burial of unexploded ordnance and contaminants whether or not the disposal or burial is a result of product use; and

(b) An unused munition, or component thereof, is being repaired, reused, recycled, reclaimed, disassembled, reconfigured, or otherwise subjected to materials recovery activities, unless the activities involve use constituting disposal as defined in §§4100.7(a) and (b), or burning for energy recovery as defined in §§4100.7(c) through (f).

4512.4 An unused military munition is a solid waste when any of the following occurs:

- (a) The munition is abandoned by being disposed of, buried, sunk in surface water, burned, detonated (except during intended use as specified in §4512.3), incinerated, or treated prior to disposal;
- (b) The munition is removed from storage in a military magazine or other storage area for the purpose of being disposed of, burned, or incinerated, or treated prior to disposal;
- (c) The munition is deteriorated or damaged (for example, the integrity of the munition is compromised by cracks, leaks, or other damage) to the point that it cannot be put into serviceable condition, and cannot reasonably be recycled or used for other purposes; or

- (d) The munition has been declared a solid waste by an authorized military official or District of Columbia official.

4512.5 A used or fired military munition is a solid waste:

- (a) When transported off range or from the site of use, where the site of use is not a range, for the purposes of storage, reclamation, treatment, disposal, or treatment prior to disposal; or
- (b) If recovered, collected, and then disposed of by burial, or landfilling either on or off a range; or
- (c) If left on a range after failure to detonate during use.

4512.6 For purposes of §§4100.4 through 4100.11, a used or fired military munition is a solid waste, and, therefor, is subject to the corrective action authorities under §§4 and 6(a)(9) of HWMA (D.C. Code §§6-703, and 6-705(a)(9)) and RCRA §3008(h), or §§11 and 12 of HWMA (D.C. Code §§6-710 and 6-711) or imminent and substantial endangerment authorities under RCRA §7003 and §11 of the Act (D.C. Code §6-710), if the munition lands off-range and is not promptly rendered safe or retrieved. Any imminent and substantial threats associated with any remaining material must be addressed. If remedial action is infeasible, the operator of the range shall maintain a record of the event for as long as any threat remains. The record shall include the type of munition and its location (to the extent the location is known).

4512.7 The following are standards applicable to the transportation of solid waste military munitions:

- (a) Criteria for hazardous waste regulation of waste non-chemical military munitions in transportation are as follows:
  - (1) Waste military munitions that are being transported and that exhibit a hazardous waste characteristic or are listed as hazardous waste under Chapter 41, are listed or identified as a hazardous waste (and thus are subject to regulation under Chapters 40 through 46 and 50), unless all the following conditions are met:
    - (A) The waste military munitions are not chemical agents or chemical munitions;
    - (B) The waste military munitions are transported in accordance with the Department of Defense shipping controls applicable to the transport of military munitions;
    - (C) The waste military munitions are transported from a military owned or operated installation to a military owned or operated treatment, storage, or disposal facility; and
    - (D) The transporter of the waste provides verbal notice to the Director within twenty-four (24) hours from the time the transporter becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of §4512.7(a)(1) that may endanger health or the environment. In addition, the transporter shall provide a written submission describing the circumstances within five (5) days from the time the transporter becomes



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aware of any loss or theft of the waste military munitions or any failure to meet a condition of §4512.7(a)(1);

- (2) If any waste military munitions shipped under §4512.7(a)(1) are not received by the receiving facility within forty-five (45) days of the day the waste was shipped, the owner or operator of the receiving facility must report this non-receipt to the Director within five (5) days;
  - (3) The exemption in §4512.7(a)(1) from regulation as hazardous waste shall apply only to the transportation of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to generation, storage, treatment or disposal; and
  - (4) The conditional exemption in §4512.7(a)(1) applies only so long as all of the conditions in §4512.7(a)(1) are met;
- (b) If any waste military munition loses its exemption under §4512.7(a)(1), an application may be filed with the Director for reinstatement of the exemption from hazardous waste transportation regulation with respect to the munition as soon as the munition is returned to compliance with the conditions of §4512.7(a)(1). If the Director finds that reinstatement of the exemption is appropriate based on factors such as the transporter's provision of a satisfactory explanation of the circumstances of the violation, or a demonstration that the violations are not likely to recur, the Director may reinstate the exemption under §4512.7(a)(1). If the Director does not take action on the reinstatement application within sixty (60) days after receipt of the application, then reinstatement shall be deemed granted, retroactive to the date of the application. However, the Director may terminate a conditional exemption reinstated by default in the preceding sentence if the Director finds that reinstatement is inappropriate based on factors such as the transporter's failure to provide a satisfactory explanation of the circumstances of the violation, or failure to demonstrate that the violations are not likely to recur. In reinstating the exemption under §4512.7(a)(1), the Director may specify additional conditions as are necessary to ensure and document proper transportation to protect human health and the environment; and
- (c) The Department of Defense shipping controls applicable to the transport of military munitions referenced in §4512.7(a)(1)(B) are Government Bill of Lading (GBL) (GSA Standard Form 1109), requisition tracking form DD Form 1348, the Signature and Talley Record (DD Form 1907), Special Instructions for Motor Vehicle Drivers (DD Form 836), and the Motor Vehicle Inspection Report (DD Form 626) in effect on November 8, 1995, except as provided in the following sentence. Any amendments to the Department of Defense shipping controls shall become effective for purposes of §4512.7(a)(1) on the date the Department of Defense publishes notice in the Federal Register that the shipping controls referenced in §4512.7(a)(1)(B) have been amended.
- 4512.8 Explosives and munitions emergencies involving military munitions or explosives are subject to §§4200.9, 4300.5, 4400.7(h), 4400.8 through 4400.10, 4600.8(i), 4600.9, and 4600.10, or alternatively to §§4619.2 and 4619.3.
- 4512.9 The following are standards applicable to the storage of solid waste military munitions:

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- (a) Criteria for hazardous waste regulation of waste non-chemical military munitions in storage are as follows;
- (1) Waste military munitions in storage that exhibit a hazardous waste characteristic or are listed as hazardous waste under Chapter 41, are listed or identified as a hazardous waste (and thus are subject to regulation under Chapters 40 through 46 and 48 through 50), unless all the following conditions are met:
    - (A) The waste military munitions are not chemical agents or chemical munitions;
    - (B) The waste military munitions are subject to the jurisdiction of the Department of Defense Explosives Safety Board (DDESB);
    - (C) The waste military munitions are stored in accordance with the DDESB storage standards applicable to waste military munitions;
    - (D) Within ninety (90) days of when a storage unit is first used to store waste military munitions, the owner or operator shall notify the Director of the location of any waste storage unit used to store waste military munitions for which the conditional exemption in §4512.9(a)(1) is claimed;
    - (E) The owner or operator provides verbal notice to the Director within twenty-four (24) hours from the time the owner or operator becomes aware of any loss or theft of the waste military munitions, or any failure to meet a condition of §4512.9(a)(1) that may endanger health or the environment. In addition, the owner or operator shall provide a written submission describing the circumstances within five (5) days from the time the owner or operator becomes aware of any loss or theft of the waste military munitions or any failure to meet a condition of §4512.9(a)(1);
    - (F) The owner or operator shall inventory the waste military munitions at least annually, inspect the waste military munitions at least quarterly for compliance with the conditions of §4512.9(a)(1), and maintain records of the findings of these inventories and inspections for at least three (3) years; and
    - (G) Access to the stored waste military munitions is limited to appropriately trained personnel, authorized by the military or District of Columbia;
  - (2) The conditional exemption in §4512.9(a)(1) from regulation as hazardous waste shall apply only to the storage of non-chemical waste military munitions. It does not affect the regulatory status of waste military munitions as hazardous wastes with regard to transportation, treatment or disposal; and
  - (3) The conditional exemption in §4512.9(a)(1) applies only so long as all of the conditions in §4512.9(a)(1) are met;

Note: U.S. code proscribes storage of military munitions within 3 miles of the U.S. Capitol.

- (b) The owner or operator shall notify the Director when a storage unit identified in §4512.9(a)(1)(D) will no longer be used to store waste military munitions;



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- (b) Barges or vessels that dispose of hazardous waste by ocean disposal and onshore hazardous waste treatment or storage facilities associated with an ocean disposal operation. However, the owner and operator shall be deemed to have a TSD facility permit for ocean disposal from the barge or vessel itself if they comply with the requirements of §4619.1(a) (permit-by-rule for ocean disposal barges and vessels).

4600.8 The following persons are among those who are not required to obtain a TSD facility permit:

- (a) Generators who accumulate hazardous waste on-site for less than the time periods provided in §§4202.6 through 4202.8. However, a generator permit is required under §4208;
- (b) Farmers who dispose of hazardous waste pesticides from their own use as provided in §4206.1;
- (c) Persons who own or operate facilities solely for the treatment, storage or disposal of hazardous waste excluded from regulations under this Chapter by §4101;
- (d) Owners or operators of totally enclosed treatment facilities as defined in §5400.1;
- (e) Owners and operators of elementary neutralization units or wastewater treatment units as defined in §5400.1;
- (f) Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of §4202.1 at a transfer facility for a period of ten (10) days or less. However, transporters shall obtain a permit under §4303;
- (g) Persons adding absorbent material to waste in a container (as defined in §5400.1) and persons adding waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and he or she complies with §§4406.2, 4415.3, and 4415.4;
- (h) Universal waste handlers and universal waste transporters (as defined in §5400.1) managing the wastes listed below. These handlers are subject to the reduced requirements of Chapter 48 provided that the universal waste is to be recycled. Handlers of universal wastes, destined for disposal, are subject to full regulation under Chapter 42 through 46 and 50, except as specified at §4800.2 for pesticide wastes; and
  - (1) Batteries as described in §§4800.3 through 4800.7;
  - (2) Pesticides as described in §§4800.8 through 4800.12;
  - (3) Thermostats as described in §§4800.13 through 4800.16; and
  - (4) Mercury-containing lamps as described in §4806; and
- (i) Persons who undertake treatment or containment activities during immediate response to any of the following situations:
  - (1) A discharge of a hazardous waste;

- (2) An imminent and substantial threat of a discharge of hazardous waste;
  - (3) A discharge of a material that, when discharged, becomes a hazardous waste; or
  - (4) An immediate threat to human health, public safety, property, or the environment from the known or suspected presence of military munitions, other explosive material, or an explosive device, as determined by an explosive or munitions emergency response specialist as defined in §5400.1.
- 4600.9 Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this Chapter for those activities.
- 4600.10 In the case of emergency responses involving military munitions, the responding military emergency response specialist's organizational unit shall retain for three (3) years records identifying the dates of the response, the responsible persons responding, the type and description of material addressed, and its disposition.
- 4600.11 The Director may issue or deny a permit for one or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.
- 4600.12 Owners/operators of waste piles closing by removal or decontamination under 40 CFR Part 265, as restricted by §4401.2, standards shall obtain a post-closure permit.
- 4600.13 The following is a list of Federal laws that may apply to the issuance of permits under these rules. When any of these laws is applicable, its procedures shall be followed. When the applicable law requires consideration or adoption of particular permit conditions or requires the denial of a permit, those requirements also shall be followed, provided they are not less stringent than the District hazardous waste regulations.
- (a) The Wild and Scenic Rivers Act, 16 U.S.C. 1273 *et seq.* Section 7 of the Act prohibits the Regional Administrator from assisting by license or otherwise the construction of any water resources project that would have a direct, adverse effect on the values for which a national wild and scenic river was established;
  - (b) The National Historic Preservation Act of 1966, 16 U.S.C. 470 *et seq.* Section 106 of the Act and implementing regulations (36 CFR Part 800) require the Regional Administrator, before issuing a license, to adopt measures when feasible to mitigate potential adverse effects of the licensed activity and properties listed or eligible for listing in the National Register of Historic Places. The Act's requirements are to be implemented in cooperation with State or District Historic Preservation Officers and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation;
  - (c) The Endangered Species Act, 16 U.S.C. 1531 *et seq.* Section 7 of the Act and implementing regulations (50 CFR Part 402) require the Regional Administrator to ensure, in consultation with the Secretary of the Interior or Commerce, that any action

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authorized by EPA is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat;

- (d) The Coastal Zone Management Act, 16 U.S.C. 1451 *et seq.* Section 307(c) of the Act and implementing regulations (15 CFR Part 930) prohibit EPA from issuing a permit for an activity affecting land or water use in the coastal zone until the applicant certifies that the proposed activity complies with the State or District Coastal Zone Management program, and the State or its designated agency concurs with the certification (or the Secretary of Commerce overrides the State's nonconcurrence);
- (e) The Fish and Wildlife Coordination Act, 16 U.S.C. 661 *et seq.* requires that the Regional Administrator, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion, or other control or modification of any body of water, consult with the appropriate State or District agency exercising jurisdiction over wildlife resources to conserve those resources;
- (f) District of Columbia laws; and
- (g) Executive orders. [Reserved]

4600.14 Compliance with a TSD facility permit during its term constitutes compliance, for purposes of enforcement, with HWMA except for those requirements not included in the permit that:

- (a) Become effective by statute;
- (b) Are promulgated under Chapter 50 restricting the placement of hazardous wastes in or on the land;
- (c) Are promulgated under Chapter 44 regarding leak detection systems for new and replacement waste pile and lateral expansions of waste pile units. The leak detection system requirements include double liners, CQA programs, monitoring, action leakage rates, and response action plans, and shall be implemented through the procedures of §§4617.7 through 4617.15 Class 1 permit modifications; or
- (d) Are promulgated under subparts AA, BB, or CC of 40 CFR Part 265, as restricted by §4401.2, limiting air emissions.

4600.15 The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

4600.16 The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of District law or regulations.

#### 4601 GENERAL PERMIT APPLICATION REQUIREMENTS

4601.1 Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the Director as described in §§4601.1 through 4601.18 and §4620. Persons currently authorized with interim status

shall apply for permits when required by the Director. Persons covered by TSD facility permits by §4619.1, need not apply. Procedures for applications, issuance and administration of emergency permits are found exclusively in §§4619.2 and 4619.3. Procedures for application, issuance and administration of research, development, and demonstration permits are found exclusively in §§4619.4 through 4619.7.

- 4601.2 When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit, except that the owner shall also sign the permit application.
- 4601.3 The Director shall not issue a permit before receiving a complete application for a permit except for permits by rule, or emergency permits. An application for a permit is complete when the Director receives an application form and any supplemental information that are completed to his or her satisfaction. An application for a permit is considered incomplete without the exposure information described in §§4601.16 and 4601.17. The Director may deny a permit for the active life of a hazardous waste management facility or unit before receiving a complete application for a permit.
- 4601.4 All applicants for TSD facility permits shall provide information in §4602 and applicable sections in §§4603 through 4612.1 to the Director, using the application form provided by the Director.
- 4601.5 Owners and operators of existing hazardous waste management facilities or of hazardous waste management facilities in existence on the effective date of statutory or regulatory amendments under HWMA that render the facility subject to the requirement to have a TSD facility permit shall submit part A of their permit application no later than:
- (a) Six (6) months after the date of publication of regulations that first require them to comply with the standards set forth in Chapter 45 or 40 CFR Part 265 as restricted by §4401.2; or
  - (b) Thirty (30) days after the date they first become subject to the standards in Chapter 45 or 40 CFR Part 265 as restricted by §4401.2, whichever first occurs.
- 4601.6 The EPA Administrator by publication in the Federal Register or the Director by publication in the District of Columbia Register may extend the date by which owners and operators of specified classes of existing hazardous waste management facilities must submit part A of their permit application if he or she finds that there has been substantial confusion as to whether the owners and operators of the facilities were required to file a permit application and the confusion is attributed to ambiguities in 40 CFR parts 260, 261, 265, or 266 as restricted by §4401.2 or 20 DCMR Chapters 40, 41, or 45, or §4401.
- 4601.7 The EPA Administrator, by compliance order issued under RCRA §3008, or the Director, by compliance order issued under §12 of HWMA (D.C. Code §6-711), may extend the date by which the owner and operator of an existing hazardous waste management facility must submit part A of his or her permit application.
- 4601.8 At any time after promulgation of these regulations the owner and operator of an existing HWM facility may be required to submit part B of his or her permit application. Any owner or operator shall be allowed at least six (6) months from the date of request to submit part B of the application. Any owner or operator of an existing HWM facility may voluntarily

submit part B of the application at any time. Notwithstanding the above, any owner or operator of an existing hazardous waste management facility shall submit a part B permit application by the dates specified in §§4620.8 and 4620.12. Any owner or operator of a facility in existence on the effective date of statutory or regulatory amendments under HWMA that render the facility subject to the requirement to have a TSD facility permit shall submit a part B application by the dates specified in §§4620.8 and 4620.12.

- 4601.9 Failure to furnish a requested part B application on time, or to furnish in full the information required by the part B application, is grounds for revocation of interim status under Chapter 47.
- 4601.10 No person shall begin physical construction of a new HWM facility without having submitted parts A and B of the permit application and having received a finally effective TSD facility permit.
- 4601.11 An application for a permit for a new hazardous waste management facility (including both parts A and B) may be filed any time after promulgation of those standards in §4415 applicable to the facility. The application shall be filed with the Director. All applications shall be submitted at least one hundred eighty (180) days before physical construction is expected to commence.
- 4601.12 If any owner or operator of a hazardous waste management facility has filed part A of a permit application and has not yet filed part B, the owner or operator shall file an amended part A application under either of the following circumstances:
- (a) With the Director, no later than the effective date of regulatory provisions listing or designating wastes as hazardous in the District in addition to those listed or designated previously, if the facility is treating, storing or disposing of any of those newly listed or designated wastes; or
  - (b) As necessary to comply with provisions of §§4620.6 through 4620.7 for changes during interim status. Revised part A applications necessary to comply with the provisions of §§4620.6 through 4620.7 shall be filed with the Department.
- 4601.13 The owner or operator of a facility who fails to comply with the updating requirements of §4601.12 shall not receive interim status for the wastes not covered by duly filed part A applications.
- 4601.14 Any HWM facility with an effective permit shall submit a new application at least one hundred eighty (180) days before the expiration date of the effective permit, unless the Director grants permission for a later date. (The Director shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)
- 4601.15 Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under §§4601.4, 4602, and 4603 through 4606 for a period of at least three (3) years from the date the application is signed.



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- 4601.16 Any part B permit application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste shall be accompanied by information, reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, the information shall address:
- (a) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;
  - (b) The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under §4601.16(a); and
  - (c) The potential magnitude and nature of the human exposure resulting from such releases.
- 4601.17 Owners and operators of a facility who have already submitted a part B application shall submit the exposure information required in §4601.16.
- 4601.18 The Director may require a permittee or an applicant to submit information in order to establish permit conditions under §4615.3.
- 4601.19 All permit applications shall be signed as follows:
- (a) For a corporation: By a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:
    - (1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decisionmaking functions for the corporation; or
    - (2) The manager of one or more manufacturing, production or operating facilities employing more than two hundred-fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; and
- Note: The District does not require specific assignments or delegations of §4601.19(a)(1) authority to responsible corporate officers identified in. The Director shall presume that these responsible corporate officers have the requisite authority to sign permit applications unless the corporation has notified the Director to the contrary. Corporate procedures governing authority to sign permit applications may provide for assignment or delegation to applicable corporate positions under §4601.19(a)(2) rather than to specific individuals.
- (b) For a partnership or sole proprietorship; by a general partner or the proprietor, respectively; or
  - (c) For a municipality, District, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of §§4601.19 and 4601.20, a principal executive officer of a Federal agency includes:
    - (1) The chief executive officer of the agency; or



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- (2) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (for example, Regional Administrators of EPA).

4601.20 All reports required by permits and other information requested by the Director shall be signed by a person described in §4601.19, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

- (a) The authorization is made in writing by a person described in §4601.19;
- (b) The authorization specifies either an individual or a position having responsibility for overall operation of the regulated facility or activity such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility. (A duly authorized representative may thus be either a named individual or any individual occupying a named position); and
- (c) The written authorization is submitted to the Director.

4601.21 If an authorization under §4601.20 is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of §4601.20 shall be submitted to the Director before or together with any reports, information, or applications to be signed by an authorized representative.

4601.22 Any person signing a document under §4601.19 or 4601.20 shall make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

4601.23 In accordance with the D.C. Freedom of Information Act (D.C. Code §1-1524), any information submitted to the Department pursuant to these regulations may be claimed as confidential by the submitter. Any claim shall be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing the information. If no claim is made at the time of submission, the Department may make the information available to the public without further notice. If a claim is asserted, the information shall be treated in accordance with the procedures in the D.C. Freedom of Information Act (D.C. Code §1-1524), (Public Information).

4601.24 Claims of confidentiality for the name and address of any permit applicant or permittee shall be denied.

**4602 CONTENTS OF PART A OF THE PERMIT APPLICATION**

4602.1 Part A of the TSD facility permit application shall include the following information:

- (a) The activities the applicant conducts that require him or her to obtain a permit under HWMA;
- (b) Name, mailing address, and location, including latitude and longitude of the facility for which the application is submitted;
- (c) Up to four SIC codes that best reflect the principal products or services the facility provides;
- (d) The operator's name, address, telephone number, ownership status, and status as Federal, District, private, public, or other entity;
- (e) The name, address, and phone number of the owner of the facility;
- (f) Whether the facility is located on Indian lands;
- (g) An indication of whether the facility is new or existing and whether it is a first or revised application;
- (h) For existing facilities, (1) a scale drawing of the facility showing the location of all past, present, and future treatment, storage, and disposal areas; and (2) photographs of the facility clearly delineating all existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas;
- (i) A description of the processes to be used for treating, storing, and disposing of hazardous waste, and the design capacity of these items;
- (j) A specification of the hazardous wastes listed or designated under Chapter 41 to be treated, stored, or disposed of at the facility, an estimate of the quantity of the wastes to be treated, stored, or disposed annually, and a general description of the processes to be used for the wastes;
- (k) A listing of all permits or construction approvals received or applied for under any of the following programs:
  - (1) Hazardous Waste Management program under the HWMA;
  - (2) [Reserved]
  - (3) NPDES program under the CWA;
  - (4) Prevention of Significant Deterioration (PSD) program under the Clean Air Act;
  - (5) Nonattainment program under the Clean Air Act;
  - (6) National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under the Clean Air Act and the District of Columbia Air Pollution Control Act;

- (7) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act;
- (8) Dredge or fill permits under section 404 of the CWA; and
- (9) Other relevant environmental permits, including District permits;
- (l) A topographic map (or other map if a topographic map is unavailable) extending one mile beyond the property boundaries of the source, depicting the facility and each of its intake and discharge structures; each of its hazardous waste treatment, storage, or disposal facilities; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within one-fourth (1/4) mile of the facility property boundary;
- (m) A brief description of the nature of the business; and
- (n) For hazardous debris, a description of the debris category(ies) and contaminant category(ies) to be treated, stored, or disposed of at the facility.

**4603 CONTENTS OF PART B OF THE PERMIT APPLICATION**

- 4603.1 Part B of the permit application consists of the general information requirements of §4603 and the specific information requirements in §§4603 through 4612.1 applicable to the facility. The part B information requirements presented in §§4603 through 4612.1 reflect the standards promulgated in Chapter 44. These information requirements are necessary for the Department to determine compliance with the Chapter 44 standards. If owners and operators of HWM facilities can demonstrate that the information prescribed in part B can not be provided to the extent required, the Director may make allowance for submission of the information on a case-by-case basis.
- 4603.2 Information required in part B shall be submitted to the Director and signed in accordance with requirements in §§4601.19 through 4601.22. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a registered professional engineer.
- 4603.3 The following information is required for all HWM facilities, except as §§4400.1 through 4400.12 provide otherwise:
  - (a) A general description of the facility;
  - (b) Chemical and physical analyses of the hazardous waste and hazardous debris to be handled at the facility. At a minimum, these analyses shall contain all the information that must be known to treat, store, or dispose of the wastes properly in accordance with Chapter 44;
  - (c) A copy of the waste analysis plan required by §4403.5 and, if applicable, §4403.6;

- (d) A description of the security procedures and equipment required by §§4403.7 through 4403.9, or a justification demonstrating the reasons for requesting a waiver of this requirement;
- (e) A copy of the general inspection schedule required by §§4404.2 through 4404.4. Include where applicable, as part of the inspection schedule, specific requirements in §§4415.7, 4416.24, 4416.28 through 4416.31, 4417.26 through 4417.29, 4425.3, 4428.10 through 4428.25, 4446, 4447, 4452, 4477, 4478, and 4480;
- (f) A justification of any request for a waiver(s) of the preparedness and prevention requirements of §4409;
- (g) A copy of the contingency plan required by §4410;

Note: Include, where applicable, as part of the contingency plan, specific requirements in §§4417.30 and 4416.40;

- (h) A description of procedures, structures, or equipment used at the facility to:
  - (1) Prevent hazards in unloading operations (for example, ramps and special forklifts);
  - (2) Prevent runoff from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes and trenches);
  - (3) Prevent contamination of water supplies;
  - (4) Mitigate effects of equipment failure and power outages;
  - (5) Prevent undue exposure of personnel to hazardous waste (for example, protective clothing); and
  - (6) Prevent releases to atmosphere;
- (i) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with §4406 including documentation demonstrating compliance with §4406.3;
- (j) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes (if appropriate); describe access road surfacing and load bearing capacity; and show traffic control signals);
- (k) Facility location information:
  - (1) [Reserved]
  - (2) Owners and operators of all facilities shall provide an identification of whether the facility is located within a one hundred (100)-year floodplain. This identification shall indicate the source of data for this determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where an FIA map is not available. Information shall also be provided identifying the one hundred (100)-year flood level and any other

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special flooding factors (for example, wave action) that must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a one hundred (100)-year flood;

- (3) Owners and operators of facilities located in the one hundred (100)-year floodplain shall provide the following information:
  - (A) Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as consequence of a one hundred (100)-year flood;
  - (B) Structural or other engineering studies showing the design of operational units (for example, tanks, waste piles) and flood protection devices (for example, floodwalls, dikes) at the facility and how these will prevent washout;
  - (C) If applicable, and in lieu of §4603.3(k)(3)(A) and (B), a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:
    - (i) Timing movement relative to flood levels, including estimated time to move the waste, to show that movement can be completed before floodwaters reach the facility;
    - (ii) A description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with the regulations under Chapters 44 through 47;
    - (iii) The planned procedures, equipment, and personnel to be used and the means to ensure that the resources will be available in time for use; and
    - (iv) The potential for accidental discharges of the waste during movement; and
- (4) Existing facilities NOT in compliance with §4407.2 shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance;
- (l) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the HWM facility in a safe manner as required to demonstrate compliance with §4405. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in §4405.3;
- (m) A copy of the closure plan and, where applicable, the post-closure plan required by §§4413.3 through 4413.10, §§4413.22 through 4413.25 and §§4416.33 through 4416.35. Include, where applicable, as part of the plans, specific requirements in §§4415.17, 4416.33 through 4416.35, 4417.35 through 4417.38, and 4425.4;

- (n) For hazardous waste disposal units that have been closed, documentation that notices required under §§4413.26 through 4413.28 have been filed;
- (o) The most recent closure cost estimate for the facility prepared in accordance with §§4414.3 through 4414.9 and a copy of the documentation required to demonstrate financial assurance under §4414.10. For a new facility, a copy of the required documentation may be submitted sixty (60) days before the initial receipt of hazardous wastes, if that is later than the submission of the part B;
- (p) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with §§4414.11 through 4414.14 plus a copy of the documentation required to demonstrate financial assurance under §4414.18. For a new facility, a copy of the required documentation may be submitted sixty (60) days before the initial receipt of hazardous wastes, if that is later than the submission of the part B;
- (q) Where applicable, a copy of the insurance policy or other documentation that comprises compliance with the requirements of §4414.7. For a new facility, documentation showing the amount of insurance meeting the specification of §4414.17(a) and, if applicable, §4414.17(b), that the owner or operator plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in §4414.17(c);
- (r) A topographic map showing a distance of one thousand (1000) feet around the facility at a scale of two and one-half (2.5) centimeters (cm) (one (1) inch) equal to not more than sixty-one (61.0) meters (two hundred (200) feet). Contours shall be shown on the map. The contour interval shall be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of one and one-half (1.5) meters (five (5) feet), if relief is greater than six and one-tenth (6.1) meters (twenty (20) feet), or an interval of six tenths (0.6) meters (two (2) feet), if relief is less than six and one tenth (6.1) meters (twenty (20) feet). The map shall clearly show the following:
  - (1) Map scale and date;
  - (2) One hundred (100)-year floodplain area;
  - (3) Surface waters including intermittent streams;
  - (4) Surrounding land uses (residential, commercial, agricultural, recreational);
  - (5) A wind rose (that is, prevailing wind-speed and direction);
  - (6) Orientation of the map (north arrow);
  - (7) Legal boundaries of the HWM facility site;
  - (8) Access control (fences, gates);
  - (9) Injection and withdrawal wells both on-site and off-site;



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- (10) Buildings; treatment, storage, or disposal operations; or other structure (for example, recreation areas, runoff control systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, and fire control facilities);
- (11) Barriers for drainage or flood control; and
- (12) Location of operational units within the HWM facility site, where hazardous waste is (or will be) treated, stored, or disposed (include equipment cleanup areas);

Note: For large HWM facilities the Agency shall allow the use of other scales on a case-by-case basis.

- (s) Applicants may be required to submit information necessary to enable the Director to carry out his or her duties under other Federal laws as required in §4613;
- (t) [Reserved]
- (u) A summary of the pre-application meeting, along with a list of attendees and their addresses, and copies of any written comments or materials submitted at the meeting, as required under §4706.3.

4603.4 The following additional information regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing a regulated unit except as provided in §4412.3:

- (a) A summary of the ground-water monitoring data obtained during the interim status period under 40 CFR 265.90 through 265.94 as restricted by §4401.2, where applicable;
- (b) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground-water flow direction and rate, and the basis for the identification (that is, the information obtained from hydrogeologic investigations of the facility area);
- (c) On the topographic map required under §4603.3(r), a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under §§4412.15 and 4412.16, the proposed location of ground-water monitoring wells as required under §§4412.20 through 4412.30, and, to the extent possible, the information required in §4604.3(b);
- (d) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application was submitted that:
  - (1) Delineates the extent of the plume on the topographic map required under §4603.3(r); and
  - (2) Identifies the concentration of each §4496.1(e), constituent throughout the plume or identifies the maximum concentrations of each §4496.1(e) constituent in the plume; and

- (e) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of §§4412.20 through 4412.30;
- (f) If the presence of hazardous constituents has not been detected in the ground water at the time of permit application, the owner or operator shall submit sufficient information, supporting data, and analyses to establish a detection monitoring program that meets the requirements of §§4412.31 through 4412.40. This submission shall address the following items specified under §§4412.31 through 4412.40:
  - (1) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the ground water;
  - (2) A proposed ground-water monitoring system;
  - (3) Background values for each proposed monitoring parameter or constituent, or procedures to calculate the values; and
  - (4) A description of proposed sampling, analysis and statistical comparison procedures to be used to evaluate ground-water monitoring data;
- (g) If the presence of hazardous constituents has been detected in the ground water at the point of compliance at the time of the permit application, the owner or operator shall submit sufficient information, supporting data, and analyses to establish a compliance monitoring program that meets the requirements of §§4412.41 through 4412.55. Except as provided in §4412.38(e), the owner or operator shall also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of §4412.56, unless the owner or operator obtains written authorization in advance from the Director to submit a proposed permit schedule for submittal of the plan. To demonstrate compliance with §§4412.41 through 4412.55, the owner or operator shall address the following items:
  - (1) A description of the wastes previously handled at the facility;
  - (2) A characterization of the contaminated ground water, including concentrations of hazardous constituents;
  - (3) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with §§4412.20 through 4412.30 and 4412.41 through 4412.55;
  - (4) Proposed concentration limits for each hazardous constituent, based on the criteria in §4412.12, including a justification for establishing any alternate concentration limits;
  - (5) Detailed plans and an engineering report describing the proposed ground-water monitoring system, in accordance with the requirements of §§4412.20 through 4412.30; and

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- (6) A description of proposed sampling, analysis and statistical comparison procedures to be used to evaluate ground-water monitoring data;
- (h) If hazardous constituents have been measured in the ground water that exceed the concentration limits established under §4412.12, Table 1, or if ground water monitoring conducted at the time of permit application under 40 CFR 265.90 through 265.94 as restricted by §4401.2, at the waste boundary indicates the presence of hazardous constituents from the facility in ground water over background concentrations, the owner or operator shall submit sufficient information, supporting data, and analyses to establish a corrective action program that meets the requirements of §4412.56. However, an owner or operator is not required to submit information to establish a corrective action program if he or she demonstrates to the Director that alternate concentration limits will protect human health and the environment after considering the criteria listed in §4412.13. An owner or operator who is not required to establish a corrective action program for this reason shall instead submit sufficient information to establish a compliance monitoring program that meets the requirements of §§4412.41 through 4412.55 and 4603.4(f). To demonstrate compliance with §4412.56, the owner or operator shall address, at a minimum, the following items:
  - (1) A characterization of the contaminated ground water, including concentrations of hazardous constituents;
  - (2) The concentration limit for each hazardous constituent found in the ground water in §§4412.12 through 4412.14;
  - (3) Detailed plans and an engineering report describing the corrective action to be taken;
  - (4) A description of how the ground-water monitoring program will demonstrate the adequacy of the corrective action; and
  - (5) The permit may contain a schedule for submittal of the information required in §§4603.4(h)(3) and (4) provided the owner or operator obtains written authorization from the Director before submitting the complete permit application; and
- (i) Information requirements for solid waste management units shall be as follows:
  - (1) The following information is required for each solid waste management unit at a facility seeking a permit:
    - (A) The location of the unit on the topographic map required under §4603.3(r);
    - (B) Designation of type of unit;
    - (C) General dimensions and structural description (supply any available drawings);
    - (D) When the unit was operated; and

- (E) Specification of all wastes that have been managed at the unit, to the extent available;
- (2) The owner or operator of any facility containing one or more solid waste management units shall submit all available information pertaining to any release of hazardous wastes or hazardous constituents from the unit or units; and
- (3) The owner/operator shall conduct and provide the results of sampling and analysis of groundwater, landsurface, and subsurface strata, surface water, or air, which may include the installation of wells, where the Director ascertains it is necessary to complete a RCRA/HWMA Facility Assessment that will determine if a more complete investigation is necessary.

**4604 SPECIFIC PART B INFORMATION REQUIREMENTS FOR CONTAINERS**

4604.1 Except as otherwise provided in §4415.1, owners or operators of facilities that store containers of hazardous waste shall provide the following additional information:

- (a) A description of the containment system to demonstrate compliance with §§4415.8 through 4415.11, including the following:
  - (1) Basic design parameters, dimensions, and materials of construction;
  - (2) How the design promotes drainage or how containers are kept from contact with standing liquids in the containment system;
  - (3) Capacity of the containment system relative to the number and volume of containers to be stored;
  - (4) Provisions for preventing or managing run-on; and
  - (5) How accumulated liquids can be analyzed and removed to prevent overflow;
- (b) For storage areas that store containers holding wastes that do not contain free liquids, a demonstration of compliance with §4415.10, including the following:
  - (1) Test procedures and results or other documentation or information to show that the wastes do not contain free liquids; and
  - (2) A description of how the storage area is designed or operated to drain and remove liquids or how containers are kept from contact with standing liquids;
- (c) Sketches, drawings, or data demonstrating compliance with §4415.12 (location of buffer zone and containers holding ignitable or reactive wastes) and §4415.16 (location of incompatible wastes), where applicable;
- (d) Where incompatible wastes are stored or otherwise managed in containers, a description of the procedures used to ensure compliance with §§4415.13, 4415.14, 4406.2, and 4406.3; and

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- (e) Information on air emission control equipment as required in §4611.1.

**4605 SPECIFIC PART B INFORMATION REQUIREMENTS FOR TANK SYSTEMS**

4605.1 Except as otherwise provided in §§4416.1 through 4416.4, owners and operators of facilities that use tanks to store or treat hazardous waste shall provide the following additional information:

- (a) A written assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under §§4416.5 through 4416.15;
- (b) Dimensions and capacity of each tank;
- (c) Description of feed systems, safety cutoff, bypass systems, and pressure controls (for example, vents);
- (d) A diagram of piping, instrumentation, and process flow for each tank system;
- (e) A description of materials and equipment used to provide external corrosion protection, as required under §4416.9(c)(2);
- (f) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with §§4416.10 through 4416.13;
- (g) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of §§4416.16 through 4416.21;
- (h) For tank systems for which a variance from the requirements of §§4416.16 through 4416.24 is sought (as provided by §4416.22):
  - (1) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous waste or hazardous constituents into the ground water or surface water during the life of the facility; or
  - (2) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment;
- (i) Description of controls and practices to prevent spills and overflows, as required under §4416.26;
- (j) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of §§4416.36 through 4416.39; and

- (k) Information on air emission control equipment as required in §4611.1.

**4606 SPECIFIC PART B INFORMATION REQUIREMENTS FOR WASTE PILES**

4606.1 Except as otherwise provided in §§4400.1 through 4400.12, owners and operators of facilities that store or treat hazardous waste in waste piles shall provide the following additional information:

- (a) A list of hazardous wastes placed or to be placed in each waste pile;
- (b) If an exemption is sought to §§4417.4 through 4417.13, 4417.16 through 4417.20 and 4412 as provided by §4412.3(b) or §4417.3, an explanation of how the standards of §4417.3 will be complied with or detailed plans and an engineering report describing how the requirements of §4412.3(b) will be met;
- (c) Detailed plans and an engineering report describing how the waste pile is designed and is or will be constructed, operated, and maintained to meet the requirements of §§4408.1 through 4408.6, 4417.4 through 4417.13, and 4417.16 through 4417.25, addressing the following items:
  - (1) The liner system (except for an existing portion of a waste pile), if the waste pile must meet the requirements of §4417.4. If an exemption from the requirement for a liner is sought as provided by §4417.5, submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the ground water or surface water at any future time;
    - (A) The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of §§4417.6 through 4417.12. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by §4417.13, submit appropriate information;
    - (B) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system;
    - (C) The construction quality assurance (CQA) plan if required under §4408; and
    - (D) Proposed action leakage rate, with rationale, if required under §§4417.21 through 4417.22, and response action plan, if required under §§4417.23 through 4417.25;
  - (2) Control of run-on;
  - (3) Control of run-off;



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- (4) Management of collection and holding units associated with run-on and run-off control systems; and
- (5) Control of wind dispersal of particulate matter, where applicable;
- (d) A description of how each waste pile, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and run-off, will be inspected to meet the requirements of §§4417.26 through 4417.29. This information shall be included in the inspection plan submitted under §4603.3(e);
- (e) If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals;
- (f) If ignitable or reactive wastes are to be placed in a waste pile, an explanation of how the requirements of §4417.31 will be complied with;
- (g) If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of how §§4417.32 through 4417.34 will be complied with;
- (h) A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under §4417.35. For any waste not to be removed from the waste pile upon closure, the owner or operator shall submit detailed plans and an engineering report describing how §4413.30 will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under §4603.3(m); and
- (i) A waste management plan for EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027 describing how a waste pile that is not enclosed (as defined in §4417.3) is or will be designed, constructed, operated, and maintained to meet the requirements of §§4417.39 through 4417.40. This submission shall address the following items as specified in §4601.4 :
  - (1) The volume, physical, and chemical characteristics of the wastes to be disposed in the waste pile, including their potential to migrate through soil or to volatilize or escape into the atmosphere;
  - (2) The attenuative properties of underlying and surrounding soils or other materials;
  - (3) The mobilizing properties of other materials co-disposed with these wastes; and
  - (4) The effectiveness of additional treatment, design, or monitoring techniques.

**4607 SPECIFIC PART B REQUIREMENTS FOR MISCELLANEOUS UNITS**

4607.1 Except as otherwise provided in §4425.1, owners and operators of facilities that treat, store, or dispose of hazardous waste in miscellaneous units shall provide the following additional information:

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- (a) A detailed description of the unit being used or proposed for use, including the following:
  - (1) Physical characteristics, materials of construction, and dimensions of the unit;
  - (2) Detailed plans and engineering reports describing how the unit will be located; designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of §§4425.1 and 4425.3; and
  - (3) For disposal units, a detailed description of the plans to comply with the post-closure requirements of §4425.4;
- (b) Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of §4425.2. If the applicant can demonstrate that he or she does not violate the environmental performance standards of §4425.2 and the Director agrees with the demonstration, preliminary hydrologic, geologic, and meteorologic assessments will suffice;
- (c) Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of the exposures;
- (d) For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data; and
- (e) Any additional information the Director determines necessary for evaluation of compliance of the unit with the environmental performance standards of §4425.2.

**4608 SPECIFIC PART B INFORMATION REQUIREMENTS FOR PROCESS VENTS**

4608.1 Except as otherwise provided in §§4400.1 through 4400.12, owners and operators of facilities that have process vents to which §§4428 through 4444 apply shall provide the following additional information:

- (a) For facilities that cannot install a closed-vent system and control device to comply with the provisions of §§4428 through 4444 on the effective date that the facility becomes subject to the provisions of §§4428 through 4444 or 40 CFR 265 subpart AA as restricted by §4401.2, an implementation schedule as specified in §4428.11;
- (b) Documentation of compliance with the process vent standards in §§4428.6 through 4428.9, including:
  - (1) Information and data identifying all affected process vents, annual throughput and operating hours of each affected unit, estimated emission rates for each affected vent and for the overall facility (that is, the total emissions for all affected vents at the facility), and the approximate location within the facility of each affected unit (for example, identify the hazardous waste management units on a facility plot plan);

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- (2) Information and data supporting estimates of vent emissions and emission reduction achieved by add-on control devices based on engineering calculations or source tests. For the purpose of determining compliance, estimates of vent emissions and emission reductions shall be made using operating parameter values (for example, temperatures, flow rates, or concentrations) that represent the conditions that exist when the waste management unit is operating at the highest load or capacity level reasonably expected to occur; and
- (3) Information and data used to determine whether or not a process vent is subject to the requirements of §§4428.6 through 4428.9;
- (c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system to comply with the requirements of §§4428.6 through 4428.9, and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in §4430.3(c); and
- (d) Documentation of compliance with §§4428.10 through 4428.25, including:
  - (1) A list of all information references and sources used in preparing the documentation;
  - (2) Records, including the dates, of each compliance test required by §4428.21;
  - (3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in §4017.1(l)) or other engineering texts acceptable to the Director that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in §4430.3(d)(3);
  - (4) The owner's or operator's statement signed and dated certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is or would be operating at the highest load or capacity level reasonably expected to occur; and
  - (5) The owner's or operator's statement signed and dated certifying that the control device is designed to operate at an efficiency of ninety-five (95) weight percent or greater unless the total organic emission limits of §4428.6 for affected process vents at the facility can be attained by a control device involving vapor recovery at an efficiency less than ninety-five (95) weight percent.

**4609 SPECIFIC PART B INFORMATION REQUIREMENTS FOR EQUIPMENT**

- 4609.1 Except as otherwise provided in §§4400.1 through 4400.12, owners and operators of facilities that have equipment to which §§4445 through 4459 apply shall provide the following additional information:

- (a) For each piece of equipment to which §§4445 through 4459 apply:
- (1) Equipment identification number and hazardous waste management unit identification;
  - (2) Approximate locations within the facility (for example, identify the hazardous waste management unit on a facility plot plan);
  - (3) Type of equipment (for example, a pump or pipeline valve);
  - (4) Percent by weight total organics in the hazardous waste stream at the equipment;
  - (5) Hazardous waste state at the equipment (for example, gas/vapor or liquid); and
  - (6) Method of compliance with the standard (for example, "monthly leak detection and repair" or "equipped with dual mechanical seals");
- (b) For facilities that cannot install a closed-vent system and control device to comply with the provisions of §§4445 through 4459 on the effective date that the facility becomes subject to the provisions of §§4445 through 4459 or 40 CFR 265 subpart BB as restricted by §4401.2, an implementation schedule as specified in §4428.11;
- (c) Where an owner or operator applies for permission to use a control device other than a thermal vapor incinerator, catalytic vapor incinerator, flare, boiler, process heater, condenser, or carbon adsorption system and chooses to use test data to determine the organic removal efficiency or the total organic compound concentration achieved by the control device, a performance test plan as specified in §4430.3(c);
- (d) Documentation that demonstrates compliance with the equipment standards in §§4446 through 4453. This documentation shall contain the records required under §4458. The Director may request further documentation before deciding if compliance has been demonstrated; and
- (e) Documentation to demonstrate compliance with §4445.1 shall include the following information:
- (1) A list of all information references and sources used in preparing the documentation;
  - (2) Records, including the dates, of each compliance test required by §4428.20;
  - (3) A design analysis, specifications, drawings, schematics, and piping and instrumentation diagrams based on the appropriate sections of "APTI Course 415: Control of Gaseous Emissions" (incorporated by reference as specified in §4017(l)) or other engineering texts acceptable to the Director that present basic control device design information. The design analysis shall address the vent stream characteristics and control device operation parameters as specified in §4430.3(d)(3);

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- (4) The owner's or operator's statement signed and dated certifying that the operating parameters used in the design analysis reasonably represent the conditions that exist when the hazardous waste management unit is operating at the highest load or capacity level reasonably expected to occur; and
- (5) The owner's or operator's statement signed and dated certifying that the control device is designed to operate at an efficiency of ninety-five (95) weight percent or greater.

**4610 SPECIFIC PART B INFORMATION REQUIREMENTS FOR DRIP PADS**

4610.1 Except as otherwise provided by §§4400.1 through 4400.12, owners and operators of hazardous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads shall provide the following additional information:

- (a) A list of hazardous wastes placed or to be placed on each drip pad;
- (b) If an exemption is sought to §4412, as provided by §§4412.1 through 4412.5, detailed plans and an engineering report describing how the requirements of §4412.3(b) will be met;
- (c) Detailed plans and an engineering report describing how the drip pad is or will be designed, constructed, operated and maintained to meet the requirements of §§4424.9 through 4424.23, including the as-built drawings and specifications. This submission shall address the following items as specified in §§4424.4 through 4424.7:
  - (1) The design characteristics of the drip pad;
  - (2) The liner system;
  - (3) The leakage detection system, including the leak detection system and how it is designed to detect the failure of the drip pad or the presence of any releases of hazardous waste or accumulated liquid at the earliest practicable time;
  - (4) Practices designed to maintain drip pads;
  - (5) The associated collection system;
  - (6) Control of run-on to the drip pad;
  - (7) Control of run-off from the drip pad;
  - (8) The interval at which drippage and other materials will be removed from the associated collection system and a statement demonstrating that the interval will be sufficient to prevent overflow onto the drip pad;
  - (9) Procedures for cleaning the drip pad at least once every seven (7) days to ensure the removal of any accumulated residues of waste or other materials, including but not limited to rinsing, washing with detergents or other appropriate solvents, or

steam cleaning and provisions for documenting the date, time, and cleaning procedure used each time the pad is cleaned;

- (10) Operating practices and procedures that will be followed to ensure that tracking of hazardous waste or waste constituents off the drip pad due to activities by personnel or equipment is minimized;
- (11) Procedures for ensuring that, after removal from the treatment vessel, treated wood from pressure and non-pressure processes is held on the drip pad until drippage has ceased, including recordkeeping practices;
- (12) Provisions for ensuring that collection and holding units associated with the run-on and run-off control systems are emptied or otherwise managed as soon as possible after storms to maintain design capacity of the system;
- (13) If treatment is carried out on the drip pad, details of the process equipment used, and the nature and quality of the residuals;
- (14) A description of how each drip pad, including appurtenances for control of run-on and run-off, will be inspected to meet the requirements of §§4424.9 through 4424.23. This information should be included in the inspection plan submitted under §4603.3(e);
- (15) A certification signed by an independent qualified, registered professional engineer, stating that the drip pad design meets the requirements of §§4424.9 through 4424.14; and
- (16) A description of how hazardous waste residues and contaminated materials will be removed from the drip pad at closure, as required under §4424.26. For any waste not to be removed from the drip pad upon closure, the owner or operator shall submit detailed plans and an engineering report describing how §4413.30 will be complied with. This information should be included in the closure plan and, where applicable, the post-closure plan submitted under §4603.3(m).

**4611 SPECIFIC PART B INFORMATION REQUIREMENTS FOR AIR EMISSION CONTROLS FOR TANKS AND CONTAINERS**

4611.1 Except as otherwise provided in §§4400.1 through 4400.12, owners and operators of tanks or containers that use air emission controls in accordance with the requirements of §§4474 through 4483 shall provide the following additional information:

- (a) Documentation for each floating roof cover installed on a tank subject to §4477.4(a) or (b) that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the applicable design specifications as listed in §4477.5(a) or §4477.6(a);



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- (b) Identification of each container area subject to the requirements of §§4474 through 4483 and certification by the owner or operator that the requirements of §§4601 through 4612 are met;
- (c) Documentation for each enclosure used to control air pollutant emissions from tanks or containers in accordance with the requirements of §§4477.4(e) or 4478.5(a)(2) that includes records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T--Criteria for and Verification of a Permanent or Temporary Total Enclosure" under 40 CFR 52.741, Appendix B;
- (d) [Reserved]
- (e) Documentation for each closed-vent system and control device installed in accordance with the requirements of §4479 that includes design and performance information as specified in §§4608.1(c) and (d);
- (f) An emission monitoring plan for both Method 21 in 40 CFR Part 60, Appendix A and control device monitoring methods. This plan shall include the following information: monitoring point(s), monitoring methods for control devices, monitoring frequency, procedures for documenting exceedances, and procedures for mitigating noncompliances; and
- (g) When an owner or operator of a facility subject to 40 CFR Part 265a, subpart CC as restricted by §4401.2 cannot comply with §§4474 through 4483 by the date of permit issuance, the schedule of implementation required under 40 CFR 265.1082 as restricted by §4401.2.

4611.2 [RESERVED]

**4612 PERMIT DENIAL**

- 4612.1 The Director may, pursuant to the procedures in Chapter 47, deny the permit application either in its entirety or as to the active life of a hazardous waste management facility or unit only.

**4613 PERMIT CONDITIONS APPLICABLE TO ALL PERMITS**

- 4613.1 This section applies to all TSD facility permits, and shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations shall be given in the permit.
- 4613.2 The permittee shall comply with all conditions of this permit, except that the permittee need not comply with the conditions of this permit to the extent and for the duration the noncompliance is authorized in an emergency permit. (See §§4619.2 and 4619.3). Any permit noncompliance, except under the terms of an emergency permit, constitutes a violation and is grounds for enforcement action; for permit revocation, suspension and reissuance, or modification; or for denial of a permit renewal application.

- 4613.3 If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee shall apply for and obtain a new permit.
- 4613.4 It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.
- 4613.5 In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out reasonable measures to prevent significant adverse impacts on human health or the environment.
- 4613.6 The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) that the permittee installed or used to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.
- 4613.7 This permit may be modified, suspended and reissued, or revoked for cause. The filing of a request by the permittee for a permit modification, suspension and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.
- 4613.8 The permit does not convey any property rights of any sort, or any exclusive privilege.
- 4613.9 The permittee shall furnish to the Director, within a reasonable time, any relevant information the Director may request to determine whether cause exists for modifying, suspending and reissuing, or revoking this permit, or to determine compliance with this permit. The permittee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.
- 4613.10 The permittee shall allow the Director, or an authorized representative, upon the presentation of credentials and other documents as may be required by law to:
- (a) Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records will be kept under the conditions of this permit;
  - (b) Have access to and copy, at reasonable times, any records that will be kept under the conditions of this permit;
  - (c) Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and
  - (d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by HWMA, any substances or parameters at any location.
- 4613.11 The permittee shall comply with the following monitoring and recording conditions:

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- (a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity;
  - (b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by §4411.11(i), and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, certification, or application. This period may be extended by request of the Director at any time. The permittee shall maintain records from all ground-water monitoring wells and associated ground-water surface elevations, for the active life of the facility, and for disposal facilities for the post-closure care period as well; and
  - (c) Records for monitoring information shall include:
    - (1) The date, exact place, and time of sampling or measurements;
    - (2) The individual(s) who performed the sampling or measurements;
    - (3) The date(s) analyses were performed;
    - (4) The individual(s) who performed the analyses;
    - (5) The analytical techniques or methods used; and
    - (6) The results of the analyses.
- 4613.12 All applications, reports, or information submitted to the Director shall be signed and certified (See §§4601.19 through 4601.22).
- 4613.13 The permittee shall comply with the following reporting requirements:
- (a) The permittee shall notify the Director as soon as possible of any planned physical alterations or additions to the permitted facility;
  - (b) The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity that may result in noncompliance with permit requirements. For a new facility, the permittee may not treat, store, or dispose of hazardous waste; and, for a facility being modified, the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility, except as provided in §§4617.7 through 4617.15, until:
    - (1) The permittee has submitted to the Director by certified mail or hand delivery a letter signed by the permittee and a registered professional engineer stating that the facility has been constructed or modified in compliance with the permit; and
      - (A) The Director has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

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- (B) Within fifteen (15) days of the date of submission of the letter in §4613.13(b)(1), the permittee has not received notice from the Director of his or her intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of hazardous waste;
- (c) This permit is not transferable to any person except after notice to the Director. The Director may require modification or suspension and reissuance of the permit to change the name of the permittee and incorporate other requirements as may be necessary under HWMA. (See §§4617.1 and 4617.2);
- (d) Monitoring results shall be reported at the intervals specified elsewhere in this permit;
- (e) Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date;
- (f) The permittee shall report any noncompliance that may endanger health or the environment verbally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances, including:
- (1) Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies;
  - (2) Any information of a release or discharge of hazardous waste or of a fire or explosion from the HWM facility, that could threaten the environment or human health outside the facility;
  - (3) The description of the occurrence and its cause shall include:
    - (A) Name, address, and telephone number of the owner or operator;
    - (B) Name, address, and telephone number of the facility;
    - (C) Date, time, and type of incident;
    - (D) Name and quantity of material(s) involved;
    - (E) The extent of injuries, if any;
    - (F) An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and
    - (G) Estimated quantity and disposition of recovered material that resulted from the incident; and
  - (4) A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or

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planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The Director may waive the five (5) day written notice requirement in favor of a written report within fifteen (15) days;

- (g) If a significant discrepancy in a manifest is discovered, the permittee shall attempt to reconcile the discrepancy. If not resolved within fifteen (15) days, the permittee shall submit a letter report, including a copy of the manifest, to the Director (See §§4411.8 and 4411.9.);
- (h) The permittee shall submit this report to the Director within fifteen (15) days of receipt of unmanifested waste (See §4411.16);
- (i) The permittee shall submit a biennial report covering facility activities during odd numbered calendar years (See §4411.15.);
- (j) The permittee shall report all instances of noncompliance not reported under §§4613.13(d), (e), and (f), at the time monitoring reports are submitted. The reports shall contain the information listed in §4613.13(f); and
- (k) Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Director, it shall promptly submit the facts or information.

4613.14 The Director may require the permittee to establish and maintain an information repository at any time, based on the factors in §4708.2. The information repository is governed by the provisions in §§4708.3 through 4708.6.

**4614 REQUIREMENTS FOR RECORDING AND REPORTING OF MONITORING RESULTS**

4614.1 All permits shall specify:

- (a) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);
- (b) Required monitoring including type, intervals, and frequency sufficient to yield data that are representative of the monitored activity including, when appropriate, continuous monitoring; and
- (c) Applicable reporting requirements based upon the impact of the regulated activity and as specified in Chapters 44 and 45. Reporting shall be no less frequent than specified in the above regulations.

**4615 ESTABLISHING PERMIT CONDITIONS**

- 4615.1 In addition to conditions required in all permits (§4613), the Director shall establish conditions, as required on a case-by-case basis, in permits under §§4618 (duration of permits), 4616.1 through 4616.4 (schedules of compliance), 4614.1 (monitoring), and, for EPA issued permits only, §§4616.5 (alternate schedules of compliance) and 4600.13 (considerations under Federal law).
- 4615.2 Each TSD facility permit shall include permit conditions necessary to achieve compliance with HWMA and regulations, including each of the applicable requirements specified in Chapters 44, 45, and 50. In satisfying this provision, the Director may incorporate applicable requirements of Chapters 44, 45, and 50 directly into the permit or establish other permit conditions that are based on these Chapters.
- 4615.3 Each TSD facility permit issued under section 3005 of RCRA or under §4 of HWMA (D.C. Code §6-703) and Chapter 46 of these regulations shall contain terms and conditions as the Administrator or Director determines necessary to protect human health and the environment.
- 4615.4 For a TSD facility permit issued by the Department, an applicable requirement is a statutory or regulatory requirement that takes effect before final administrative disposition of a permit. §4709 (reopening of comment period) provides a means for reopening Department permit proceedings at the discretion of the Director where new requirements become effective during the permitting process and are of sufficient magnitude to make additional proceedings desirable. For District and EPA administered programs, an applicable requirement is also any requirement that takes effect before the modification or suspension and reissuance of a permit, to the extent allowed in §§4617.3 through 4617.6.
- 4615.5 New or reissued permits, and to the extent allowed under §§4617.3 through 4617.6, modified or suspended and reissued permits, shall incorporate each of the applicable requirements referenced in §4615 and in §4614.1.
- 4615.6 All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements shall be given in the permit.

**4616 SCHEDULES OF COMPLIANCE**

- 4616.1 The permit may, when appropriate, specify a schedule of compliance leading to compliance with HWMA and regulations.
- 4616.2 Any schedules of compliance under §4616 shall require compliance as soon as possible.
- 4616.3 Except as provided in §4616.5(a)(2), if a permit establishes a schedule of compliance that exceeds one (1) year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement, as follows:
- (a) The time between interim dates shall not exceed one (1) year; and



- (b) If the time necessary for completion of any interim requirement is more than one (1) year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

4616.4 The permit shall be written to require that no later than fourteen (14) days following each interim date and the final date of compliance, the permittee shall notify the Director in writing, of its compliance or noncompliance with the interim or final requirements.

4616.5 A TSD facility permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste and, for treatment and storage HWM facilities, closing pursuant to applicable requirements; and, for disposal HWM facilities, closing and conducting post-closure care pursuant to applicable requirements) rather than continue to operate and meet permit requirements as follows:

- (a) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit that has already been issued:
  - (1) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or
  - (2) The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit; and
- (b) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the revocation date, the permit shall contain a schedule leading to revocation that will ensure timely compliance with applicable requirements;
- (c) If the permittee is undecided whether to cease conducting regulated activities, the Director may issue or modify a permit to contain two schedules as follows:
  - (1) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date that ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;
  - (2) One schedule shall lead to timely compliance with applicable requirements;
  - (3) The second schedule shall lead to cessation of regulated activities by a date that will ensure timely compliance with applicable requirements; and
  - (4) Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under §4616.5(c)(1) it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to revocation if the decision is to cease conducting regulated activities; and

- (d) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Director, such as resolution of the board of directors of a corporation.

**4617 CHANGES TO PERMIT**

- 4617.1 A permittee may transfer a permit to a new owner or operator only if the permit has been modified or suspended and reissued (under §4617.2 or §4617.5(b)) to identify the new permittee and incorporate other requirements necessary under the HWMA.
- 4617.2 Changes in the ownership or operational control of a facility may be made as a Class 1 modification with prior written approval of the Director in accordance with §§4617.7 through 4617.15. The new owner or operator shall submit a revised permit application no later than ninety (90) days before the scheduled change. A written agreement containing a specific date for transfer of permit responsibility between the current and new permittees shall also be submitted to the Director. When a transfer of ownership or operational control occurs, the old owner or operator shall comply with the requirements of §4414 (Financial Requirements) until the new owner or operator has demonstrated that he or she is complying with the requirements of §4414. The new owner or operator shall demonstrate compliance with §4414 requirements within six (6) months of the date of the change of ownership or operational control of the facility. Upon demonstration to the Director by the new owner or operator of compliance with §4414, the Director shall notify the old owner or operator that he or she no longer needs to comply with §4414 as of the date of demonstration.
- 4617.3 When the Director receives any information (for example, inspects the facility, receives information submitted by the permittee as required in the permit (see §4613), receives a request for suspension and reissuance under §4702.1 or conducts a review of the permit file), he or she may determine whether one or more of the causes listed in §§4617.4 and 4617.5 for modification, or suspension and reissuance or both exist. If cause exists, the Director may modify or suspend and reissue the permit accordingly, subject to the limitations of §4617.6, and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is suspended and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (See §4702.1(c)(2)). If cause does not exist under §§4617.3 through 4617.6, the Director shall not modify or suspend and reissue the permit, except on request of the permittee. If the permittee requests modification of the permit, the Director shall approve or deny the request according to the procedures of §§4617.7 through 4617.15. Otherwise, a draft permit shall be prepared and other procedures in Chapter 47 followed.
- 4617.4 The following are causes for modification, but not suspension and reissuance, of permits; the following may be causes for suspension and reissuance, as well as modification, when the permittee requests or agrees:
- (a) There are material and substantial alterations or additions to the permitted facility or activity that occurred after permit issuance that justify the application of permit conditions that are different or absent in the existing permit;
  - (b) Permits may be modified during their terms when the Director has received information that indicates a modification is required. This information shall be accepted only if the

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information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance;

- (c) The standards or regulations on which the permit was based have been changed by statute, through promulgation of new or amended standards or regulations, or by judicial decision after the permit was issued;
- (d) The Director determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy; and
- (e) Notwithstanding any other provision in §§4617.3 through 4617.6, when a permit for a facility is reviewed by the Director under §4618.4, the Director shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in Chapters 40 through 47.

4617.5 The following are causes to modify or, alternatively, suspend and reissue a permit:

- (a) Cause exists for revocation under §4617.17, and the Director determines that modification or suspension and reissuance is appropriate; or
- (b) The Director has received notification (as required in the permit, see §4613.13(c)) of a proposed transfer of the permit.

4617.6 Suitability of the facility location will not be considered at the time of permit modification or suspension and reissuance unless new information or standards indicate that a threat to human health or the environment exists that was unknown at the time of permit issuance.

4617.7 Except as provided in §4617.7(d), the permittee may put into effect Class 1 modifications listed in Appendix I to Chapter 46 under the following conditions:

- (a) The permittee shall notify the Director concerning the modification by certified mail or other means that establish proof of delivery within seven (7) calendar days after the change is put into effect. This notice shall specify the changes being made to permit conditions or supporting documents referenced by the permit and shall explain why they are necessary. Along with the notice, the permittee shall provide the applicable information required by §§4602 through 4606;
- (b) The permittee shall send a notice of the modification to all persons on the facility mailing list, maintained by the Director in accordance with §4703.3(a)(4), and the appropriate units of District government, as specified in §4703.3(a)(5) and §4703.3(a)(6). This notification shall be made within ninety (90) calendar days after the change is put into effect. For the Class 1 modifications that require prior Department approval, the notification shall be made within ninety (90) calendar days after the Director approves the request;
- (c) Any person may request the Director to review, and the Director may for cause reject, any Class 1 modification. The Director shall inform the permittee by certified mail that

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a Class 1 modification has been rejected, explaining the reasons for the rejection. If a Class 1 modification has been rejected, the permittee shall comply with the original permit conditions;

- (d) Class 1 permit modifications identified in Appendix I by an asterisk may be made only with the prior written approval of the Director; and
- (e) For a Class 1 permit modification, the permittee may elect to follow the procedures in §4617.8 for Class 2 modifications instead of the Class 1 procedures. The permittee shall inform the Director of this decision in the notice required in §4617.8(a).

4617.8 For Class 2 modifications, listed in Appendix I of §4617, the following conditions apply:

- (a) The permittee shall submit a modification request to the Director that:
  - (1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;
  - (2) Identifies that the modification is a Class 2 modification;
  - (3) Explains why the modification is needed; and
  - (4) Provides the applicable information required by §§4602 through 4606;
- (b) The permittee shall send a notice of the modification request to all persons on the facility mailing list maintained by the Director and to the appropriate units of District government as specified in §4703.3(a)(4) and shall publish this notice in a major local newspaper of general circulation. This notice shall be mailed and published within seven (7) days before or after the date of submission of the modification request, and the permittee shall provide to the Director evidence of the mailing and publication. The notice shall include:
  - (1) Announcement of a sixty (60)-day comment period, in accordance with §4617.8(e), and the name and address of a Department contact to whom comments shall be sent;
  - (2) Announcement of the date, time, and place for a public meeting held in accordance with §4617.8(d);
  - (3) Name and telephone number of the permittee's contact person;
  - (4) Name and telephone number of an Agency contact person;
  - (5) Location where copies of the modification request and any supporting documents can be viewed and copied; and
  - (6) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Department contact person.";

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- (c) The permittee shall place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility;
- (d) The permittee shall hold a public meeting no earlier than fifteen (15) days after the publication of the notice required in §4617.8(b) and no later than fifteen (15) days before the close of the sixty (60)-day comment period. The meeting shall be held to the extent practicable in the vicinity of the permitted facility;
- (e) The public shall be provided sixty (60) days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the Department contact identified in the public notice;
- (f) No later than ninety (90) days after receipt of the notification request, the Director shall:
  - (1) Approve the modification request, with or without changes, and modify the permit accordingly;
  - (2) Deny the request;
  - (3) Determine that the modification request shall follow the procedures in §4617.9 for Class 3 modifications for the following reasons:
    - (A) There is significant public concern about the proposed modification; or
    - (B) The complex nature of the change requires the more extensive procedures of Class 3;
  - (4) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty (180) days; or
  - (5) Notify the permittee that he or she will decide on the request within the next thirty (30) days;
- (g) If the Director notifies the permittee of a thirty (30)-day extension for a decision, the Director shall, no later than one hundred twenty (120) days after receipt of the modification request:
  - (1) Approve the modification request, with or without changes, and modify the permit accordingly;
  - (2) Deny the request;
  - (3) Determine that the modification request shall follow the procedures in §4617.9 for Class 3 modifications for the following reasons:
    - (A) There is significant public concern about the proposed modification; or
    - (B) The complex nature of the change requires the more extensive procedures of Class 3; or



- (4) Approve the request, with or without changes, as a temporary authorization having a term of up to one hundred eighty (180) days;
- (h) If the Director fails to make one of the decisions specified in §4617.8(g) by the one hundred twentieth (120th) day after receipt of the modification request, the permittee is automatically authorized to conduct the activities described in the modification request for up to one hundred eighty (180) days, without formal Department action. The authorized activities shall be conducted as described in the permit modification request and shall be in compliance with all appropriate standards of 40 CFR Part 265 as restricted by §4401.2. If the Director approves, with or without changes, or denies the modification request during the term of the temporary or automatic authorization provided for in §§4617.8(f), (g), or (h), that action cancels the temporary or automatic authorization;
- (i) In the case of an automatic authorization under §4617.8(h), or a temporary authorization under §4617.8(f)(4) or §4617.8(g)(4), if the Director has not made a final approval or denial of the modification request by the date fifty (50) days before the end of the temporary or automatic authorization, the permittee shall within seven (7) days of that time send a notification to persons on the facility mailing list, and make a reasonable effort to notify other persons who submitted written comments on the modification request, that:
- (1) The permittee has been authorized temporarily to conduct the activities described in the permit modification request; and
  - (2) Unless the Director acts to give final approval or denial of the request by the end of the authorization period, the permittee will receive authorization to conduct the activities for the life of the permit;
- (j) If the owner/operator fails to notify the public by the date specified in §4617.8(i), the effective date of the permanent authorization will be deferred until fifty (50) days after the owner/operator notifies the public;
- (k) Except as provided in §4617.8(m), if the Director does not finally approve or deny a modification request before the end of the automatic or temporary authorization period or reclassify the modification as a Class 3, the permittee is authorized to conduct the activities described in the permit modification request for the life of the permit unless modified later under §§4617.3 through 4617.6 or §§4617.7 through 4617.15. The activities authorized under §4617.8(k) shall be conducted as described in the permit modification request and shall be in compliance with all appropriate standards of 40 CFR Part 265 as restricted by §4401.2;
- (l) In making a decision to approve or deny a modification request, including a decision to issue a temporary authorization or to reclassify a modification as a Class 3, the Director shall consider all written comments submitted to the Director during the public comment period and shall respond in writing to all significant comments in his or her decision;



- (m) With the written consent of the permittee, the Director may extend indefinitely or for a specified period the time periods for final approval or denial of a modification request or for reclassifying a modification as a Class 3;
- (n) The Director may deny or change the terms of a Class 2 permit modification request under §§4617.8(f) through 4617.8(h) for the following reasons:
  - (1) The modification request is incomplete;
  - (2) The requested modification does not comply with the appropriate requirements of Chapter 44 or other applicable requirements; or
  - (3) The conditions of the modification fail to protect human health and the environment; and
- (o) The permittee may perform any construction associated with a Class 2 permit modification request beginning sixty (60) days after the submission of the request unless the Director establishes a later date for commencing construction and informs the permittee in writing before day sixty (60).

4617.9 For Class 3 modifications listed in Appendix I of §4617, the following conditions apply:

- (a) The permittee shall submit a modification request to the Director that:
  - (1) Describes the exact change to be made to the permit conditions and supporting documents referenced by the permit;
  - (2) Identifies that the modification is a Class 3 modification;
  - (3) Explains why the modification is needed; and
  - (4) Provides the applicable information required by §§4602 through 4606;
- (b) The permittee shall send a notice of the modification request to all persons on the facility mailing list maintained by the Director and to the appropriate units of District government as specified in §4703.3(a)(4) and shall publish this notice in a major local newspaper of general circulation. This notice shall be mailed and published within seven (7) days before or after the date of submission of the modification request, and the permittee shall provide to the Director evidence of the mailing and publication. The notice shall include:
  - (1) Announcement of a sixty (60)-day comment period, and a name and address of a Department contact to whom comments shall be sent;
  - (2) Announcement of the date, time, and place for a public meeting on the modification request, in accordance with §4617.9(d);
  - (3) Name and telephone number of the permittee's contact person;
  - (4) Name and telephone number of a Department contact person;

- (5) Location where copies of the modification request and any supporting documents can be viewed and copied; and
- (6) The following statement: "The permittee's compliance history during the life of the permit being modified is available from the Department contact person";
- (c) The permittee shall place a copy of the permit modification request and supporting documents in a location accessible to the public in the vicinity of the permitted facility;
- (d) The permittee shall hold a public meeting no earlier than fifteen (15) days after the publication of the notice required in §4617.9(b) and no later than fifteen (15) days before the close of the sixty (60)-day comment period. The meeting shall be held to the extent practicable in the vicinity of the permitted facility;
- (e) The public shall be provided at least sixty (60) days to comment on the modification request. The comment period will begin on the date the permittee publishes the notice in the local newspaper. Comments should be submitted to the Director contact identified in the notice; and
- (f) After the conclusion of the sixty (60)-day comment period, the Director shall grant or deny the permit modification request according to the permit modification procedures of Chapter 47. In addition, the Director shall consider and respond to all significant written comments received during the sixty (60)-day comment period.

4617.10 In the case of modifications not explicitly listed in Appendix I of §4617, the permittee may submit a Class 3 modification request to the Director, or he or she may request a determination by the Director that the modification should be reviewed and approved as a Class 1 or Class 2 modification. If the permittee requests that the modification be classified as a Class 1 or 2 modification, he or she shall provide the Director with the necessary information to support the requested classification as follows:

- (a) The Director shall make the determination described in §4617.10 as promptly as practicable. In determining the appropriate class for a specific modification, the Director shall consider the similarity of the modification to other modifications in Appendix I and the following criteria:
  - (1) Class 1 modifications apply to minor changes that keep the permit current with routine changes to the facility or its operation. These changes do not substantially alter the permit conditions or reduce the capacity of the facility to protect human health or the environment. In the case of Class 1 modifications, the Director may require prior approval;
  - (2) Class 2 modifications apply to changes that are necessary to enable a permittee to respond, in a timely manner, to,
    - (A) Common variations in the types and quantities of the wastes managed under the facility permit;
    - (B) Technological advancements; and

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- (C) Changes necessary to comply with new regulations, where these changes can be implemented without substantially changing design specifications or management practices in the permit; and

- (3) Class 3 modifications substantially alter the facility or its operation.

4617.11 Upon request of the permittee, the Director may, without prior public notice and comment, grant the permittee a temporary authorization in accordance with §4617.11. Temporary authorizations shall have a term of not more than one hundred eighty (180) days.

- (a) The permittee may request a temporary authorization for:
  - (1) Any Class 2 modification meeting the criteria in §4617.11(d)(2); and
  - (2) Any Class 3 modification that meets the criteria in §4617.11(d)(2)(A) or §4617.11(d)(2)(B); or that meets the criteria in §§4617.11(d)(2)(C) through (E) and provides improved management or treatment of a hazardous waste already listed in the facility permit;
- (b) The temporary authorization request shall include:
  - (1) A description of the activities to be conducted under the temporary authorization;
  - (2) An explanation of why the temporary authorization is necessary; and
  - (3) Sufficient information to ensure compliance with Chapter 44 standards;
- (c) The permittee shall send a notice about the temporary authorization request to all persons on the facility mailing list maintained by the Director and to appropriate units of District government as specified in §4703.3(a)(4). This notification shall be made within seven (7) days of submission of the authorization request;
- (d) The Director shall approve or deny the temporary authorization as quickly as practical. To issue a temporary authorization, the Director shall find:
  - (1) The authorized activities are in compliance with the standards of Chapter 44;
  - (2) The temporary authorization is necessary to achieve one of the following objectives before action is likely to be taken on a modification request:
    - (A) To facilitate timely implementation of closure or corrective action activities;
    - (B) To allow treatment or storage in tanks or containers, or in containment buildings in accordance with Chapter 50;
    - (C) To prevent disruption of ongoing waste management activities;
    - (D) To enable the permittee to respond to sudden changes in the types or quantities of the wastes managed under the facility permit; or

- (E) To facilitate other changes to protect human health and the environment; and
- (e) A temporary authorization may be reissued for one additional term of up to one hundred eighty (180) days provided that the permittee has requested a Class 2 or 3 permit modification for the activity covered in the temporary authorization, and:
- (1) The reissued temporary authorization constitutes the Director's decision on a Class 2 permit modification in accordance with §4617.8(f)(4) or §4617.8(g)(4); or
  - (2) The Director determines that the reissued temporary authorization involving a Class 3 permit modification request is warranted to allow the authorized activities to continue while the modification procedures of §4617.9 are conducted.
- 4617.12 The Director shall notify persons on the facility mailing list and appropriate units of District government within ten (10) days of any decision under §§4617.7 through 4617.15 to grant or deny a Class 2 or 3 permit modification request. The Director shall also notify these persons within ten (10) days after an automatic authorization for a Class 2 modification goes into effect under §4617.8(h) or §4617.8(k). In addition:
- (a) The Director's decision to grant or deny a Class 2 or 3 permit modification request under §§4617.7 through 4617.15 may be appealed under the permit appeal procedures of §9 of HWMA; and
  - (b) An automatic authorization that goes into effect under §4617.8(h) or §4617.8(k) may be appealed under the permit appeal procedures of §9 of HWMA; however, the permittee may continue to conduct the activities pursuant to the automatic authorization until the appeal has been granted pursuant to §9 of HWMA, notwithstanding the provisions of §4705.1.
- 4617.13 The permittee is authorized to continue to manage wastes listed or identified as hazardous under Chapter 41, or to continue to manage hazardous waste in units newly regulated as hazardous waste management units, if:
- (a) The unit was in existence as a hazardous waste facility with respect to the newly listed or characterized waste or newly regulated waste management unit on the effective date of the final rule listing or identifying the waste, or regulating the unit;
  - (b) The permittee submits a Class 1 modification request on or before the date on which the waste or unit becomes subject to the new requirements;
  - (c) The permittee is in compliance with the applicable standards of Chapters 44 and 45 and 40 CFR Part 265 as restricted by §4401.2;
  - (d) The permittee also submits a complete Class 2 or 3 modification request within one hundred eighty (180) days of the effective date of the rule listing or identifying the waste, or subjecting the unit to HWMA management standards;
  - (e) The permittee certifies that each unit is in compliance with all applicable requirements of 40 CFR Part 265 as restricted by §4401.2 for groundwater monitoring and financial responsibility on the date twelve (12) months after the effective date of the rule

identifying or listing the waste as hazardous, or regulating the unit as a hazardous waste management unit. If the owner or operator fails to certify compliance with all these requirements, he or she will lose authority to operate under §§4617.7 through 4617.15; and

- (f) New wastes or units added to a facility's permit under §4617.13 do not constitute expansions for the purpose of the twenty-five (25) percent capacity expansion limit for Class 2 modifications.

4617.14 The permittee is authorized to continue to accept waste military munitions notwithstanding any permit conditions barring the permittee from accepting off-site wastes under the following circumstances:

- (a) The facility was in existence as a hazardous waste facility, and the facility was already permitted to handle the waste military munitions, on the date when the waste military munitions became subject to hazardous waste regulatory requirements;
- (b) On or before the date when the waste military munitions become subject to hazardous waste regulatory requirements, the permittee submits a Class 1 modification request to remove or amend the permit provision restricting the receipt of off-site waste munitions; and
- (c) The permittee submits a complete Class 2 modification request within one hundred eighty (180) days of the date when the waste military munitions became subject to hazardous waste regulatory requirements.

4617.15 The Director shall maintain a list of all approved permit modifications and shall publish a notice once a year in a District-wide newspaper that an updated list is available for review.

4617.16 [RESERVED]

#### Appendix I to §4617 -- Classification of Permit Modification

Modifications	Class
A. General Permit Provisions	
1. Administrative and informational changes	1
2. Correction of typographical errors	1
3. Equipment replacement or upgrading with functionally equivalent components (for example, pipes, valves, pumps, conveyors, controls)	1
4. Changes in the frequency of or procedures for monitoring, reporting, sampling, or maintenance activities by the permittee:	
a. To provide for more frequent monitoring, reporting, sampling, or maintenance	1
b. Other changes	2
5. Schedule of compliance:	
a. Changes in interim compliance dates, with prior approval of the Director.	1
b. Extension of final compliance date.	3
6. Changes in expiration date of permit to allow earlier permit revocation, with prior approval of the Director.	1

Modifications	Class
7. Changes in ownership or operational control of a facility, provided the procedures of §4617.2 are followed.	1
<b>B. General Facility Standards</b>	
1. Changes to waste sampling or analysis methods:	
a. To conform with agency guidance or regulations.	1
b. To incorporate changes associated with F039 (multi-source leachate) sampling or analysis methods.	1
c. To incorporate changes associated with underlying hazardous constituents in ignitable or corrosive wastes.	1
d. Other changes.	2
2. Changes to analytical quality assurance/control plan:	
a. To conform with agency guidance or regulations.	1
b. Other changes.	2
3. Changes in procedures for maintaining the operating record.	1
4. Changes in frequency or content of inspection schedules.	2
5. Changes in the training plan:	
a. That affect the type or decrease the amount of training given to employees.	2
b. Other changes.	1
6. Contingency plan:	
a. Changes in emergency procedures (that is, spill or release response procedures).	2
b. Replacement with functionally equivalent equipment, upgrade, or relocate emergency equipment listed.	1
c. Removal of equipment from emergency equipment list.	2
d. Changes in name, address, or phone number of coordinators or other persons or agencies identified in the plan.	1
7. Construction quality assurance plan:	
a. Changes that the CQA officer certifies in the operating record will provide equivalent or better certainty that the unit components meet the design specifications.	1
b. Other changes	2
Note: When a permit modification (such as introduction of a new unit) requires a change in facility plans or other general facility standards, that change shall be reviewed under the same procedures as the permit modification.	
<b>C. Ground-Water Protection</b>	
1. Changes to wells:	
a. Changes in the number, location, depth, or design of upgradient or downgradient wells of permitted ground-water monitoring system.	2
b. Replacement of an existing well that has been damaged or rendered inoperable, without change to location, design, or depth of the well.	1
2. Changes in ground-water sampling or analysis procedures or monitoring schedule, with prior approval of the Director.	1
3. Changes in statistical procedure for determining whether a statistically significant change in ground-water quality between upgradient and downgradient wells has occurred, with prior approval of the Director.	1



Modifications	Class
4. Changes in point of compliance.	'2
5. Changes in indicator parameters, hazardous constituents, or concentration limits (including ACLs):	
a. As specified in the groundwater protection standard.	3
b. As specified in the detection monitoring program.	2
6. Changes to a detection monitoring program as required by §4412.40, unless otherwise specified in this Appendix.	2
7. Compliance monitoring program:	
a. Addition of compliance monitoring program as required by §4412.38(d) and §4412.41 through 4412.55.	3
b. Changes to a compliance monitoring program as required by §4412.55, unless otherwise specified in this Appendix.	2
8. Corrective action program:	
a. Addition of a corrective action program as required by §§4412.54(b) and 4412.56.	3
b. Changes to a corrective action program as required by §4412.56(h), unless otherwise specified in this Appendix.	2
D. Closure	
1. Changes to the closure plan:	
a. Changes in estimate of maximum extent of operations or maximum inventory of waste on-site at any time during the active life of the facility, with prior approval of the Director.	'1
b. Changes in the closure schedule for any unit, changes in the final closure schedule for the facility, or extension of the closure period, with prior approval of the Director.	'1
c. Changes in the expected year of final closure, where other permit conditions are not changed, with prior approval of the Director.	'1
d. Changes in procedures for decontamination of facility equipment or structures, with prior approval of the Director.	'1
e. Changes in approved closure plan resulting from unexpected events occurring during partial or final closure, unless otherwise specified in this Appendix.	2
f. Extension of the closure period to allow a landfill, surface impoundment or land treatment unit to receive non-hazardous wastes after final receipt of hazardous wastes under 40 CFR §264.113 (d) and (e) or a State equivalent. (Not allowed in the District, as indicated at §4400.3.)	NA
2. Creation of a new landfill unit as part of closure. (Not allowed in the District, as indicated at §4400.3.)	NA
3. Addition of the following new units to be used temporarily for closure activities:	
a. Surface impoundments. (Not allowed in the District, as indicated at §4400.3.)	NA
b. Incinerators. (Not allowed in the District, as indicated at §4400.3.)	NA
c. Waste piles that do not comply with §4417.3.	3
d. Waste piles that comply with §4417.3.	2
e. Tanks or containers (other than specified below).	2
f. Tanks used for neutralization, dewatering, phase separation, or component separation, with prior approval of the Director.	'1

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Modifications	Class
<p>E. Post-Closure</p> <ol style="list-style-type: none"> <li>1. Changes in name, address, or phone number of contact in post-closure plan. 1</li> <li>2. Extension of post-closure care period. 2</li> <li>3. Reduction in the post-closure care period. 3</li> <li>4. Changes to the expected year of final closure, where other permit conditions are not changed. 1</li> <li>5. Changes in post-closure plan necessitated by events occurring during the active life of the facility, including partial and final closure. 2</li> </ol>	
<p>F. Containers</p> <ol style="list-style-type: none"> <li>1. Modification or addition of container units: <ol style="list-style-type: none"> <li>a. Resulting in greater than 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below. 3</li> <li>b. Resulting in up to 25% increase in the facility's container storage capacity, except as provided in F(1)(c) and F(4)(a) below. 2</li> <li>c. Or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit", with prior approval of the Director. This modification may also involve addition of new waste codes or narrative descriptions of wastes. It is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028). 11</li> </ol> </li> <li>2: <ol style="list-style-type: none"> <li>a. Modification of a container unit without increasing the capacity of the unit. 2</li> <li>b. Addition of a roof to a container unit without alteration of the containment system. 1</li> </ol> </li> <li>3. Storage of different wastes in containers, except as provided in (F)(4) below: <ol style="list-style-type: none"> <li>a. That require additional or different management practices from those authorized in the permit. 3</li> <li>b. That do not require additional or different management practices from those authorized in the permit. 2</li> </ol> </li> </ol> <p>Note: See §4617.13 for modification procedures to be used for the management of newly listed or identified wastes.</p> <ol style="list-style-type: none"> <li>4. Storage of treatment of different wastes in containers: <ol style="list-style-type: none"> <li>a. That require addition of units or change in treatment process or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards, or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit". This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028). 1</li> <li>b. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028). 11</li> </ol> </li> </ol>	

Modifications	Class
<p>G. Tanks</p> <p>1:</p> <p>a. Modification or addition of tank units resulting in greater than 25% increase in the facility's tank capacity, except as provided in G(1)(c), G(1)(d), and G(1)(e) below. 3</p> <p>b. Modification or addition of tank units resulting in up to 25% increase in the facility's tank capacity, except as provided in G(1)(d) and G(1)(e) below. 2</p> <p>c. Addition of a new tank that will operate for more than ninety (90) days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation. 2</p> <p>d. After prior approval of the Director, addition of a new tank that will operate for up to ninety (90) days using any of the following physical or chemical treatment technologies: neutralization, dewatering, phase separation, or component separation. 1</p> <p>e. Modification or addition of tank units or treatment processes necessary to treat wastes that are restricted from land disposal to meet some or all of the applicable treatment standards or to treat wastes to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit" with prior approval of the Director. This modification may also involve addition of new waste codes. It is not applicable to dioxin-containing wastes (F020, F021, F022, F023, F026, F027, and F028). 1</p> <p>2. Modification of a tank unit or secondary containment system without increasing the capacity of the unit. 2</p> <p>3. Replacement of a tank with a tank that meets the same design standards and has a capacity within +/- 10% of the replaced tank provided. 1</p> <p>-- The capacity difference is no more than 1500 gallons,</p> <p>-- The facility's permitted tank capacity is not increased, and</p> <p>-- The replacement tank meets the same conditions in the permit.</p> <p>4. Modification of a tank management practice. 2</p> <p>5. Management of different wastes in tanks:</p> <p>a. That require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process from that authorized in the permit, except as provided in (G)(5)(c) below. 3</p> <p>b. That do not require additional or different management practices, tank design, different fire protection specifications, or significantly different tank treatment process than authorized in the permit, except as provided in (G)(5)(d). 2</p> <p>c. That require addition of units or change in treatment processes or management standards, provided that the wastes are restricted from land disposal and are to be treated to meet some or all of the applicable treatment standards or that are to be treated to satisfy (in whole or in part) the standard of "use of practically available technology that yields the greatest environmental benefit". The modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028). 1</p> <p>d. That do not require the addition of units or a change in the treatment process or management standards, and provided that the units have previously received wastes of the same type (for example, incinerator scrubber water). This modification is not applicable to dioxin-containing wastes (F020, 021, 022, 023, 026, 027, and 028). 1</p> <p>Note: See §4617.13 for modification procedures to be used for the management of newly listed or identified wastes.</p>	

Modifications	Class
H. Surface Impoundments	
1. Not allowed in the District, as indicated at §4400.3.	NA
I. Enclosed Waste Piles. For all waste piles except those complying with §4417.3, modifications are treated the same as for a landfill. The following modifications are applicable only to waste piles complying with §4417.3.	
1. Modification or addition of waste pile units:	
a. Resulting in greater than 25% increase in the facility's waste pile storage or treatment capacity.	3
b. Resulting in up to 25% increase in the facility's waste pile storage or treatment capacity.	2
2. Modification of waste pile unit without increasing the capacity of the unit.	2
3. Replacement of a waste pile unit with another waste pile unit of the same design and capacity and meeting all waste pile conditions in the permit.	1
4. Modification of a waste pile management practice.	2
5. Storage or treatment of different wastes in waste piles:	
a. That require additional or different management practices or different design of the unit.	3
b. That do not require additional or different management practices or different design of the unit.	2
6. Conversion of an enclosed waste pile to a containment building unit.	2
Note: See §4617.13 for modification procedures to be used for the management of newly listed or identified wastes.	
J. Landfills and Unenclosed Waste Piles	
1. Not allowed in the District, as indicated at §§4400.3 and 4018.	NA
K. Land Treatment	
1. Not allowed in the District, as indicated at §4400.3.	NA
L. Incinerators, Boilers, and Industrial Furnaces:	
1. Not allowed in the District, as indicated at §4400.3.	NA
M. Containment Buildings.	
1. Modification or addition of containment building units:	
a. Resulting in greater than 25% increase in the facility's containment building storage or treatment capacity.	3
b. Resulting in up to 25% increase in the facility's containment building storage or treatment capacity.	2
2. Modification of a containment building unit or secondary containment system without increasing the capacity of the unit.	2
3. Replacement of a containment building with a containment building that meets the same design standards provided:	
a. The unit capacity is not increased.	1
b. The replacement containment building meets the same conditions in the permit.	1
4. Modification of a containment building management practice.	2
5. Storage or treatment of different wastes in containment buildings:	

Modifications	Class
a. That require additional or different management practices.	3
b. That do not require additional or different management practices.	2
N. Corrective Action:	
1. Approval of a corrective action management unit pursuant to §§4421.1 through 4421.9.	3
2. Approval of a temporary unit or time extension for a temporary unit pursuant to §§4421.10 through 4421.16.	2

<sup>1</sup>Class 1 modifications requiring prior Agency approval.

4617.17 The following are causes for revoking a permit during its term, or for denying a permit renewal application:

- (a) Noncompliance by the permittee with any condition of the permit;
- (b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; or
- (c) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or revocation.

4617.18 The Director shall follow the applicable procedures in Chapter 47 in revoking any permit under §4617.17.

4617.19 [RESERVED]

#### 4618 EXPIRATION AND CONTINUATION OF PERMITS

4618.1 TSD facility permits shall be effective for a fixed term not to exceed 10 years.

4618.2 Except as provided in §§4618.5 through 4618.8, the term of a permit shall not be extended by modification beyond the maximum duration specified in this section.

4618.3 The Director may issue any permit for a duration that is less than the full allowable term under this section.

4618.4 Each permit for a facility shall be reviewed by the Director five (5) years after the date of permit issuance or reissuance and shall be modified as necessary, as provided in §§4617.3 through 4617.6.

4618.5 The conditions of an expired permit continue in force until the effective date of a new permit (see §4705) if:

- (a) The permittee has submitted a timely application under §4603 and the applicable sections in §§4604 through 4612 that is a complete (under §4601.3) application for a new permit; and

- (b) The Director through no fault of the permittee, does not issue a new permit with an effective date under §4705 on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resource constraints).

4618.6 Permits continued under this section remain fully effective and enforceable.

4618.7 When the permittee is not in compliance with the conditions of the expiring or expired permit, the Director may choose to do any or all of the following:

- (a) Initiate enforcement action based upon the permit that has been continued;
- (b) Issue a notice of intent to deny the new permit under §4702.2. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;
- (c) Issue a new permit under Chapter 47 with appropriate conditions; or
- (d) Take other actions authorized by these regulations.

4618.8 If a permittee has submitted a timely and complete application under applicable District law and regulations, the terms and conditions of an EPA-issued RCRA permit continue in force beyond the expiration date of the permit, but only until the effective date of the District's issuance or denial of a District TSD facility permit.

4618.9 [RESERVED]

#### **4619 SPECIAL FORMS OF PERMITS**

4619.1 Notwithstanding any other provision of this Chapter or Chapter 47, the following shall be deemed to have a TSD facility permit if the conditions listed are met:

- (a) The owner or operator of a barge or other vessel that accepts hazardous waste for ocean disposal, if the owner or operator:
  - (1) Has a permit for ocean dumping issued under 40 CFR Part 220 (Ocean Dumping, authorized by the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1420 *et seq.*);
  - (2) Complies with the conditions of that permit; and
  - (3) Complies with the following hazardous waste regulations:
    - (A) §4402.3, Identification number;
    - (B) §4411.4 through 4411.7, Use of manifest system;
    - (C) §§4411.8 and 4411.9, Manifest discrepancies;
    - (D) §§4411.10 and 4411.11(a), Operating record;



- (E) §4411.15, Biennial report; and
  - (F) §4411.16, Unmanifested waste report;
  - (b) [Reserved]; and
  - (c) The owner or operator of a POTW that accepts for treatment hazardous waste, if the owner or operator:
    - (1) Has an NPDES permit;
    - (2) Complies with the conditions of that permit;
    - (3) Complies with the following regulations:
      - (A) §4402.3, Identification number;
      - (B) §4411.4 through 4411.7, Use of manifest system;
      - (C) §§4411.8 and 4411.9, Manifest discrepancies;
      - (D) §§4411.10 and 4411.11(a), Operating record;
      - (E) §4411.15, Biennial report;
      - (F) §4411.16, Unmanifested waste report; and
      - (G) For NPDES permits issued after November 8, 1984, §§4412.57 through 4412.59; and
    - (4) If the waste meets all Federal and District of Columbia pretreatment requirements that would be applicable to the waste if it were being discharged into the POTW through a sewer, pipe, or similar conveyance.
- 4619.2 Notwithstanding any other provision of this Chapter or Chapter 47, in the event the Director finds an imminent and substantial endangerment to human health or the environment the Director may issue a temporary emergency permit:
- (a) To a non-permitted facility to allow treatment, storage, or disposal of hazardous waste; or
  - (b) To a permitted facility to allow treatment, storage, or disposal of a hazardous waste not covered by an effective permit.

## 4619.3 An emergency permit:

- (a) May be verbal or written. If verbal, it shall be followed in five days by a written emergency permit;
- (b) Shall not exceed ninety (90) days in duration;
- (c) Shall clearly specify the hazardous wastes to be received, and the manner and location of their treatment, storage, or disposal;
- (d) May be revoked by the Director at any time without process if he or she determines that revocation is appropriate to protect human health and the environment;
- (e) Shall be accompanied by a public notice published under §4703.2 including:
  - (1) Name and address of the office granting the emergency authorization;
  - (2) Name and location of the permitted HWM facility;
  - (3) A brief description of the wastes involved;
  - (4) A brief description of the action authorized and reasons for authorizing it; and
  - (5) Duration of the emergency permit; and
- (f) Shall incorporate, to the extent possible and not inconsistent with the emergency situation, all applicable requirements of this Chapter and Chapters 44 and 45.

## 4619.4 The Director may issue a research, development, and demonstration permit for any hazardous waste treatment facility that proposes to utilize an innovative and experimental hazardous waste treatment technology or process for which permit standards for the experimental activity have not been promulgated under Chapter 44 or 45. Any research, development or demonstration permit shall include terms and conditions that will assure protection of human health and the environment. The permits shall:

- (a) Provide for the construction of these facilities as necessary, and for operation of the facility for not longer than one year unless renewed as provided in §4619.7;
- (b) Provide for the receipt and treatment by the facility of only those types and quantities of hazardous waste that the Director deems necessary for purposes of determining the efficacy and performance capabilities of the technology or process and the effects of the technology or process on human health and the environment; and
- (c) Include the requirements the Director deems necessary to protect human health and the environment (including, but not limited to, requirements regarding monitoring, operation, financial responsibility, closure, and remedial action), and requirements the Director deems necessary regarding testing and providing information to the Director with respect to the operation of the facility.

9.5 For the purpose of expediting review and issuance of permits under §§4619.4 through 4619.7, the Director may, consistent with the protection of human health and the environment, modify or waive permit application and permit issuance requirements in Chapters 46 and 47 except that there may be no modification or waiver of regulations regarding financial responsibility (including insurance) or of procedures regarding public participation.

9.6 The Director may order an immediate revocation of all operations at the facility at any time he or she determines that revocation is necessary to protect human health and the environment.

9.7 Any permit issued under §§4619.4 through 4619.7 may be renewed not more than three (3) times. Each renewal shall be for a period of not more than one (1) year.

## 20 INTERIM STATUS

20.1 Any person who owns or operates an "existing HWMA facility" or a facility in existence on the effective date of statutory or regulatory amendments under the HWMA that render the facility subject to the requirement to have a TSD facility permit shall have interim status and shall be treated as having been issued a permit to the extent he or she has:

- (a) Complied with the requirements of HWMA pertaining to notification of hazardous waste activity; and
- (b) Complied with the requirements of §§4601.1 through 4601.18 governing submission of part A applications.

4620.2 If the Department has reason to believe upon examination of a part A application that it fails to meet the requirements of §4602, it shall notify the owner or operator in writing of the apparent deficiency. The notice shall specify the grounds for the Department's belief that the application is deficient. The owner or operator shall have thirty (30) days from receipt to respond to a notification and to explain or cure the alleged deficiency in his or her part A application. If, after notification and opportunity for response, the Department determines that the application is deficient it may take appropriate enforcement action.

4620.3 Section 4620.1 shall not apply to any facility that has been previously denied a TSD facility permit or if authority to operate the facility under HWMA has been previously revoked.

4620.4 During the interim status period the facility shall not:

- (a) Treat, store, or dispose of hazardous waste not specified in part A of the permit application;
- (b) Employ processes not specified in part A of the permit application; or
- (c) Exceed the design capacities specified in part A of the permit application.

4620.5 During interim status, owners or operators shall comply with the interim status standards at 40 CFR Part 265 as restricted by §4401.2.

4620.6 Except as provided in §4620.7, the owner or operator of an interim status facility may make the following changes at the facility:

- (a) Treatment, storage, or disposal of new hazardous wastes not previously identified in part A of the permit application (and, in the case of newly listed or identified wastes, addition of the units being used to treat, store, or dispose of the hazardous wastes on the effective date of the listing or identification) if the owner or operator submits a revised part A permit application before treatment, storage, or disposal;
- (b) Increases in the design capacity of processes used at the facility if the owner or operator submits a revised part A permit application before a change (along with a justification explaining the need for the change) and the Director approves the change because:
  - (1) There is a lack of available treatment, storage, or disposal capacity at other hazardous waste management facilities; or
  - (2) The change is necessary to comply with a Federal or District of Columbia requirement;
- (c) Changes in the processes for the treatment, storage, or disposal of hazardous waste may be made at the facility or additional processes may be added if the owner or operator submits a revised part A permit application before the change (along with a justification explaining the need for the change) and the Director approves the change because:
  - (1) The change is necessary to prevent a threat to human health and the environment because of an emergency situation; or
  - (2) The change is necessary to comply with Federal regulations or District of Columbia laws and regulations;
- (d) Changes in the ownership or operational control of a facility if the new owner or operator submits a revised part A permit application no later than ninety (90) days before the scheduled change. When a transfer of operational control of a facility occurs, the old owner or operator shall comply with the requirements of 40 CFR Part 265, subpart H, as restricted by §4401.2 (Financial Requirements), until the new owner or operator has demonstrated to the Director that he or she is complying with the requirements of that subpart. The new owner or operator shall demonstrate compliance with subpart H requirements within six (6) months of the date of the change in ownership or operational control of the facility. Upon demonstration to the Director by the new owner or operator of compliance with subpart H, the Director shall notify the old owner or operator in writing that he or she no longer needs to comply with subpart H as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the change in ownership or operational control of the facility;
- (e) Changes made in accordance with an interim status corrective action order issued by EPA under RCRA §3008(h) or other Federal authority, by the District under §12 of HWMA (D.C. Code §6-711), or by a court in a judicial action brought by EPA or the District of Columbia. Changes under §4620.6 are limited to the treatment, storage, or

disposal of solid waste from releases that originate within the boundary of the facility;  
and

- (f) Addition of newly regulated units for the treatment, storage, or disposal of hazardous waste if the owner or operator submits a revised part A permit application on or before the date on which the unit becomes subject to the new requirements.

4620.7 Except as specifically allowed under this subsection, changes listed under §4620.6 may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty (50) percent of the capital cost of a comparable entirely new hazardous waste management facility. If all other requirements are met, the following changes may be made even if they amount to a reconstruction:

- (a) Changes made solely for the purposes of complying with the requirements of 40 CFR 265.193 as restricted by §4401.2 for tanks and ancillary equipment;
- (b) If necessary to comply with Federal or District requirements, changes to an existing unit or changes solely involving tanks or containers;
- (c) Changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility before the effective date of the rule establishing the new listing or identification;
- (d) Changes during closure of a facility or of a unit within a facility made in accordance with an approved closure plan;
- (e) Changes necessary to comply with an interim status corrective action order issued by EPA under RCRA §3008(h) or other Federal authority, by the District under §12 of HWMA (D.C. Code §6-711), or by a court in a judicial proceeding brought by EPA or the District, provided that such changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility;
- (f) Changes to treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed by Chapter 50 or RCRA §3004, provided that changes are made solely for the purpose of complying with Chapter 50 or RCRA §3004;
- (g) Addition of newly regulated units under §4620.6(f); and
- (h) [Reserved]

4620.8 Interim status is revoked when:

- (a) Final administrative disposition of a permit application is made;
- (b) Interim status is revoked as provided in §4601.9;
- (c) For owners or operators of each facility that is in existence on the effective date of statutory or regulatory amendments under the Act that render the facility subject to the

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requirement to have a TSD facility permit and that is granted interim status, twelve (12) months after the date on which the facility first becomes subject to the permit requirement unless the owner or operator of the facility:

- (1) Submits a part B application for a TSD facility permit for the facility before the date twelve (12) months after the date on which the facility first becomes subject to the permit requirement; and
  - (2) Certifies that the facility is in compliance with all applicable ground water monitoring and financial responsibility requirements;
- (d) For owners or operators of any unit that is granted authority to operate under §4620.6(a), (b), or (c), on the date twelve (12) months after the effective date of the requirement, unless the owner or operator certifies that the unit is in compliance with all applicable ground-water monitoring and financial responsibility requirements; and
- (e) As of the effective date of this regulation, an owner or operator of any facility that lost interim status for failing to submit a Part B application under RCRA §3005(c)(2)(B) and (C), is denied interim status.



**CHAPTER 47 PROCEDURES FOR DECISIONMAKING****4700 GENERAL**

- 4700.1 This chapter contains procedures for issuing, modifying, suspending, reissuing, or revoking all treatment, storage and disposal (TSD) facility permits other than "emergency permits" (see §§4619.2 and 4619.3) and "permits by rule" (see §4619.1). Interim status is covered by specific provisions in §4620.
- 4700.2 This chapter describes the steps the Department shall follow in receiving permit applications, preparing draft permits, issuing public notice, inviting public comment and holding public hearings on draft permits. This chapter also covers assembling an administrative record, responding to comments, issuing a final permit decision, and allowing for administrative appeal of the final permit decision.

**4701 APPLICATION FOR A PERMIT**

- 4701.1 Any person who requires a TSD facility permit under the HWMA program shall complete, sign, and submit to the Director an application for the TSD facility permit required under §§4600.1 through 4600.12. Applications are not required for TSD facility permits by rule (§4619.1).
- 4701.2 The Director shall not begin processing a permit until the applicant has fully complied with the application requirements for that permit. See §§4601.1 through 4601.18, §4602.
- 4701.3 Permit applications (except for PSD permits) shall comply with the signature and certification requirements of §§4601.19 through 4601.22.
- 4701.4 The Director shall review for completeness every application. The Director shall review each application submitted by a new HWM facility for completeness within thirty (30) days of its receipt. The Director shall review each application for a permit submitted by an existing HWM facility (both parts A and B of the application) for completeness within sixty (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 the 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 additional information shall not render an application incomplete.
- 4701.5 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 §12(a) of HWMA (D.C. Code §6-711).

- 4701.6 If the Director decides that a site visit is necessary for any reason in conjunction with processing an application, he or she shall notify the applicant and a date shall be scheduled.
- 4701.7 The effective date of an application is the date on which the Director notifies the applicant that the application is complete as provided in §4701.4.
- 4701.8 For each application from a 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 do the following:
- (a) Prepare a draft permit;
  - (b) Give public notice;
  - (c) Complete the public comment period, including any public hearing; and
  - (d) Issue a final permit.

**4702 MODIFICATION, SUSPENSION AND REISSUANCE, OR REVOCATION OF A PERMIT**

- 4702.1 A permit may be modified, suspended and reissued or revoked as follows:
- (a) Permits may be modified, suspended and reissued, or revoked either at the request of any interested person (including the permittee) or upon the Director's initiative. However, permits may only be modified, suspended and reissued, or revoked for the reasons specified in §§4617.3 through 4617.6 and §§4617.17 and 4617.18. 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. A person adversely affected by the Director's decision may request an appeal pursuant to §9 of HWMA (D.C. Code §6-708);
  - (c) Procedures for modification, suspension and reissuance, or revocation of permits shall be as follows:
    - (1) If the Director tentatively decides to modify or suspend and reissue a permit under §§4617.3 through 4617.6 or §4617.9, he or she shall prepare a draft permit under §4702.2 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 subsection, 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 subsection, 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; and

- (3) "Minor modifications" as defined in §4617.7 are not subject to the requirements of this subsection; and

- (d) If the Director tentatively decides to revoke a permit under §§4617.17 and 4617.18, he or she shall issue a notice of intent to revoke. A notice of intent to revoke is a type of draft permit that follows the same procedures as any draft permit prepared under §4702.2.

4702.2 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 that follows the same procedures as any draft permit prepared under §4702.2. If the Director's final decision 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 §4702.2(d);
- (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 §§4613 and 4615;
  - (2) All compliance schedules under §4616;
  - (3) All monitoring requirements under §4614.1; and
  - (4) Standards for treatment, storage, disposal and other permit conditions under §4613; and
- (e) All draft permits prepared under §4702.2 shall be accompanied by a fact sheet pursuant to §§4702.3 and 4702.4, shall be publicly noticed pursuant to §4703 and made available for public comment pursuant to §4704.1; and
- (f) The Director shall give notice of opportunity for a public hearing pursuant to §§4704.2 through 4704.6, respond to comments pursuant to §4704.7 and issue a §4705 final decision.

4702.3 A fact sheet shall be prepared for every draft permit for a HWM facility or activity and for every draft permit that the Director finds is the subject of wide-spread 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.

4702.4 The fact sheet shall include, when applicable:

- (a) A brief description of the type of facility or activity that is the subject of the draft permit;
- (b) The type and quantity of wastes, fluids, or pollutants that are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged;
- (c) A brief summary of the basis for the draft permit conditions including references to applicable statutory or regulatory provisions;
- (d) Reasons why any requested variances or alternatives to required standards do or do not appear justified;
- (e) A description of the procedures for reaching a final decision on the draft permit including:
  - (1) The beginning and ending dates of the comment period under §4703 and the address where comments will be received;
  - (2) Procedures for requesting a hearing and the nature of that hearing; and
  - (3) Any other procedures by which the public may participate in the final decision; and
- (f) Name and telephone number of a person to contact for additional information.

**4703 PUBLIC NOTICE OF PERMIT ACTIONS**

4703.1 The provisions for public notice of permit actions shall be as follows:

- (a) The Director shall give public notice that the following actions have occurred:
  - (1) A permit application has been tentatively denied under §4702.2(b);
  - (2) A draft permit has been prepared under §4702.2(d); and
  - (3) A hearing has been scheduled under §§4704.2 through 4704.6; and
- (b) No public notice is required when a request for permit modification, suspension and reissuance, or revocation is denied under §4702.1(b). Written notice of that denial shall be given to the requester and to the permittee; and
- (c) Public notices may describe more than one permit or permit action.

4703.2 Timing for public notice shall be as follows:

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- (a) Public notice of the preparation of a draft permit (including a notice of intent to deny a permit application) required under §4703.1 shall allow at least forty-five (45) days for public comment; and
- (b) Public notice of a public hearing shall be given at least thirty (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 (2) notices may be combined).

4703.3 Public notice of activities described in §4703.1(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 that the Director knows has issued or is required to issue a TSD facility permit for the same facility or activity (including the U.S. EPA);
  - (3) Federal and District 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;
  - (4) Persons on a mailing list developed by:
    - (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 District funded newsletters, environmental bulletins, or District 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 a request.);
  - (5) To any unit of local government having jurisdiction over the area where the facility is proposed to be located; and
  - (6) To each District agency having any authority under District law with respect to the construction or operation of the facility;
- (b) Publication of a notice in a daily or weekly newspaper within the area affected by the facility and in the *District of Columbia Register* and broadcast of the notice over local radio stations;
- (c) In a manner constituting legal notice to the public under District law; and

- (d) Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or any other forum or medium to elicit public participation.
- 4703.4 All public notices issued under this section shall contain the following minimum information:
- (a) Name and address of the office processing the permit action for which notice is being given;
  - (b) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;
  - (c) A brief description of the business conducted at the facility or activity described in the permit application;
  - (d) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, as the case may be, fact sheet, and the application;
  - (e) A brief description of the comment procedures required by §§4704.1 and 4704.2 through 4704.6 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.
- 4703.5 In addition to the general public notice described in §4703.4, the public notice of a hearing under §§4704.2 through 4704.6 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.
- 4703.6 In addition to the general public notice described in §4703.4, all persons identified in §4703.3(a)(1)-(3) shall be mailed a copy of the fact sheet, or statement of basis (for EPA-issued permits), the permit application (if any), and the draft permit (if any).
- 4704 PUBLIC HEARINGS**
- 4704.1 During the public comment period provided under §4703, 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 §4704.7.



4704.2 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(s);
- (b) The Director may also hold a public hearing at his or her discretion, whenever, for instance, a hearing might clarify one or more issues involved in the permit decision;
- (c) 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 §4703.2(a);
- (d) Whenever possible the Director shall schedule a hearing under this subsection at a location convenient to the nearest population center to the proposed facility; and
- (e) Public notice of the hearing shall be given as specified in §4703.

4704.3 Any person may submit verbal or written statements and data concerning the draft permit. Reasonable limits may be set upon the time allowed for verbal statements, and the submission of statements in writing may be required.

4704.4 The public comment period under §4703 shall automatically be extended to the close of any public hearing under this chapter. The hearing officer may also extend the comment period by so stating at the hearing.

4704.5 All comments shall be considered in making the final decision and shall be answered as provided in §4704.7.

4704.6 A tape recording or written transcript of the hearing shall be made available to the public.

4704.7 The Director shall issue a response to comments when a final permit is issued. This response shall:

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

#### **4705 ISSUANCE AND EFFECTIVE DATE OF PERMIT**

4705.1 After the close of the public comment period under §4703 on a draft permit, the Director shall issue a final permit decision (or a decision to deny a permit for the active life of a TSD hazardous waste management facility or unit under §4612.1). The Director shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. This notice shall include reference to the procedures for appealing a decision on a TSD facility, or a decision to terminate a TSD facility permit. For the purposes

of this section, a final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit.

4705.2 A final permit decision (or a decision to deny a permit for the active life of a TSD hazardous waste management facility or unit under §4612.1) shall become effective 30 days after the service of notice of the decision unless:

- (a) A later effective date is specified in the decision;
- (b) Review is requested under §9 of HWMA; or
- (c) No comments requested a change in the draft permit, in which case the permit shall become effective immediately upon issuance.

#### 4706 PREAPPLICATION PUBLIC MEETING AND NOTICE

4706.1 This section applies to all TSD facility part B permit applications seeking initial permits for hazardous waste management units over which the District has permit issuance authority. This section also applies to TSD facility part B permit applications seeking renewal of permits for these units, where the renewal application is proposing a significant change in facility operations. For the purposes of this section, a "significant change" is any change that would qualify as a class 3 permit modification under §§4617.7 through 4617.16. This section does not apply to permit modifications under §§4617.7 through 4617.16 or to applications that are submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

4706.2 Before submitting a part B TSD facility permit application for a facility, the applicant shall hold at least one meeting with the public to solicit questions from the community and inform the community of proposed hazardous waste management activities. The applicant shall post a sign-in sheet or otherwise provide a voluntary opportunity for attendees to provide their names and addresses.

4706.3 The applicant shall submit a summary of the meeting, along with the list of attendees and their addresses developed under §4706.2, and copies of any written comments or materials submitted at the meeting, to the permitting agency as a part of the part B application, in accordance with §4603.3.

4706.4 The applicant shall provide public notice of the pre-application meeting at least 30 days before the meeting. The applicant shall maintain, and provide to the permitting agency upon request, documentation of the notice.

4706.5 The applicant shall provide public notice in all of the following forms:

- (a) The applicant shall publish a notice, fulfilling the requirements in §4706.6, in a newspaper of general circulation in the District of Columbia. In addition, the Director shall instruct the applicant to publish the notice in newspapers of general circulation in adjacent counties or equivalent jurisdictions, where the Director determines that publication is necessary to inform the affected public. The notice shall be published as a display advertisement;

- (b) The applicant shall post a notice on a clearly marked sign at or near the facility, fulfilling the requirements in §4706.6. If the applicant places the sign on the facility property, then the sign shall be large enough to be readable from the nearest point where the public would pass by the site;
- (c) The applicant shall broadcast a notice, fulfilling the requirements in §4706.6, at least once on at least one local radio station or television station. The applicant may employ another medium with prior approval of the Director; and
- (d) The applicant shall send a copy of the newspaper notice to the permitting agency and to the appropriate units of District government, in accordance with §§4703.3(a)(5) and (6).

4706.6 The notices required under §4706.5 shall include:

- (a) The date, time, and location of the meeting;
- (b) A brief description of the purpose of the meeting;
- (c) A brief description of the facility and proposed operations, including the address or a map (for example, a sketched or copied street map) of the facility location;
- (d) A statement encouraging people to contact the facility at least seventy-two (72) hours before the meeting if they need special access to participate in the meeting; and
- (e) The name, address, and telephone number of a contact person for the applicant.

#### 4707 PUBLIC NOTICE REQUIREMENTS AT THE APPLICATION STAGE

4707.1 This section applies to all TSD facility part B permit applications seeking initial permits for hazardous waste management units over which the District has permit issuance authority. This section also applies to TSD facility part B permit applications seeking renewal of permits for these units under §§4618.5 through 4618.8. This section does not apply to permit modifications under §§4617.7 through 4617.16 or permit applications submitted for the sole purpose of conducting post-closure activities or post-closure activities and corrective action at a facility.

4707.2 The Director shall provide public notice as set forth in §4703.3(a)(4), and notice to appropriate units of government as set forth in §§4703.3(a)(5) and (6), that a part B permit application has been submitted to the Agency and is available for review.

4707.3 The notice shall be published within a reasonable period of time after the Director receives the application. The notice shall include:

- (a) The name and telephone number of the applicant's contact person;
- (b) The name and telephone number of the permitting agency's contact office, and a mailing address to which information, opinions, and inquiries may be directed throughout the permit review process;

- (c) An address to which people can write in order to be put on the facility mailing list;
- (d) The location where copies of the permit application and any supporting documents can be viewed and copied;
- (e) A brief description of the facility and proposed operations, including the address or a map (for example, a sketched or copied street map) of the facility location on the front page of the notice; and
- (f) The date that the application was submitted.

4707.4 Concurrent with the notice required under §§4707.2 and 4707.3, the Director shall place the permit application and any supporting documents in a location accessible to the public in the vicinity of the facility or at the permitting agency's office.

#### **4708 INFORMATION REPOSITORY**

4708.1 This section applies to all applications seeking TSD facility permits for hazardous waste management units over which the District has permit issuance authority.

4708.2 The Director may assess the need, on a case-by-case basis, for an information repository. When assessing the need for an information repository, the Director shall consider a variety of factors, including: the level of public interest; the type of facility; the presence of an existing repository; and the proximity to the nearest copy of the administrative record. If the Director determines, at any time after submittal of a permit application, that there is a need for a repository, then the Director shall notify the facility that it shall establish and maintain an information repository. (See §4613.14 for similar provisions relating to the information repository during the life of a permit).

4708.3 The information repository shall contain all documents, reports, data, and information the Director deems necessary to fulfill the purposes for which the repository is established. The Director shall have the discretion to limit the contents of the repository.

4708.4 The information repository shall be located and maintained at a site the facility chooses. If the Director finds the site unsuitable for the purposes and persons for which it was established, due to problems with the location, hours of availability, access, or other relevant considerations, then the Director shall specify a more appropriate site.

4708.5 The Director shall specify requirements for informing the public about the information repository. At a minimum, the Director shall require the facility to provide a written notice about the information repository to all individuals on the facility mailing list.

4708.6 The facility owner/operator shall be responsible for maintaining and updating the repository with appropriate information throughout a time period the Director specifies. The Director may close the repository at his or her discretion, based on the factors in §4708.2.

#### **4709 REOPENING OF THE PUBLIC COMMENT PERIOD.**

- 4709.1 The Director may order the public comment period reopened if the procedures of this section could expedite the decisionmaking process. When the public comment period is reopened under this section, all persons, including applicants, who believe any condition of a draft permit is inappropriate or that the Director's tentative decision to deny an application, terminate a permit, or prepare a draft permit is inappropriate, shall submit all reasonably available factual grounds supporting their position, including all supporting material, by a date, not less than sixty (60) days after public notice under §4709.2, set by the Director. Thereafter, any person may file a written response to the material filed by any other person, by a date, not less than twenty (20) days after the date set for filing of the material, set by the Director.
- 4709.2 Public notice of any comment period under this section shall identify the issues to which the requirements of §§4709.1 through 4709.4 shall apply.
- 4709.3 On his or her own motion or on the request of any person, the Director may direct that the requirements of this section will apply during the initial comment period where it reasonably appears that issuance of the permit will be contested and that applying the requirements of this section will substantially expedite the decisionmaking process. The notice of the draft permit shall state whenever this has been done.
- 4709.4 A comment period of longer than sixty (60) days will often be necessary in complicated proceedings to give commenters a reasonable opportunity to comply with the requirements of this section. Commenters may request longer comment periods and they shall be granted under §4703 to the extent they appear necessary.
- 4709.5 If any data information or arguments submitted during the public comment period appear to raise substantial new questions concerning a permit, the Director may take one or more of the following actions:
- (a) Prepare a new draft permit, appropriately modified, under §4702;
  - (b) Prepare a fact sheet or revised fact sheet under §4702 and reopen the comment period under this section; or
  - (c) Reopen or extend the comment period under §4703 to give interested persons an opportunity to comment on the information or arguments submitted.
- 4709.6 Comments filed during the reopened comment period shall be limited to the substantial new questions that caused its reopening. The public notice under §4703 shall define the scope of the reopening.
- 4709.7 The Director may also, in the circumstances described above, elect to hold further proceedings. This decision may be combined with any of the actions enumerated in §4709.5.
- 4709.8 Public notice of any of the above actions shall be issued under §4703.

## CHAPTER 48 STANDARDS FOR UNIVERSAL WASTE MANAGEMENT

### 4800 GENERAL

- 4800.1 This chapter establishes requirements for managing the following:
- (a) Batteries as described in §§4800.3 through 4800.7;
  - (b) Pesticides as described in §§4800.8 through 4800.12;
  - (c) Thermostats as described in §§4800.13 through 4800.16; and
  - (d) Mercury-containing lamps as described in §4806.
- 4800.2 This chapter provides an alternative set of management standards instead of regulation under Chapters 40 through 46 and Chapters 49 through 50 and 54. Wastes listed at §4800.1 that are not recycled are subject to full regulation under Chapters 40 through 46, 50 and 54. Pesticide waste need not meet the recycling requirements to be regulated under this chapter.
- 4800.3 This chapter applies to persons managing batteries, as described in §5400.1, except those listed in §4800.5.
- 4800.4 Spent lead-acid batteries which are not managed under §4506, are subject to management under this chapter.
- 4800.5 The requirements of this chapter do not apply to persons managing the following batteries:
- (a) Spent lead-acid batteries that are managed under §4506.
  - (b) Batteries, as described in §5400.1, that are not yet wastes under Chapter 41, including those that do not meet the criteria for waste generation in §4800.6 and 4800.7.
  - (c) Batteries, as described in §5400.1, that are not hazardous waste. A battery is a hazardous waste if it exhibits one or more of the characteristics identified in §4108.
- 4800.6 A used battery becomes a waste on the date it is discarded (for example, when sent for reclamation).
- 4800.7 An unused battery becomes a waste on the date the handler decides to discard it.
- 4800.8 This chapter applies to persons managing pesticides, as described in §5400.1, meeting the following conditions, except those listed in §4800.9:
- (a) Recalled pesticides that are:



- (1) Stocks of a suspended and canceled pesticide that are part of a voluntary or mandatory recall under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Section 19(b), including, but not limited to those owned by the registrant responsible for conducting the recall; or
  - (2) Stocks of a suspended or cancelled pesticide, or a pesticide that is not in compliance with FIFRA, that are part of a voluntary recall by the registrant; and
- (b) Stocks of other unused pesticide products that are collected and managed as part of a waste pesticide collection program.

4800.9 This chapter does not apply to persons managing the following pesticides:

- (a) Recalled pesticides described in §4800.8(a), and unused pesticide products described in §4800.8(b), that are managed by farmers in compliance with §4206.1. (§4206.1 addresses pesticides disposed of on the farmer's own farm in a manner consistent with the disposal instructions on the pesticide label, providing the container is triple rinsed in accordance with §4104.5);
- (b) Pesticides not meeting the conditions set forth in §4800.8. These pesticides shall be managed in compliance with the hazardous waste regulations in Chapters 40 through 46 and Chapters 48 through 50;
- (c) Pesticides that are not wastes under Chapter 41, including those that do not meet the criteria for waste generation in §§4800.10 through 4800.11 or those that are not wastes as described in §4800.12; and
- (d) Pesticides that are not hazardous waste. A pesticide is a hazardous waste if it is listed in §§4109 through 4111 or if it exhibits one or more of the characteristics identified in §4108.

4800.10 A recalled pesticide described in §4800.8(a) becomes a waste on the first date on which both of the following conditions apply:

- (a) The generator of the recalled pesticide agrees to participate in the recall; and
- (b) The person conducting the recall decides to discard (for example, burn the pesticide for energy recovery).

4800.11 An unused pesticide product described in §4800.8(b) becomes a waste on the date the generator decides to discard it.

4800.12 The following pesticides are not wastes:

- (a) Recalled pesticides described in §4800.8(a), provided that the person conducting the recall:
  - (1) Has not made a decision to discard (for example, burn for energy recovery) the pesticide. Until a decision to discard is made, the pesticide does not meet the definition of "solid waste" under §§4100.4 through 4100.11; thus the pesticide is

not a hazardous waste and is not subject to hazardous waste requirements, including Chapter 48. This pesticide remains subject to the requirements of FIFRA; or

- (2) Has made a decision to use a management option that, under §§4100.4 through 4100.11, does not cause the pesticide to be a solid waste (for example, the selected option is use (other than use constituting disposal) or reuse (other than burning for energy recovery), or reclamation). This pesticide is not a solid waste and therefor is not a hazardous waste, and is not subject to the hazardous waste requirements including Chapter 48. This pesticide, including a recalled pesticide that is exported to a foreign destination for use or reuse, remains subject to the requirements of FIFRA; and

- (b) Unused pesticide products described in §4800.8(b), if the generator of the unused pesticide product has not decided to discard (for example, burn for energy recovery) them. These pesticides remain subject to the requirements of FIFRA.

4800.13 This chapter applies to persons managing thermostats, as described in §5400.1, except those listed in §4800.14.

4800.14 This chapter does not apply to persons managing the following thermostats:

- (a) Thermostats that are not yet wastes under Chapter 41 of this subtitle. §§4800.15 and 4800.16 describe when thermostats become wastes; and
- (b) Thermostats that are not hazardous waste. A thermostat is a hazardous waste if it exhibits one or more of the characteristics identified in §4108.

4800.15 With respect to the generation of waste thermostats, a used thermostat becomes a waste on the date it is discarded (for example, sent for reclamation).

4800.16 An unused thermostat becomes a waste on the date the handler decides to discard it.

4800.17 Persons managing household wastes that are exempt under §4101.2(a) and are also of the same type as the universal wastes defined at §5400.1 may, at their option, manage them under the requirements of this chapter.

4800.18 Persons who commingle the wastes described in §4800.17 together with universal waste regulated under this chapter shall manage the commingled waste under the requirements of this chapter.

4800.19 This chapter applies to persons managing mercury-containing lamps as defined in Chapter 54. Specific requirements applicable only to mercury-containing lamps are found at §4806.

#### **4801 STANDARDS FOR HANDLERS OF UNIVERSAL WASTE**

4801.1 This section applies to handlers of universal waste (as defined in §5400.1).

4801.2 A handler of universal waste is:

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- (a) Prohibited from disposing of universal waste;
  - (b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in §§4801.15 and 4801.16; or by managing specific wastes as provided in §§4801.7 through 4801.9; and
  - (c) Prohibited from accumulating or storing more than one thousand (1,000) kilograms total of universal waste (batteries, pesticides, thermostats, or mercury-containing lamps, calculated collectively) at any time.
- 4801.3 Except as provided in §§4801.4 and 4801.5, a handler of universal waste shall send written notification of universal waste management to the Director, and receive an EPA Identification Number, before meeting the one thousand (1,000) kilogram storage limit.
- 4801.4 A handler of universal waste who has already notified the Department of his or her hazardous waste management activities and has received an EPA Identification Number is not required to renotify under §§4801.3 through 4801.6.
- 4801.5 A handler of universal waste who manages recalled universal waste pesticides as described in §4800.8(a) and who has sent notification to EPA as required by 40 CFR part 165 is not required to notify for those recalled universal waste pesticides under §§4801.3 through 4801.6.
- 4801.6 This notification shall include:
- (a) The universal waste handler's name and mailing address;
  - (b) The name and business telephone number of the person at the universal waste handler's site who should be contacted regarding universal waste management activities;
  - (c) The address or physical location of the universal waste management activities;
  - (d) A list of all of the types of universal waste managed by the handler (for example, batteries, pesticides, thermostats, mercury-containing lamps); and
  - (e) A statement indicating that the handler is accumulating no more than one thousand (1,000) kilograms of universal waste at one time and the types of universal waste (for example, batteries, pesticides, thermostats, mercury-containing lamps) the handler is accumulating.
- 4801.7 A handler of universal waste shall manage universal waste batteries in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:
- (a) A handler of universal waste shall contain in a container any universal waste battery that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container shall be closed, structurally sound, compatible with the contents of the battery, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;

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(b) A handler of universal waste may conduct the following activities as long as the casing of each individual battery cell is not breached and remains intact and closed (except that cells may be opened to remove electrolyte but shall be immediately closed after removal):

- (1) Sorting batteries by type;
- (2) Mixing battery types in one container;
- (3) Discharging batteries so as to remove the electric charge;
- (4) Regenerating used batteries;
- (5) Disassembling batteries or battery packs into individual batteries or cells;
- (6) Removing batteries from consumer products; or
- (7) Removing electrolyte from batteries;

(c) A handler of universal waste who removes electrolyte from batteries, or who generates other solid waste (for example, battery pack materials, discarded consumer products) as a result of the activities listed above, shall determine whether the electrolyte or other solid waste exhibits a characteristic of hazardous waste identified in §4108. The electrolyte is regulated as follows:

- (1) If the electrolyte or other solid waste exhibits a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of Chapters 40 through 46 and Chapters 48 through 50. The handler is considered the generator of the hazardous electrolyte or other waste and is subject to Chapter 42; and
- (2) If the electrolyte or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal or District solid waste regulations.

4801.8 A handler of universal waste shall manage universal waste pesticides in a way that prevents releases of any universal waste or component of a universal waste to the environment. The universal waste pesticides shall be contained in one or more of the following:

- (a) A container that remains closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
- (b) A container that does not meet the requirements of §4801.8(a), provided that the unacceptable container is overpacked in a container that does meet the requirements of §4801.8(a);
- (c) A tank that meets the requirements of §4416. Relative to §4416.18(a), the owner or operator shall also consider the stress of installation and relative to §4416.28, the frequency of inspection cannot be less than once a day; or

- (d) A transport vehicle or vessel that is closed, structurally sound, compatible with the pesticide, and that lacks evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions.

4801.9 A handler of universal waste shall manage universal waste thermostats in a way that prevents releases of any universal waste or component of a universal waste to the environment, as follows:

- (a) A handler of universal waste shall contain in a container any universal waste thermostat that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container shall be closed, structurally sound, compatible with the contents of the thermostat, and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions;
- (b) A handler of universal waste may remove mercury-containing ampules from universal waste thermostats provided the handler:
  - (1) Removes the ampules in a manner designed to prevent breaking the ampules;
  - (2) Removes ampules only over or in a containment device (for example, tray or pan sufficient to contain any mercury released from an ampule in case of breakage);
  - (3) Ensures that a mercury clean-up system is readily available to immediately transfer any mercury resulting from spills or leaks from broken ampules, from the containment device to a container that meets the requirements of §§4202.6, 4202.7 and 4202.8;
  - (4) Immediately transfers any mercury resulting from spills or leaks from broken ampules from the containment device to a container that meets the requirements of §§4202.6, 4202.7 and 4202.8;
  - (5) Ensures that the area in which ampules are removed is well ventilated and monitored to ensure compliance with applicable OSHA exposure levels for mercury;
  - (6) Ensures that employees removing ampules are thoroughly familiar with proper waste mercury handling and emergency procedures, including transfer of mercury from containment devices to appropriate containers;
  - (7) Stores removed ampules in closed, non-leaking containers that are in good condition; and
  - (8) Packs removed ampules in the container with packing materials adequate to prevent breakage during storage, handling, and transportation;
- (c) A handler of universal waste who removes mercury-containing ampules from thermostats shall determine whether the following exhibit a characteristic of hazardous waste identified in §4108:
  - (1) Mercury or clean-up residues resulting from spills or leaks; or

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- (2) Other solid waste generated as a result of the removal of mercury-containing ampules (for example, remaining thermostat units);
  - (d) If the mercury, residues, or other solid waste exhibit a characteristic of hazardous waste, it shall be managed in compliance with all applicable requirements of Chapters 40 through 46 and Chapters 48 through 50. The handler is considered the generator of the mercury, residues, or other waste and is subject to Chapter 42; and
  - (e) If the mercury, residues, or other solid waste is not hazardous, the handler may manage the waste in any way that is in compliance with applicable federal or District solid waste regulations.
- 4801.10 A handler of universal waste shall label or mark the universal waste to identify the type of universal waste as specified below:
- (a) Universal waste batteries (for example, each battery), or a container or tank in which the batteries are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste-Battery(ies)", "Waste Battery(ies)", or "Used Battery(ies)";
  - (b) A container (or multiple container package unit), tank, transport vehicle or vessel in which recalled universal waste pesticides as described in §4800.8(a) are contained shall be labeled or marked clearly with:
    - (1) The label that was on or accompanied the product as sold or distributed; and
    - (2) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)";
  - (c) A container, tank, or transport vehicle or vessel in which unused pesticide products as described in §4800.8(b) are contained shall be labeled or marked clearly with:
    - (1) The label that was on the product when purchased, if still legible;
    - (2) If using the labels described in §4801.10(c)(1) is not feasible, the appropriate label as required under the Department of Transportation regulation 49 CFR part 172;
    - (3) If using the labels described in §§4801.10(c)(1) and (2) is not feasible, another label prescribed or designated by the pesticide collection program; and
    - (4) The words "Universal Waste-Pesticide(s)" or "Waste-Pesticide(s)"; and
  - (d) Universal waste thermostats (for example, each thermostat), or a container or tank in which the thermostats are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury Thermostat(s)", or "Waste Mercury Thermostat(s)", or "Used Mercury Thermostat(s)".
- 4801.11 A handler of universal waste may accumulate universal waste for no longer than one year from the date the universal waste is generated, or received from another handler, unless he or she complies with §4801.12.



- 4801.12 A handler of universal waste may accumulate universal waste for longer than one year from the date the universal waste is generated, or received from another handler, if the activity is solely for the purpose of accumulating quantities of universal waste necessary to facilitate proper recovery, treatment, or disposal. However, the handler bears the burden of proving that the activity was solely for the purpose of accumulating quantities of universal waste necessary to facilitate proper recovery, treatment, or disposal.
- 4801.13 A handler of universal waste shall demonstrate the length of time that the universal waste has been accumulated from the date it becomes a waste or is received. The handler may make this demonstration by:
- (a) Placing the universal waste in a container and marking or labeling the container with the earliest date that any universal waste in the container became a waste or was received;
  - (b) Marking or labeling the individual item of universal waste (for example, each battery, thermostat, or mercury-containing lamp) with the date it became a waste or was received;
  - (c) Maintaining an inventory system on-site that identifies the date the universal waste being accumulated became a waste or was received;
  - (d) Maintaining an inventory system on-site that identifies the earliest date that any universal waste in a group of universal waste items or a group of containers of universal waste became a waste or was received;
  - (e) Placing the universal waste in a specific accumulation area and identifying the earliest date that any universal waste in the area became a waste or was received; or
  - (f) Any other method that clearly demonstrates the length of time that the universal waste has been accumulated from the date it becomes a waste or is received.
- 4801.14 A handler of universal waste shall ensure that all employees are thoroughly familiar with proper waste handling and emergency procedures, relative to their responsibilities during normal facility operations and emergencies.
- 4801.15 A handler of universal waste shall immediately contain all releases of universal wastes and other residues from universal wastes.
- 4801.16 A handler of universal waste shall determine whether any material resulting from the release is hazardous waste, and if so, shall manage the hazardous waste in compliance with all applicable requirements of Chapters 40 through 46 and Chapters 48 through 50. The handler is considered the generator of the material resulting from the release, and is subject to Chapter 42.
- 4801.17 A handler of universal waste is prohibited from sending or taking universal waste to a place other than another universal waste handler, a destination facility, or a foreign destination.

- 4801.18 If a handler of universal waste self-transport universal waste off-site, the handler becomes a universal waste transporter for those self-transportation activities and shall comply with the transporter requirements of §4802 while transporting the universal waste.
- 4801.19 If a universal waste being offered for off-site transportation meets the definition of hazardous materials under 49 CFR 171 through 180, a handler of universal waste shall package, label, mark and placard the shipment, and prepare the proper shipping papers in accordance with the applicable Department of Transportation regulations under 49 CFR parts 172 through 180.
- 4801.20 Before sending a shipment of universal waste to another universal waste handler, the originating handler shall ensure that the receiving handler agrees to receive the shipment.
- 4801.21 If a handler of universal waste sends a shipment of universal waste to another handler or to a destination facility and the shipment is rejected by the receiving handler or destination facility, the originating handler shall either:
- (a) Receive the waste back when notified that the shipment has been rejected, or
  - (b) Agree with the receiving handler on a destination facility to which the shipment will be sent.
- 4801.22 A handler of universal waste may reject a shipment containing universal waste, or a portion of a shipment containing universal waste that he or she has received from another handler. If a handler rejects a shipment or a portion of a shipment, he or she shall contact the originating handler to notify him or her of the rejection and to discuss reshipment of the load. The handler shall:
- (a) Send the shipment back to the originating handler, or
  - (b) If agreed to by both the originating and receiving handler, send the shipment to a destination facility.
- 4801.23 If a handler of universal waste receives a shipment containing hazardous waste that is not a universal waste, the handler shall immediately notify the Director of the illegal shipment, and provide the name, address, and phone number of the originating shipper. The Director shall provide instructions for managing the hazardous waste.
- 4801.24 If a handler of universal waste receives a shipment of non-hazardous, non-universal waste, the handler may manage the waste in any way that is in compliance with applicable federal or District solid waste regulations.
- 4801.25 A handler of universal waste shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received shall include the following information:
- (a) The name and address of the originating universal waste handler or foreign shipper from whom the universal waste was sent;

- (b) The quantity of each type of universal waste received (for example, batteries, pesticides, thermostats, mercury-containing lamp); and
  - (c) The date of receipt of the shipment of universal waste.
- 4801.26 A handler of universal waste shall keep a record of each shipment of universal waste sent from the handler to other facilities. The record may take the form of a log, invoice, manifest, bill of lading or other shipping document. The record for each shipment of universal waste sent shall include the following information:
- (a) The name and address of the universal waste handler, destination facility, or foreign destination to whom the universal waste was sent;
  - (b) The quantity of each type of universal waste sent (for example, batteries, pesticides, thermostats, mercury-containing lamp); and
  - (c) The date the shipment of universal waste left the facility.
- 4801.27 A handler of universal waste shall retain the records described in §4801.25 for at least three (3) years from the date of receipt of a shipment of universal waste.
- 4801.28 A handler of universal waste shall retain the records described in §4801.26 for at least three (3) years from the date a shipment of universal waste left the facility.
- 4801.29 A handler of universal waste who sends universal waste to a foreign destination other than to those OECD countries specified in §4204.11(b) (in which case the handler is subject to the requirements of §4207) shall:
- (a) Comply with the requirements applicable to a primary exporter in §§4204.3 through 4204.6, 4204.9 and 4204.10;
  - (b) Export universal waste only upon consent of the receiving country and in conformance with the EPA Acknowledgement of Consent as defined in §4204; and
  - (c) Provide a copy of the EPA Acknowledgement of Consent for the shipment to the transporter transporting the shipment for export.
- 4802 STANDARDS FOR UNIVERSAL WASTE TRANSPORTERS**
- 4802.1 This section applies to universal waste transporters (as defined in §5400.1).
- 4802.2 A universal waste transporter is:
- (a) Prohibited from disposing of universal waste; and
  - (b) Prohibited from diluting or treating universal waste, except by responding to releases as provided in §§4802.8 and 4802.9.
- 4802.3 A universal waste transporter shall comply with all applicable U.S. Department of Transportation regulations in 49 CFR part 171 through 180 for transport of any universal

waste that meets the definition of hazardous material in 49 CFR 171.8. For purposes of the Department of Transportation regulations, a material is considered a hazardous waste if it is subject to the Hazardous Waste Manifest Requirements of the U.S. Environmental Protection Agency specified in Chapter 42. Because universal waste does not require a hazardous waste manifest, it is not considered hazardous waste under the Department of Transportation regulations.

- 4802.4 Some universal waste materials are regulated by the Department of Transportation as hazardous materials because they meet the criteria for one or more hazard classes specified in 49 CFR 173.2. As universal waste shipments do not require a manifest under Chapter 42, they may not be described by the DOT proper shipping name "hazardous waste, (I) or (S), n.o.s.", nor may the hazardous material's proper shipping name be modified by adding the word "waste".
- 4802.5 [RESERVED]
- 4802.6 A universal waste transporter may only store the universal waste at a universal waste transfer facility and shall comply with the General Facility Standards of §§4403.7 through 4406.3, 4409, 4410, and 4412.
- 4802.7 If a universal waste transporter stores universal waste for more than ten (10) days, the transporter becomes a universal waste handler and shall also comply with the applicable requirements of §4801 while storing the universal waste. Where the requirements of §4801 are inconsistent or conflict with the §4802.6 requirements, the more stringent requirements shall apply.
- 4802.8 A universal waste transporter shall immediately contain all releases of universal wastes and other residues from universal wastes.
- 4802.9 A universal waste transporter shall determine whether any material resulting from the release is hazardous waste, and if so, it is subject to all applicable requirements of Chapters 40 through 46 and Chapters 48 through 50. If the waste is determined to be a hazardous waste, the transporter is subject to Chapter 42.
- 4802.10 A universal waste transporter is prohibited from transporting the universal waste to a place other than a universal waste handler, a destination facility, or a foreign destination.
- 4802.11 If the universal waste being shipped off-site meets the Department of Transportation's definition of hazardous materials under 49 CFR 171.8, the shipment shall be properly described on a shipping paper in accordance with the applicable Department of Transportation regulations under 49 CFR part 172.
- 4802.12 A universal waste transporter transporting a shipment of universal waste to a foreign destination other than to those OECD countries specified in §4204.11(b) (in which case the transporter is subject to the requirements of §4207) may not accept a shipment if the transporter knows the shipment does not conform to the EPA Acknowledgment of Consent. In addition the transporter shall ensure that:
- (a) A copy of the EPA Acknowledgment of Consent accompanies the shipment; and

- (b) The shipment is delivered to the facility designated by the person initiating the shipment.

#### 4803 STANDARDS FOR DESTINATION FACILITIES

- 4803.1 The owner or operator of a destination facility (as defined in §5400.1) is subject to all applicable requirements of Chapters 44, 45, 46, 47, and 50 of this subtitle, and the notification requirement under RCRA §3010:
- 4803.2 The owner or operator of a destination facility that recycles a particular universal waste without storing that universal waste before it is recycled shall comply with §4103.6.
- 4803.3 The owner or operator of a destination facility is prohibited from sending or taking universal waste to a place other than a universal waste handler, another destination facility or foreign destination.
- 4803.4 The owner or operator of a destination facility may reject a shipment containing universal waste, or a portion of a shipment containing universal waste. If the owner or operator of the destination facility rejects a shipment or a portion of a shipment, he or she shall contact the shipper to notify him or her of the rejection and to discuss reshipment of the load. The owner or operator of the destination facility shall:
  - (a) Send the shipment back to the original shipper, or
  - (b) If agreed to by both the shipper and the owner or operator of the destination facility, send the shipment to another destination facility.
- 4803.5 If the owner or operator of a destination facility receives a shipment containing hazardous waste that is not a universal waste, the owner or operator of the destination facility shall immediately notify the Director of the illegal shipment, and provide the name, address, and phone number of the shipper. The Director shall provide instructions for managing the hazardous waste.
- 4803.6 If the owner or operator of a destination facility receives a shipment of non-hazardous, non-universal waste, the owner or operator may manage the waste in any way that is in compliance with applicable federal or District solid waste regulations.
- 4803.7 The owner or operator of a destination facility shall keep a record of each shipment of universal waste received at the facility. The record may take the form of a log, invoice, manifest, bill of lading, or other shipping document. The record for each shipment of universal waste received shall include the following information:
  - (a) The name and address of the universal waste handler, destination facility, or foreign shipper from whom the universal waste was sent;
  - (b) The quantity of each type of universal waste received (for example, batteries, pesticides, thermostats, mercury-containing lamps); and
  - (c) The date of receipt of the shipment of universal waste.

- 4803.8 The owner or operator of a destination facility shall retain the records described in §4803.7 for at least three (3) years from the date of receipt of a shipment of universal waste.

#### **4804 IMPORT REQUIREMENTS**

- 4804.1 Persons managing universal waste that is imported from a foreign country into the United States are subject to the applicable requirements of this chapter, immediately after the waste enters the United States, as indicated in §§4804.1(a) through 4804.1(c):

- (a) A universal waste transporter is subject to the universal waste transporter requirements of §4802.
- (b) A universal waste handler is subject to the handler of universal waste requirements of §4801, as applicable;
- (c) An owner or operator of a destination facility is subject to the destination facility requirements of §4803; and
- (d) Persons managing universal waste that is imported from an OECD country as specified in §4204.11(b) are subject to §§4804.1(a) through 4804.1(c), in addition to the requirements of §4207.

#### **4805 PETITIONS TO INCLUDE OTHER WASTES UNDER CHAPTER 48**

- 4805.1 Any person seeking to add a hazardous waste or a category of hazardous waste to this chapter may petition for a regulatory amendment under §§4805, 4001.1 through 4001.5, and 4001.14.

- 4805.2 The petitioner shall demonstrate to the satisfaction of the Director that regulation under the universal waste regulations of Chapter 48 is: appropriate for the waste or category of waste; shall improve management practices for the waste or category of waste; and shall improve implementation of the hazardous waste program. The petition shall include the information required by §4001.2. The petition should also address as many of the factors listed in §4805.4 as are appropriate for the waste or waste category addressed in the petition.

- 4805.3 The Director shall evaluate petitions as indicated in §4805.4. The Director shall grant or deny a petition using the factors listed in §4805.4. The decision shall be based on the weight of evidence showing that regulation under Chapter 48 is appropriate for the waste or category of waste, shall improve management practices for the waste or category of waste, and shall improve implementation of the hazardous waste program.

- 4805.4 The Director shall consider the following factors when evaluating petitions to include other wastes as universal wastes:

- (a) The waste or category of waste, as generated by a wide variety of generators, is listed in §§4109 through 4111, or (if not listed) a proportion of the waste stream exhibits one or more characteristics of hazardous waste identified in §4108. (When a characteristic waste is added to the universal waste regulations of Chapter 48 by using a generic name to identify the waste category (for example, batteries), the definition of universal waste



in §5400.1 shall be amended to include only the hazardous waste portion of the waste category (for example, hazardous waste batteries.) Thus, only the portion of the waste stream that does exhibit one or more characteristics (for example, is hazardous waste) is subject to the universal waste regulations of Chapter 48;

- (b) The waste or category of waste is not exclusive to a specific industry or group of industries, is commonly generated by a wide variety of types of establishments (including, for example, households, retail and commercial businesses, office complexes, small businesses, government organizations, as well as large industrial facilities);
- (c) The waste or category of waste is generated by a large number of generators (for example, more than 1,000 nationally) and is frequently generated in relatively small quantities by each generator;
- (d) Systems to be used for collecting the waste or category of waste (including packaging, marking, and labeling practices) would ensure close stewardship of the waste;
- (e) The risk posed by the waste or category of waste during accumulation and transport is relatively low compared to other hazardous wastes, and specific management standards proposed or referenced by the petitioner (for example, waste management requirements appropriate to be added to §§4801.7 through 4801.9, 4802.3, and 4802.4; or applicable Department of Transportation requirements) would be protective of human health and the environment during accumulation and transport;
- (f) Regulation of the waste or category of waste under Chapter 48 will increase the likelihood that the waste will be diverted from non-hazardous waste management systems (for example, the municipal waste stream, non-hazardous industrial or commercial waste stream, municipal sewer or stormwater systems) to recycling, treatment, or disposal in compliance with HWMA;
- (g) Regulation of the waste or category of waste under Chapter will improve implementation of and compliance with the hazardous waste regulatory program; and
- (h) Other factors as may be appropriate.

**4806      MERCURY-CONTAINING LAMPS**

- 4806.1      The requirements of this chapter apply to persons managing mercury-containing lamps that are discarded, as defined in Chapter 54.
- 4806.2      A used mercury-containing lamp becomes a waste on the date it no longer is useful for the purpose for which it was manufactured and is destined for disposal or recycling.
- 4806.3      Discarded mercury-containing lamps that are recycled are subject to the handling and destination facility requirements of this chapter. Discarded mercury-containing lamps that are destined for disposal are subject to full regulation under Chapters 42 through 46 and 50.

- 4806.4 A handler of mercury-containing lamps shall manage this universal waste in a way that prevents releases of any universal waste or component of a universal waste to the environment. The mercury-containing lamps shall be placed in a container that remains closed and is structurally sound. The container shall lack evidence of leakage, spillage or damage that could cause leakage under reasonably foreseeable conditions.
- 4806.5 The universal waste handler shall pack the container in which mercury-containing lamps are placed with packing material adequate to prevent breakage during storage, handling and transportation.
- 4806.6 The container in which the mercury-containing lamps are contained, shall be labeled or marked clearly with any one of the following phrases: "Universal Waste-Mercury-Containing Lamp(s)," or "Waste Mercury-Containing Lamp(s)," or "Used Mercury-Containing Lamp(s)".
- 4806.7 The universal waste handler shall contain in a container any mercury-containing lamp that shows evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The container shall be closed, structurally sound, compatible with the contents of the lamp and shall lack evidence of leakage, spillage, or damage that could cause leakage under reasonably foreseeable conditions. The universal waste handler shall immediately transfer any mercury resulting from spills or leaks from broken lamps to a container that meets the requirements of §4202.6 through 4202.8.
- 4806.8 A universal waste handler who breaks or damages a mercury-containing lamp shall determine whether the mercury, clean-up residues or other generated waste (for example, the broken lamp) exhibit a hazardous waste characteristic as identified at §4108. If the mercury, residues or other generated waste exhibit a hazardous waste characteristic, the handler is considered a generator of a hazardous waste and shall comply with all applicable requirements of Chapters 40 through 50 and 54.

**CHAPTER 49 STANDARDS FOR THE MANAGEMENT OF USED OIL****4900 APPLICABILITY**

- 4900.1 Sections 4900.1 through 4900.14 identify those materials that are subject to regulation as used oil under this Chapter. §§4900.1 through 4900.14 also identify some materials that are not subject to regulation as used oil under this Chapter, and indicate whether these materials may be subject to regulation as hazardous waste under Chapters 40 through 47 and 50 of this subtitle.
- 4900.2 The Department presumes that used oil is to be recycled unless a used oil handler disposes of used oil, or sends used oil for disposal. Except as provided in §4900.15, the regulations of this Chapter apply to used oil, and to materials identified in §§4900.1 through 4900.14 as being subject to regulation as used oil, whether or not the used oil or material exhibits any characteristics of hazardous waste identified in §4108.
- 4900.3 Mixtures of used oil and hazardous waste that are listed in §§4109 and 4110 are subject to regulation as hazardous waste under Chapters 40 through 47 and 50 of this subtitle, rather than as used oil under this Chapter.
- 4900.4 Used oil containing more than one thousand (1,000) ppm total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in §§4109 and 4110. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix II to Chapter 41). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954, (202) 512-1800 (document number 955-001-00000-1).
- 4900.5 The rebuttable presumption in §4900.4 does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units where the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units. However, the rebuttable presumption applies to metalworking oils/fluids no matter what their composition or how they are recycled or disposed.
- 4900.6 Mixtures of used oil and hazardous waste that solely exhibit one or more of the hazardous waste characteristics identified §4108 and mixtures of used oil and hazardous waste that are listed in §§4109 and 4110 solely because they exhibit one or more of the characteristics of hazardous waste identified in §4108 are subject to regulation as hazardous waste under Chapters 40 through 47 and 50 of this subtitle rather than as used oil under this Chapter.
- 4900.7 Mixtures of used oil and small quantity generator hazardous waste regulated under §4102 are subject to regulation as a hazardous waste and to the reduced requirements of §4102 provided the mixture meets the quantity limitations of that section.

4900.8 Materials containing or otherwise contaminated with used oil are regulated as follows:

- (a) Except as provided in §4900.8(b), materials containing or otherwise contaminated with used oil from which the used oil has been properly drained or removed to the extent possible such that no visible signs of free-flowing oil remain in or on the material:
  - (1) Are not used oil and thus not subject to this Chapter; and
  - (2) If applicable are subject to the hazardous waste regulations of Chapters 40 through 47 and 50 of this subtitle;
- (b) Materials containing or otherwise contaminated with used oil that are burned for energy recovery are subject to regulation as used oil under this Chapter; and
- (c) Used oil drained or removed from materials containing or otherwise contaminated with used oil is subject to regulation as used oil under this Chapter.

4900.9 Mixtures of used oil and fuels or other fuel products (including diesel fuel) are subject to regulation as used oil under this Chapter.

4900.10 Materials derived from used oil are regulated as follows:

- (a) Materials that are reclaimed from used oil that are used beneficially and are not burned for energy recovery or used in a manner constituting disposal (such as, re-refined lubricants) are:
  - (1) Not used oil and thus are not subject to this Chapter; and
  - (2) Not solid wastes and are thus not subject to the hazardous waste regulations of Chapters 40 through 47 and 50 of this subtitle as provided in §4100.15(b);
- (b) Materials produced from used oil that are burned for energy recovery (such as, used oil fuels) are subject to regulation as used oil under this Chapter;
- (c) Except as provided in §4900.10(d), materials derived from used oil that are disposed of or used in a manner constituting disposal are:
  - (1) Not used oil and thus are not subject to this Chapter; and
  - (2) Are solid wastes and thus are subject to the hazardous waste regulations of Chapters 40 through 47 and 50 of this subtitle if the materials are listed or identified as hazardous wastes; and
- (d) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products are not subject to this Chapter.

4900.11 Wastewater, the discharge of which is subject to regulation under either Sections 3 & 7 of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Code §§6-922 and 926, 1995 Repl. Vol.) or the Wastewater System Regulation Amendment Act of 1985, effective March 26, 1986 (D.C. Code §6-951 *et seq.*, 1995 Repl. Vol.) (including wastewaters at

facilities that have eliminated the discharge of wastewater), contaminated with de minimis quantities of used oil are not subject to the requirements of this Chapter. For purposes of this section, "de minimis" quantities of used oils are defined as small spills, leaks, or drippings from pumps, machinery, pipes, and other similar equipment during normal operations or small amounts of oil lost to the wastewater treatment system during washing or draining operations. This exception shall not apply if the used oil is discarded as a result of abnormal manufacturing operations resulting in substantial leaks, spills, or other releases, or to used oil recovered from wastewaters.

- 4900.12 Used oil introduced into crude oil pipelines or a petroleum refining facility shall be regulated as follows:
- (a) Used oil mixed with crude oil or natural gas liquids (for example, in a production separator or crude oil stock tank) for insertion into a crude oil pipeline is exempt from the requirements of this Chapter. The used oil is subject to the requirements of this Chapter prior to the mixing of used oil with crude oil or natural gas liquids;
  - (b) Mixtures of used oil and crude oil or natural gas liquids containing less than 1 % used oil that are being stored or transported to a crude oil pipeline or petroleum refining facility for insertion into the refining process at a point prior to crude distillation or catalytic cracking are exempt from the requirements of this Chapter;
  - (c) Used oil that is inserted into the petroleum refining facility process before crude distillation or catalytic cracking without prior mixing with crude oil is exempt from the requirements of this Chapter provided that the used oil constitutes less than 1 % of the crude oil feed to any petroleum refining facility process unit at any given time. Prior to insertion into the petroleum refining facility process, the used oil is subject to the requirements of this Chapter;
  - (d) Except as provided in §4900.12(e), used oil that is introduced into a petroleum refining facility process after crude distillation or catalytic cracking is exempt from the requirements of this Chapter only if the used oil meets the specification of §4900.15. Before insertion into the petroleum refining facility process, the used oil is subject to the requirements of this Chapter;
  - (e) Used oil that is incidentally captured by a hydrocarbon recovery system or wastewater treatment system as part of routine process operations at a petroleum refining facility and inserted into the petroleum refining facility process is exempt from the requirements of this Chapter. This exemption does not extend to used oil which is intentionally introduced into a hydrocarbon recovery system (for example, by pouring collected used oil into the waste water treatment system); and
  - (f) Tank bottoms from stock tanks containing exempt mixtures of used oil and crude oil or natural gas liquids are exempt from the requirements of this Chapter.
- 4900.13 Used oil produced on vessels from normal shipboard operations is not subject to this Chapter until it is transported ashore.

- 4900.14 In addition to the requirements of this Chapter, marketers and burners of used oil who market used oil containing any quantifiable level of PCBs are subject to the requirements found at 40 CFR 761.20.
- 4900.15 Used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this Chapter unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in Table 1. Once used oil that is to be burned for energy recovery has been shown not to exceed any specification, the person making that showing must comply with §§4906.5, 4906.6, 4906.7, and 4906.9. This used oil is still subject to the requirements of §§4901 through 4904, 4906 and 4907. Used oil meeting the specification in Table 1 shall not be burned in the District; however, when it is burned outside the District, it is not subject to the requirements of §4905.

Table 1-Used Oil Not Exceeding Any Specification Level Is Not Subject to This Chapter When Burned for Energy Recovery<sup>1</sup>

Constituent/property	Allowable level
Arsenic	5 ppm maximum.
Cadmium	1 ppm maximum.
Chromium	5 ppm maximum.
Lead	5 ppm maximum.
Flash point	140 °F minimum.
Total halogens	1,000 ppm maximum. <sup>2</sup>
Note: Applicable standards for the burning of used oil containing PCBs are imposed by 40 CFR 761.20(e).	

<sup>1</sup>The specification does not apply to mixtures of used oil and hazardous waste that continue to be regulated as hazardous waste (see §§4900.3 through 4900.7).

<sup>2</sup>Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under §§4900.3 through 4900.5, and it is subject to §4507 rather than this Chapter when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

- 4900.16 The following prohibitions apply to used oil:
- (a) Used oil shall not be managed in surface impoundments;
  - (b) Used oil shall not be managed in waste piles unless the units are subject to regulation under Chapter 44 or 40 CFR part 265, as restricted by §4401.2;
  - (c) The use of used oil as a dust suppressant is prohibited;
  - (d) Off-specification used oil fuel may be burned for energy recovery in only the following devices:
    - (1) Industrial furnaces identified in §5400.1 that are located outside the District;
    - (2) Boilers, as defined in §5400.1, located outside the District, that are identified as follows:



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- (A) Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or
- (B) Utility boilers used to produce electric power, steam, heated or cooled air, or other gases or fluids for sale; or
- (3) Hazardous waste incinerators located outside the District and subject to regulation under 40 CFR Part 264 or 265 or a state equivalent; and
- (e) The burning of on-specification used oil is prohibited in the District pursuant to §4905 and the District of Columbia Air Pollution Control Regulations.

**4901 STANDARDS FOR USED OIL GENERATORS**

4901.1 Except as provided in this subsection, §4901 applies to all used oil generators. A used oil generator is any person, by site, whose act or process produces used oil or whose act first causes used oil to become subject to regulation. Specific exclusions include:

- (a) Household "do-it-yourselfer" used oil generators are not subject to regulation under this Chapter;
- (b) Vessels at sea or at port are not subject to this section. For purposes of this section, used oil produced on vessels from normal shipboard operations is considered to be generated at the time it is transported ashore. The owner or operator of the vessel and the person(s) removing or accepting used oil from the vessel are co-generators of the used oil and are both responsible for managing the waste in compliance with this section once the used oil is transported ashore. The co-generators may decide among them which party will fulfill the requirements of this section;
- (c) Mixtures of used oil and diesel fuel mixed by the generator of the used oil for use in the generator's own vehicles are not subject to this Chapter once the used oil and diesel fuel have been mixed. Before mixing, the used oil fuel is subject to the requirements of this section; and
- (d) Farmers who generate an average of twenty-five (25) gallons per month or less of used oil from vehicles or machinery used on the farm in a calendar year are not subject to the requirements of this Chapter.

4901.2 Used oil generators who conduct the following activities are subject to the requirements of other applicable provisions of this Chapter as indicated in §4901.2:

- (a) Generators who transport used oil, except under the self-transport provisions of §§4901.7(a) and (b), shall also comply with §4903;
- (b) Except as provided in §4901.2(c), generators who process or re-refine used oil shall also comply with §4904;

- (c) Generators who perform the following activities are not processors provided that the used oil is generated on-site and is not being sent off-site to a burner of on- or off-specification used oil fuel:
- (1) Filtering, cleaning, or otherwise reconditioning used oil before returning it for reuse by the generator;
  - (2) Separating used oil from wastewater generated on-site to make the wastewater acceptable for discharge or reuse pursuant to Sections 3 & 7 of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Code §§6-922 and 926, 1995 Repl. Vol.) or the Wastewater System Regulation Amendment Act of 1985, effective March 26, 1986 (D.C. Code §§6-951 *et seq.*, 1995 Repl. Vol.) or other applicable Federal or District regulations governing the management or discharge of wastewaters;
  - (3) Using oil mist collectors to remove small droplets of used oil from in-plant air to make plant air suitable for continued recirculation; and
  - (4) Draining or otherwise removing used oil from materials containing or otherwise contaminated with used oil in order to remove excessive oil to the extent possible pursuant to §4900.8;
- (d) Generators who direct shipments of off-specification used oil from their facility to a used oil burner or first claim that used oil that is to be burned for energy recovery meet the used oil fuel specifications set forth in §4900.15 shall also comply with §4906; and
- (e) Generators who dispose of used oil shall also comply with §4907.
- 4901.3 No one, including generators, may burn used oil (including on-specification used oil) in space heaters.
- 4901.4 Mixtures of used oil and hazardous waste shall be managed as a hazardous waste.
- 4901.5 The rebuttable presumption for used oil in §4900.4 applies to used oil managed by generators. Under the rebuttable presumption for used oil of §4900.4, used oil containing greater than one thousand (1,000) ppm total halogens is presumed to be a hazardous waste and thus shall be managed as hazardous waste and not as used oil unless the presumption is rebutted. However, the rebuttable presumption does not apply to certain used oils removed from refrigeration units.
- 4901.6 Used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR part 112) in addition to the requirements of §4901. Used oil generators are also subject to the Underground Storage Tank (20 DCMR, Chapters 55-70) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of §4901. Specific storage requirements include:
- (a) Used oil generators shall not store used oil in units other than tanks, containers, or units subject to regulation under Chapter 44 or 40 CFR part 265, as restricted by §4401.2;

- (b) Containers and aboveground tanks used to store used oil at generator facilities shall:
  - (1) Be in good condition (no severe rusting, apparent structural defects or deterioration);
  - (2) Not leak (no visible leaks);
  - (3) Have secondary containment as approved by the Director;
  - (4) Always be closed except when in use (see §§4415.5 and 4415.6); and
  - (5) Not be opened, handled, or stored in a manner that may rupture the container or cause it to leak;
- (c) Containers and aboveground tanks used to store used oil at generator facilities shall be labeled or marked clearly with the words "Used Oil";
- (d) Fill pipes used to transfer used oil into underground storage tanks at generator facilities shall be labeled or marked clearly with the words "Used Oil"; and
- (e) Upon detection of a release of used oil to the environment that is not subject to the requirements of 20 DCMR, Chapters 55-70 and occurs after the effective date of the recycled used oil management program in effect in the District, a generator shall perform the following cleanup steps:
  - (1) Stop the release;
  - (2) Contain the released used oil;
  - (3) Clean up and manage properly the released used oil and other materials; and
  - (4) If necessary, repair or replace any leaking used oil storage containers or tanks before returning them to service.

4901.7 Except as provided in this subsection, generators shall ensure that their used oil is transported only by transporters who have obtained EPA identification numbers under §4300.8. Specific generator transport requirements include:

- (a) Generators may transport, without an EPA identification number, used oil that is generated at the generator's site and used oil collected from household do-it-yourselfers to a used oil collection center provided that:
  - (1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
  - (2) The generator transports no more than fifty-five (55) gallons of used oil at any time; and

- (3) The generator can document that he/she transports the used oil to a used oil collection center that is registered, licensed, permitted, or recognized by a state/District/county/municipal government to manage used oil;
- (b) Generators may transport, without an EPA identification number, used oil that is generated at the generator's site to an aggregation point provided that:
  - (1) The generator transports the used oil in a vehicle owned by the generator or owned by an employee of the generator;
  - (2) The generator transports no more than fifty-five (55) gallons of used oil at any time; and
  - (3) The generator transports the used oil to an aggregation point that is owned and/or operated by the same generator; and
- (c) Used oil generators may arrange for used oil to be transported by a transporter without an EPA identification number if the used oil is reclaimed under a contractual agreement pursuant to which reclaimed oil is returned by the processor/re-refiner to the generator for use as a lubricant, cutting oil, or coolant. The contract shall indicate:
  - (1) The type of used oil and the frequency of shipments;
  - (2) That the vehicle used to transport the used oil to the processing/re-refining facility and to deliver recycled used oil back to the generator is owned and operated by the used oil processor/re-refiner; and
  - (3) That the reclaimed oil will be returned to the generator.

**4902 STANDARDS FOR USED OIL COLLECTION CENTERS AND AGGREGATION POINTS**

- 4902.1 A Do-It-Yourself (DIY) used oil collection center is any site or facility that accepts/aggregates and stores used oil collected only from household do-it-yourselfers. Owners or operators of all DIY used oil collection centers shall comply with the generator standards in §4901.
- 4902.2 A used oil collection center is any site or facility that accepts/aggregates and stores used oil collected from used oil generators regulated under §4901 who bring used oil to the collection center in shipments of no more than fifty-five (55) gallons under the provisions of §4901.7(a). Used oil collection centers may also accept used oil from household do-it-yourselfers. Owners or operators of all used oil collection centers shall:
  - (a) Comply with the generator standards in §4901;
  - (b) Be registered/licensed/permitted/recognized by the District government to manage used oil; and
  - (c) Be subject to the general facility standards of §§4403.7 through 4406.3, 4409, 4410, and 4412.

- 4902.3 A used oil aggregation point is any site or facility that accepts, aggregates, and/or stores used oil collected only from other used oil generation sites owned or operated by the owner or operator of the aggregation point, from which used oil is transported to the aggregation point in shipments of no more than fifty-five (55) gallons under the provisions of §4901.7(b). Used oil aggregation points may also accept used oil from household do-it-yourselfers. Owners or operators of all used oil aggregation points shall comply with the generator standards in §4901.

**4903 STANDARDS FOR USED OIL TRANSPORTER AND TRANSFER FACILITIES**

- 4903.1 Except as provided in this subsection, §4903 applies to all used oil transporters. Used oil transporters are persons who transport used oil, persons who collect used oil from more than one generator and transport the collected oil, and owners and operators of used oil transfer facilities. This subpart does not apply to:
- (a) On-site transportation;
  - (b) Generators who transport shipments of used oil totalling fifty-five (55) gallons or less from the generator to a used oil collection center as specified in §4901.7(a);
  - (c) Generators who transport shipments of used oil totalling fifty-five (55) gallons or less from the generator to a used oil aggregation point owned or operated by the same generator as specified in §4901.7(b); and
  - (d) Transportation of used oil from household do-it-yourselfers to a regulated used oil generator, collection center, aggregation point, processor/re-refiner, or burner subject to the requirements of this Chapter. Except as provided in this subsection, §4903 does, however, apply to transportation of collected household do-it-yourselfer used oil from regulated used oil generators, collection centers, aggregation points, or other facilities where household do-it-yourselfer used oil is collected.
- 4903.2 Transporters who import used oil from abroad or export used oil outside of the United States are subject to the requirements of this section from the time the used oil enters and until the time it exits the United States.
- 4903.3 Unless trucks previously used to transport hazardous waste are emptied as described in §4104 before transporting used oil, the used oil is considered to have been mixed with the hazardous waste and shall be managed as hazardous waste unless, under the provisions of §§4900.3 through 4900.7, the hazardous waste/used oil mixture is determined not to be hazardous waste.
- 4903.4 Used oil transporters who conduct the following activities are also subject to other applicable provisions of this Chapter as indicated in this subsection and §4903.5:
- (a) Transporters who generate used oil shall also comply with §4901;
  - (b) Transporters who process or re-refine used oil, except as provided in §§4903.7 through 4903.9, shall also comply with §4904;

- (c) Transporters who direct shipments of off-specification used oil from their facility to a used oil burner, or who first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications in §4900.15, shall also comply with §4906; and
  - (d) Transporters who dispose of used oil, including the use of used oil as a dust suppressant outside the District, shall also comply with §4907.
- 4903.5 Transporters shall not burn used oil (including on-specification used oil) in the District.
- 4903.6 [RESERVED]
- 4903.7 Used oil transporters may consolidate or aggregate loads of used oil for purposes of transportation. However, except as provided in §4903.8, used oil transporters may not process used oil unless they also comply with the requirements for processors/re-refiners in §4904.
- 4903.8 Transporters may conduct incidental processing operations that occur in the normal course of used oil transportation (such as, settling and water separation), but that are not designed to produce (or make more amenable for production of) used oil derived products unless they also comply with the processor/re-refiner requirements in §4904.
- 4903.9 Transporters of used oil that is removed from oil bearing electrical transformers and turbines and filtered by the transporter or at a transfer facility before being returned to its original use are not subject to the processor/re-refiner requirements in §4904.
- 4903.10 Used oil transporters who have not previously complied with the notification requirements of RCRA §3010 shall comply with these requirements and obtain an EPA identification number. A used oil transporter who has not received an EPA identification number may obtain one by notifying the Director of his or her used oil activity by submitting a completed EPA Form 8700-12 (To obtain ordering information for EPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346, 703-920-9810, or 202-645-6080).
- 4903.11 A used oil transporter shall deliver all used oil received to:
- (a) Another used oil transporter, provided that the transporter has obtained an EPA identification number;
  - (b) A used oil processing/re-refining facility that has obtained an EPA identification number;
  - (c) An off-specification used oil burner facility that has obtained an EPA identification number and that is located outside the District; or
  - (d) An on-specification used oil burner facility that is located outside the District.
- 4903.12 Used oil transporters shall comply with all applicable requirements under the U.S. Department of Transportation regulations in 49 CFR parts 171 through 180. Persons transporting used oil that meets the definition of a hazardous material in 49 CFR 171.8 shall comply with all applicable regulations in 49 CFR parts 171 through 180.
- 4903.13 The following requirements apply to used oil discharges:



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- (a) In the event of a discharge of used oil during transportation, the transporter shall take appropriate immediate action to protect human health and the environment (for example, stop the source of the discharge, notify local authorities, dike the discharge area);
- (b) If a discharge of used oil occurs during transportation and an official (District government or a Federal Agency) acting within the scope of official responsibilities determines that immediate removal of the used oil is necessary to protect human health or the environment, that official may authorize the removal of the used oil by transporters who do not have EPA identification numbers;
- (c) An air, rail, highway, or water transporter who has discharged used oil shall:
  - (1) Give notice, if required by 49 CFR 171.15 to the National Response Center (800-424-8802, 202-426-2675, or 202-645-6080); and
  - (2) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590;
- (d) A water transporter who has discharged used oil shall give notice as required by 33 CFR 153.203; and
- (e) A transporter shall clean up any used oil discharged that occurs during transportation or take action required or approved by federal or District officials so that the used oil discharge no longer presents a hazard to human health or the environment.

4903.14 Used oil transporters are subject to the following requirements relative to the rebuttable presumption:

- (a) To ensure that used oil is not a hazardous waste under the rebuttable presumption of §4900.4, the used oil transporter shall determine whether the total halogen content of used oil being transported or stored at a transfer facility is above or below one thousand (1,000) ppm;
- (b) The transporter shall make this determination by:
  - (1) Testing the used oil; or
  - (2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used;
- (c) If the used oil contains greater than or equal to one thousand (1,000) ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in §§4109 and 4110. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix II of Chapter 41). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of

Documents, PO Box 371954, Pittsburgh, PA 15250-7954. (202) 512-1800 (document number 955-001-000001);

- (d) The rebuttable presumption applies to all metalworking oils/fluids no matter what their composition or how they are recycled or disposed;
  - (e) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units; and
  - (f) The transporter shall maintain records of analyses conducted or information used to comply with §§4903.14(a), (b), and (c) for at least three (3) years.
- 4903.15 Used oil transporters are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR part 112) in addition to the requirements of §4903. Used oil transporters are also subject to the Underground Storage Tank (20 DCMR, Chapters 55-70) standards for used oil stored in underground tanks, whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of this section.
- 4903.16 Used oil transfer facilities are transportation related facilities including loading docks, parking areas, storage areas, and other areas where shipments of used oil are held for more than twenty-four (24) hours during the normal course of transportation and not longer than ten (10) days. Transfer facilities that store used oil for more than ten (10) days are considered processors and subject to regulation under §4904. Requirements for transfer facilities storing for ten (10) days or less include:
- (a) Owners or operators of used oil transfer facilities may not store used oil in units other than tanks, containers, or units subject to regulation under Chapter 44 or CFR part 265, as restricted by §4401.2.
  - (b) Containers and aboveground tanks used to store used oil at transfer facilities shall be:
    - (1) In good condition (no severe rusting, apparent structural defects or deterioration); and
    - (2) Not leaking (no visible leaks); and
  - (c) Containers, existing aboveground tanks and new aboveground tanks used to store used oil at transfer facilities shall be equipped with a secondary containment system. This containment system shall meet the following requirements:
    - (1) The secondary containment system for containers shall consist of, at a minimum:
      - (A) Dikes, berms or retaining walls; and
      - (B) The floor shall cover the entire area within the dikes, berms, or retaining walls; or

- (C) An equivalent secondary containment system; and
  - (2) The entire containment system for containers, including walls and floors, shall be sufficiently impervious to used oil to prevent any used oil released into the containment system from migrating out of the system to the soil, groundwater, or surface water;
  - (d) [Reserved]
  - (e) [Reserved]
  - (f) Containers and aboveground tanks used to store used oil at transfer facilities shall be labeled or marked clearly with the words "Used Oil";
  - (g) Fill pipes used to transfer used oil into underground storage tanks at transfer facilities shall be labeled or marked clearly with the words "Used Oil";
  - (h) Upon detection of a release of used oil to the environment that is not subject to the requirements of 20 DCMR, Chapters 55-70 and occurs after the effective date of the recycled used oil management program in effect in the District, the owner/operator of a transfer facility shall perform the following cleanup steps:
    - (1) Stop the release;
    - (2) Contain the released used oil;
    - (3) Clean up and manage properly the released used oil and other materials; and
    - (4) If necessary, repair or replace any leaking used oil storage containers or tanks prior to returning them to service; and
  - (i) [Reserved]
- 4903.17 Used oil transporters shall keep a record of each used oil shipment accepted for transport; except that intermediate rail transporters are not required to sign the record of acceptance. Records for each shipment shall include:
- (a) The name and address of the generator, transporter, or processor/re-refiner who provided the used oil for transport;
  - (b) The EPA identification number (if applicable) of the generator, transporter, or processor/re-refiner who provided the used oil for transport;
  - (c) The quantity of used oil accepted;
  - (d) The date of acceptance; and
  - (e) Except as provided above for intermediate rail transporters, the signature, dated upon receipt of the used oil, of a representative of the generator, transporter, or processor/re-refiner who provided the used oil for transport.

- 4903.18 Used oil transporters shall keep a record of each shipment of used oil that is delivered to another used oil transporter, or to a used oil burner, processor/re-refiner, or disposal facility, except that intermediate rail transporters are not required to sign the record of delivery. Records of each delivery shall include:
- (a) The name and address of the receiving facility or transporter;
  - (b) The EPA identification number of the receiving facility or transporter;
  - (c) The quantity of used oil delivered;
  - (d) The date of delivery; and
  - (e) Except as provided above, the signature, dated upon receipt of the used oil, of a representative of the receiving facility or transporter.
- 4903.19 Used oil transporters shall maintain the records described in §4903.18 for each shipment of used oil exported to any foreign country.
- 4903.20 The records described in §§4903.17 and 4903.18 shall be maintained for at least three (3) years.
- 4903.21 Transporters who generate residues from the storage or transport of used oil shall manage the residues as specified in §4900.10.

#### **4904 STANDARDS FOR USED OIL PROCESSORS AND RE-REFINERS**

- 4904.1 This section applies to owners and operators of facilities that process used oil. Processing means chemical or physical operations designed to produce from used oil, or to make used oil more amenable for production of, fuel oils, lubricants, or other used oil-derived products. Processing includes, but is not limited to: blending used oil with virgin petroleum products, blending used oils to meet the fuel specification, filtration, simple distillation, chemical or physical separation and re-refining. This section does not apply to:
- (a) Transporters that conduct incidental processing operations that occur during the normal course of transportation as provided in §§4903.7 through 4903.9; or
  - (b) Burners (outside the District) that conduct incidental processing operations that occur during the normal course of used oil management prior to burning as provided in 40 CFR 279.61(b), or a state equivalent.
- 4904.2 Used oil processors/re-refiners who conduct the following activities are also subject to the requirements of other applicable provisions of this Chapter as follows:
- (a) Processors/re-refiners who generate used oil shall also comply with §4901;
  - (b) Processors/re-refiners who transport used oil shall also comply with §4903;

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- (c) Processors/re-refiners are subject to the §4018 prohibitions and shall not burn used oil for energy recovery even when the used oil is burned for purposes of processing used oil, which is considered burning incidentally to used oil processing;
  - (d) Processors/re-refiners who direct shipments of off-specification used oil from their facility to a used oil burner, or who first claim that used oil that is to be burned for energy recovery meets the used oil fuel specifications in §4900.15, shall also comply with §4906; and
  - (e) Processors/re-refiners who dispose of used oil shall comply with §4907. The use of used oil as a dust suppressant is considered disposal and is prohibited.
- 4904.3 Processors/re-refiners may not burn used oil, (including on-specification used oil), in space heaters even if the processor/re-refiner is the generator.
- 4904.4 Used oil processors and re-refiners who have not previously complied with the notification requirements of RCRA §3010 shall comply with these requirements and obtain an EPA identification number. A used oil processor or re-refiner who has not received an EPA identification number may obtain one by notifying the Director of his or her used oil activity by submitting either:
- (a) A completed EPA Form 8700-12 (To obtain EPA Form 8700-12 call RCRA/Superfund Hotline at 1-800-424-9346, 703-920-9810, or 202-645-6080); or
  - (b) A letter requesting an EPA identification number. (Call RCRA/Superfund Hotline to determine where to send a letter requesting an EPA identification number). The letter should include the following information:
    - (1) Processor or re-refiner company name;
    - (2) Owner of the processor or re-refiner company;
    - (3) Mailing address for the processor or re-refiner;
    - (4) Name and telephone number for the processor or re-refiner point of contact;
    - (5) Type of used oil activity (i.e., process only, process and re-refine); and
    - (6) Location of the processor or re-refiner facility.
- 4904.5 Owners and operators of used oil processors and re-refiners facilities shall comply with the following requirements:
- (a) Facilities shall be maintained and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water that could threaten human health or the environment;
  - (b) All facilities shall be equipped with the following:

- (1) An internal communications or alarm system capable of providing immediate emergency instruction (voice or signal) to facility personnel;
  - (2) A device, such as a telephone (immediately available at the scene of operations) or a hand-held two-way radio, capable of summoning emergency assistance from local police departments, fire departments, or District emergency response teams;
  - (3) Portable fire extinguishers, fire control equipment (including special extinguishing equipment, such as that using foam, inert gas, or dry chemicals), spill control equipment and decontamination equipment; and
  - (4) Water at adequate volume and pressure to supply water hose streams, or foam producing equipment, or automatic sprinklers, or water spray systems;
- (c) All facility communications or alarm systems, fire protection equipment, spill control equipment, and decontamination equipment, where required, shall be tested and maintained as necessary to assure its proper operation in time of emergency;
  - (d) Whenever used oil is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation shall have immediate access to an internal alarm or emergency communication device, either directly or through visual or voice contact with another employee, unless such a device is not required in §4904.5(b);
  - (e) If there is ever just one employee on the premises while the facility is operating, the employee shall have immediate access to a device, such as a telephone (immediately available at the scene of operation) or a hand-held two-way radio, capable of summoning external emergency assistance, unless such a device is not required in §4904.5(b);
  - (f) The owner or operator shall maintain aisle space to allow the unobstructed movement of personnel, fire protection equipment, spill control equipment, and decontamination equipment to any area of facility operation in an emergency, unless aisle space is not needed for any of these purposes;
  - (g) The owner or operator shall attempt to make the following arrangements, as appropriate for the type of used oil handled at the facility and the potential need for the services of these organizations:
    - (1) Arrangements to familiarize police, fire departments, and emergency response teams with the layout of the facility, properties of used oil handled at the facility and associated hazards, places where facility personnel would normally be working, entrances to roads inside the facility, and possible evacuation routes;
    - (2) Where more than one police and fire department might respond to an emergency, agreements designating primary emergency authority to a specific police and a specific fire department, and agreements with any others to provide support to the primary emergency authority;
    - (3) Agreements with District emergency response teams, emergency response contractors, and equipment suppliers; and



- (4) Arrangements to familiarize local hospitals with the properties of used oil handled at the facility and the types of injuries or illnesses that could result from fires, explosions, or releases at the facility; and
  - (h) Where District or local authorities decline to enter into these arrangements, the owner or operator shall document the refusal in the operating record.
- 4904.6 Owners and operators of used oil processing and re-refining facilities shall comply with the requirements of §§4904.6 through 4904.11:
  - (a) Each owner or operator shall have a contingency plan for the facility. The contingency plan shall be designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water; and
  - (b) The provisions of the contingency plan shall be carried out immediately whenever there is a fire, explosion, or release of used oil that could threaten human health or the environment.
- 4904.7 The following requirements apply to the content of the contingency plan:
  - (a) The contingency plan shall describe the actions facility personnel will take to comply with §§4904.6 and 4904.11 in response to fires, explosions, or any unplanned sudden or non-sudden release of used oil to air, soil, or surface water at the facility;
  - (b) If the owner or operator has already prepared a Spill Prevention, Control, and Countermeasures (SPCC) Plan in accordance with 40 CFR 112 and 40 CFR 1510, or some other emergency or contingency plan, the owner or operator need only amend that plan to incorporate used oil management provisions that are sufficient to comply with the requirements of this Chapter;
  - (c) The plan shall describe arrangements agreed to by local police departments, fire departments, hospitals, contractors, and District emergency response teams to coordinate emergency services, pursuant to §§4904.5(g) and 4904.5(h);
  - (d) The plan shall list names, addresses, and phone numbers (office and home) of all persons qualified to act as emergency coordinator (see §4904.10), and this list shall be kept up to date. Where more than one person is listed, one shall be named as primary emergency coordinator and others shall be listed in the order in which they will assume responsibility as alternates;
  - (e) The plan shall include a list of all emergency equipment at the facility (such as fire extinguishing systems, spill control equipment, communications and alarm systems (internal and external), and decontamination equipment), where this equipment is required. This list shall be kept up to date. In addition, the plan shall include the location and a physical description of each item on the list, and a brief outline of its capabilities; and
  - (f) The plan shall include an evacuation plan for facility personnel where there is a possibility that evacuation could be necessary. This plan shall describe signal(s) to be

used to begin evacuation, evacuation routes, and alternate evacuation routes (in cases where the primary routes could be blocked by releases of used oil or fires).

- 4904.8 A copy of the contingency plan and all revisions to the plan shall be:
- (a) Maintained at the facility; and
  - (b) Submitted to all local police departments, fire departments, hospitals, and District emergency response teams that may be called upon to provide emergency services. -
- 4904.9 The contingency plan shall be reviewed, and immediately amended, if necessary, whenever:
- (a) Applicable regulations are revised;
  - (b) The plan fails in an emergency;
  - (c) The facility changes--in its design, construction, operation, maintenance, or other circumstances--in a way that materially increases the potential for fires, explosions, or releases of used oil, or changes the response necessary in an emergency;
  - (d) The list of emergency coordinators changes; or
  - (e) The list of emergency equipment changes.
- 4904.10 At all times, there shall be at least one employee either on the facility premises or on call (i.e., available to respond to an emergency by reaching the facility within a short period of time) with the responsibility for coordinating all emergency response measures. This emergency coordinator shall be thoroughly familiar with all aspects of the facility's contingency plan, all operations and activities at the facility, the location and characteristic of used oil handled, the location of all records within the facility, and facility layout. In addition, this person shall have the authority to commit the resources needed to carry out the contingency plan. (The emergency coordinator's responsibilities are more fully spelled out in §4904.11. Applicable responsibilities for the emergency coordinator vary, depending on factors such as type and variety of used oil handled by the facility, and type and complexity of the facility.)
- 4904.11 The following requirements apply to emergency procedures for a facility:
- (a) Whenever there is an imminent or actual emergency situation, the emergency coordinator (or the designee when the emergency coordinator is on call) shall immediately:
    - (1) Activate internal facility alarms or communication systems, where applicable, to notify all facility personnel; and
    - (2) Notify appropriate District agencies with designated response roles if their help is needed;
  - (b) Whenever there is a release, fire, or explosion, the emergency coordinator shall immediately identify the character, exact source, amount, and a real extent of any

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released materials. He or she may do this by observation or review of facility records of manifests and, if necessary, by chemical analysis;

- (c) Concurrently, the emergency coordinator shall assess possible hazards to human health or the environment that may result from the release, fire, or explosion. This assessment shall consider both direct and indirect effects of the release, fire, or explosion (e.g., the effects of any toxic, irritating, or asphyxiating gases that are generated, or the effects of any hazardous surface water run-offs from water of chemical agents used to control fire and heat-induced explosions);
- (d) If the emergency coordinator determines that the facility has had a release, fire, or explosion that could threaten human health, or the environment, outside the facility, he or she shall report his or her findings as follows:
  - (1) If his or her assessment indicated that evacuation of local areas may be advisable, he or she shall immediately notify appropriate local authorities. He or she shall be available to help appropriate officials decide whether local areas should be evacuated; and
  - (2) He shall immediately notify either the government official designated as the on-scene coordinator for the geographical area (in the applicable regional contingency plan under 40 CFR part 1510), or the National Response Center (using their 24-hour toll free number 800/424-8802). The report shall include:
    - (A) Name and telephone number of reporter;
    - (B) Name and address of facility;
    - (C) Time and type of incident (e.g., release, fire);
    - (D) Name and quantity of material(s) involved, to the extent known;
    - (E) The extent of injuries, if any; and
    - (F) The possible hazards to human health, or the environment, outside the facility;
- (e) During an emergency, the emergency coordinator shall take all reasonable measures necessary to ensure that fires, explosions, and releases do not occur, recur, or spread to other used oil or hazardous waste at the facility. These measures shall include, where applicable, stopping processes and operation, collecting and containing released used oil, and removing or isolating containers;
- (f) If the facility stops operation in response to a fire, explosion, or release, the emergency coordinator shall monitor for leaks, pressure buildup, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate;
- (g) Immediately after an emergency, the emergency coordinator shall provide for recycling, storing, or disposing of recovered used oil, contaminated soil or surface water, or any other material that results from a release, fire, or explosion at the facility;

- (h) The emergency coordinator shall ensure that, in the affected area(s) of the facility:
  - (1) No waste or used oil that may be incompatible with the released material is recycled, treated, stored, or disposed of until cleanup procedures are completed;
  - (2) All emergency equipment listed in the contingency plan is cleaned and fit for its intended use before operations are resumed; and
  - (3) The owner or operator shall notify the Director, and appropriate District and local authorities that the facility is in compliance with §4904.11(h) before resuming operations in the affected area(s) of the facility; and
- (i) The owner or operator shall note in the operating record the time, date and details of any incident that requires implementing the contingency plan. Within fifteen (15) days after the incident, he or she shall submit a written report on the incident to the Director. The report shall include:
  - (1) Name, address, and telephone number of the owner or operator;
  - (2) Name, address, and telephone number of the facility;
  - (3) Date, time, and type of incident (e.g., fire, explosion);
  - (4) Name and quantity of material(s) involved;
  - (5) The extent of injuries, if any;
  - (6) An assessment of actual or potential hazards to human health or the environment, where this is applicable; and
  - (7) Estimated quantity and disposition of recovered material that resulted from the incident.

4904.12 To ensure that used oil managed at a processing/re-refining facility is not hazardous waste under the rebuttable presumption of §4900.4, the owner or operator of a used oil processing/re-refining facility shall determine whether the total halogen content of used oil managed at the facility is above or below one thousand (1,000) ppm. The following requirements apply to the rebuttable presumption:

- (a) The owner or operator shall make this determination by:
  - (1) Testing the used oil; or
  - (2) Applying knowledge of the halogen content of the used oil in light of the materials or processes used;
- (b) If the used oil contains greater than or equal to one thousand (1,000) ppm total halogens, it is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in §§4109 and 4110. The owner or operator may rebut the presumption by demonstrating that the used oil does not contain hazardous

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waste (for example, by using an analytical method from SW-846, Edition III, to show that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in Appendix II of Chapter 41). EPA Publication SW-846, Third Edition, is available from the Government Printing Office, Superintendent of Documents, P.O. Box 371954, Pittsburgh PA 15250-7954, (202) 512-1800 (document number 955-001-00000-1);

- (c) The rebuttable presumption applies to all metalworking oils/fluids no matter what their composition or how they are recycled or disposed; and
- (d) The rebuttable presumption does not apply to used oils contaminated with chlorofluorocarbons (CFCs) removed from refrigeration units if the CFCs are destined for reclamation. The rebuttable presumption does apply to used oils contaminated with CFCs that have been mixed with used oil from sources other than refrigeration units.

4904.13 Used oil processor/re-refiners are subject to all applicable Spill Prevention, Control and Countermeasures (40 CFR part 112) in addition to the requirements of §4904. Used oil processors/re-refiners are also subject to the Underground Storage Tank (20 DCMR, Chapters 55-70) standards for used oil stored in underground tanks whether or not the used oil exhibits any characteristics of hazardous waste, in addition to the requirements of §4904. Other storage requirements include:

- (a) Used oil processors/re-refiners may not store used oil in units other than tanks, containers, or units subject to regulation under Chapter 44 or 40 CFR part 265 as restricted by §4401.2;
- (b) Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities shall be:
  - (1) In good condition (no severe rusting, apparent structural defects or deterioration); and
  - (2) Not leaking (no visible leaks);
- (c) Containers, existing aboveground tanks and new aboveground tanks used to store or process used oil at processing and re-refining facilities shall be equipped with a secondary containment system. Specific requirements for this system are as follows:
  - (1) The secondary containment system for containers shall consist of, at a minimum:
    - (A) Dikes, berms or retaining walls; and
    - (B) The floor shall cover the entire area within the dike, berm, or retaining wall; or
    - (C) An equivalent secondary containment system; and
  - (2) The entire containment system for containers, including walls and floor, shall be sufficiently impervious to used oil to prevent any used oil released into the

containment system from migrating out of the system to the soil, groundwater, or surface water; and

- (d) [Reserved]
- (e) [Reserved]
- (f) Containers and aboveground tanks used to store or process used oil at processing and re-refining facilities shall be labeled or marked clearly with the words "Used Oil";
- (g) Fill pipes used to transfer used oil into underground storage tanks at processing and re-refining facilities shall be labeled or marked clearly with the words "Used Oil";
- (h) Upon detection of a release of used oil to the environment that is not subject to the requirements of 20 DCMR, Chapters 55-70 and which has occurred after the effective date of the recycled used oil management program in effect in the State in which the release is located, an owner/operator shall perform the following cleanup steps:
  - (1) Stop the release;
  - (2) Contain the released used oil;
  - (3) Clean up and manage properly the released used oil and other materials; and
  - (4) If necessary, repair or replace any leaking used oil storage containers or tanks before returning them to service; and
- (i) Owners and operators who store or process used oil in aboveground tanks shall comply with the following requirements:
  - (1) At closure of a tank system, the owner or operator shall remove or decontaminate used oil residues in tanks, contaminated containment system components, contaminated soils, and structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under this subtitle;
  - (2) If the owner or operator demonstrates that not all contaminated soils can be practicably removed or decontaminated as required in §4904.13(i)(1), then the owner or operator shall close the tank system and perform post-closure care in accordance with the closure and post-closure care requirements that apply to hazardous waste landfills (§4413.30);
  - (3) Owners and operators who store used oil in containers shall comply with the following requirements:
    - (A) At closure, containers holding used oils or residues of used oil shall be removed from the site; and
    - (B) The owner or operator shall remove or decontaminate used oil residues, contaminated containment system components, contaminated soils, and



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structures and equipment contaminated with used oil, and manage them as hazardous waste, unless the materials are not hazardous waste under Chapter 41.

- 4904.14 Owners or operators of used oil processing and re-refining facilities shall develop and follow a written analysis plan describing the procedures that will be used to comply with the analysis requirements of §4904.12 and, if applicable, §§4906.5 and 4906.6. The owner or operator shall keep the plan at the facility.
- 4904.15 Relative to the rebuttable presumption for used oil in §4904.12, the plan shall specify the following, at a minimum:
- (a) Whether sample analyses or knowledge of the halogen content of the used oil will be used to make this determination.
  - (b) If sample analyses are used to make this determination:
    - (1) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:
      - (A) One of the sampling methods in Appendix I of 40 CFR part 261, as incorporated by reference at §4112.1(a); or
      - (B) A method shown to be equivalent under §§4001.1 through 4001.9 and;
    - (2) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site;
    - (3) The methods used to analyze used oil for the parameters specified in §4904.12; and
  - (c) The type of information that will be used to determine the halogen content of the used oil.
- 4904.16 Relative to on-specification used oil fuel in §§4906.5 and 4906.6, the plan shall specify the following, at a minimum:
- (a) Whether sample analyses or other information will be used to make this determination;
  - (b) If sample analyses are used to make this determination:
    - (1) The sampling method used to obtain representative samples to be analyzed. A representative sample may be obtained using either:
      - (A) One of the sampling methods in Appendix I of 40 CFR part 261, as incorporated by reference at §4112.1(a); or
      - (B) A method shown to be equivalent under §§4001.1 through 4001.9 and;

- (2) Whether used oil will be sampled and analyzed prior to or after any processing/re-refining;
  - (3) The frequency of sampling to be performed, and whether the analysis will be performed on-site or off-site; and
  - (4) The methods used to analyze used oil for the parameters specified in §§4906.5 and 4906.6; and
- (c) The type of information that will be used to make the on-specification used oil fuel determination.
- 4904.17 Used oil processors/re-refiners shall keep a record of each used oil shipment accepted for processing/re-refining. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment shall include the following information:
- (a) The name and address of the transporter who delivered the used oil to the processor/re-refiner;
  - (b) The name and address of the generator or processor/re-refiner from whom the used oil was sent for processing/re-refining;
  - (c) The EPA identification number of the transporter who delivered the used oil to the processor/re-refiner;
  - (d) The EPA identification number (if applicable) of the generator or processor/re-refiner from whom the used oil was sent for processing/re-refining;
  - (e) The quantity of used oil accepted; and
  - (f) The date of acceptance.
- 4904.18 Used oil processor/re-refiners shall keep a record of each shipment of used oil that is shipped to a used oil burner, processor/ re-refiner, or disposal facility. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment shall include the following information:
- (a) The name and address of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;
  - (b) The name and address of the burner, processor/re-refiner or disposal facility who shall receive the used oil;
  - (c) The EPA identification number of the transporter who delivers the used oil to the burner, processor/re-refiner or disposal facility;
  - (d) The EPA identification number of the burner, processor/re-refiner, or disposal facility who shall receive the used oil;

- (e) The quantity of used oil shipped; and
  - (f) The date of shipment.
- 4904.19 The records described in §§4904.17 and 4904.18 shall be maintained for at least three (3) years.
- 4904.20 The owner or operator shall keep a written operating record at the facility. The following information shall be recorded, as it becomes available, and maintained in the operating record until closure of the facility:
- (a) Records and results of used oil analyses performed as described in the analysis plan required under §§4904.14 through 4904.16; and
  - (b) Summary reports and details of all incidents that require implementation of the contingency plan as specified in §§4904.6 through 4904.11.
- 4904.21 A used oil processor/re-refiner shall report to the Director, in the form of a letter, on a biennial basis (by March 1 of each even numbered year), the following information concerning used oil activities during the previous calendar year:
- (a) The EPA identification number, name, and address of the processor/re-refiner;
  - (b) The calendar year covered by the report; and
  - (c) The quantities of used oil accepted for processing/re-refining and the manner in which the used oil is processed/re-refined, including the specific processes employed.
- 4904.22 Used oil processors/re-refiners who initiate shipments of used oil off-site shall ship the used oil using a used oil transporter who has obtained an EPA identification number.
- 4904.23 Owners and operators who generate residues from the storage, processing, or re-finishing of used oil shall manage the residues as specified in §4900.10.
- 4905 STANDARDS FOR USED OIL BURNERS WHO BURN OFF-SPECIFICATION USED OIL FOR ENERGY RECOVERY**
- 4905.1 The burning of both on-and off-specification used oil is prohibited in the District. This prohibition also applies to generators of the used oil.
- 4905.2 The requirements for burning off-specification used oil outside the District are found at 40 CFR 279, Subpart G.
- 4905.3 [RESERVED]
- 4906 STANDARDS FOR USED OIL FUEL MARKETERS**
- 4906.1 Any person who conducts either of the following activities is subject to this section:

- (a) Directs a shipment of off-specification used oil from his or her facility to a used oil burner; or
  - (b) First claims that used oil that is to be burned for energy recovery meets the used oil fuel specifications in §4900.15.
- 4906.2 The following persons are not marketers subject to §4906:
- (a) Used oil generators, and transporters who transport used oil received only from generators, unless the generator or transporter directs a shipment of off-specification used oil from his or her facility to a used oil burner. However, processors/re-refiners who burn some used oil fuel for purposes of processing are considered to be burning incidentally to processing. Thus, generators and transporters who direct shipments of off-specification used oil to processor/re-refiners who incidentally burn used oil are not marketers subject to this section;
  - (b) Persons who direct shipments of on-specification used oil and who are not the first person(s) to claim the oil meets the used oil fuel specifications of §4900.15.
- 4906.3 Any person subject to this section shall also comply with one of the following:
- (a) Section 4901--Standards for Used Oil Generators;
  - (b) Section 4903--Standards for Used Oil Transporters and Transfer Facilities;
  - (c) Section 4904--Standards for Used Oil Processors and Re-refiners; or
  - (d) Section 4905--Standards for Used Oil burners who burn off-specification Used Oil for Energy Recovery.
- 4906.4 A used oil fuel marketer may initiate a shipment of off-specification used oil only to a used oil burner who:
- (a) Has an EPA identification number; and
  - (b) burns the used oil identified in §4905 in an industrial furnace or boiler located outside the District.
- 4906.5 A generator, transporter, processor/re-refiner, or burner may determine that used oil that is to be burned for energy recovery meets the fuel specifications of §4900.15 by performing analyses or obtaining copies of analyses or other information documenting that the used oil fuel meets the specifications.
- 4906.6 A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the specifications for used oil fuel under §4900.15, shall keep copies of analyses of the used oil (or other information used to make the determination) for three (3) years.
- 4906.7 A used oil fuel marketer subject to this section who has not previously complied with the notification requirements of RCRA §3010 shall comply with these requirements and obtain

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an EPA identification number. A marketer who has not received an EPA identification number may obtain one by notifying the Director of his or her used oil activity by submitting either:

- (a) A completed EPA Form 8700-12; or
- (b) A letter requesting an EPA identification number. The letter should include the following information:
  - (1) Marketer company name;
  - (2) Owner of the marketer;
  - (3) Mailing address for the marketer;
  - (4) Name and telephone number for the marketer point of contact; and
  - (5) Type of used oil activity (i.e., generator directing shipments of off-specification used oil to a burner).

4906.8 Any used oil marketer who directs a shipment of off-specification used oil to a burner shall keep a record of each shipment of used oil to a used oil burner. These records may take the form of a log, invoice, manifest, bill of lading or other shipping documents. Records for each shipment shall include the following information:

- (a) The name and address of the transporter who delivers the used oil to the burner;
- (b) The name and address of the burner who shall receive the used oil;
- (c) The EPA identification number of the transporter who delivers the used oil to the burner;
- (d) The EPA identification number of the burner;
- (e) The quantity of used oil shipped; and
- (f) The date of shipment.

4906.9 A generator, transporter, processor/re-refiner, or burner who first claims that used oil that is to be burned for energy recovery meets the fuel specifications under §4900.15 shall keep a record of each shipment of used oil to an on-specification used oil burner. Records for each shipment must include the following information:

- (a) The name and address of the facility receiving the shipment;
- (b) The quantity of used oil fuel delivered;
- (c) The date of shipment or delivery; and

- (d) A cross-reference to the record of used oil analysis or other information used to make the determination that the oil meets the specification as required under §4906.5.
- 4906.10 The records described in §§4906.8 and 4906.9 shall be maintained for at least three (3) years.
- 4906.11 Before a used oil generator, transporter, or processor/re-refiner directs the first shipment of off-specification used oil fuel to a burner, he or she shall obtain a one-time written and signed notice from the burner certifying that:
  - (a) The burner has notified the Department stating the location and general description of used oil management activities; and
  - (b) The burner shall burn the off-specification used oil only in an industrial furnace or boiler identified in §4905.
- 4906.12 The certification described in §4906.11 shall be maintained for three (3) years from the date the last shipment of off-specification used oil is shipped to the burner.
- 4907 STANDARDS FOR USE AS A DUST SUPPRESSANT AND DISPOSAL OF USED OIL**
- 4907.1 This section applies to all used oils that cannot be recycled and are therefor being disposed.
- 4907.2 Used oils that are identified as a hazardous waste and cannot be recycled in accordance with this Chapter shall be managed in accordance with the hazardous waste management requirements of Chapters 40 through 47 and 50.
- 4907.3 Used oils that are not hazardous wastes and cannot be recycled under this Chapter shall be disposed of in accordance with the requirements of 40 CFR parts 257 and 258.
- 4907.4 The use of used oil as a dust suppressant is prohibited.
- 4907.5 [RESERVED]