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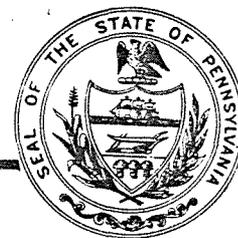
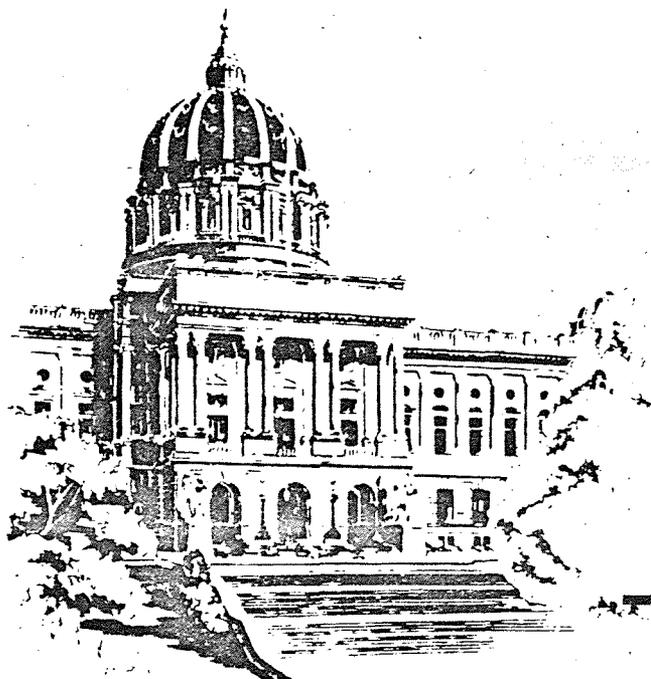
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Part III

This part contains the Environmental Quality
Board's hazardous waste management proposed
rulemaking



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Proposed Rulemaking

DEPARTMENT OF ENVIRONMENTAL RESOURCES

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 75]

Hazardous Waste Management

Notice is hereby given that the Environmental Quality Board proposes to amend 25 Pa. Code Chapter 75, Subchapter D (relating to hazardous waste management). The Board proposes to amend §§ 75.260 (definitions), 75.261 (criteria, identification, and listing of hazardous waste), 75.262 (generators of hazardous waste), 75.263 (transporters of hazardous waste), 75.264 (new and existing hazardous waste management facilities applying for a permit), and 75.265 (interim status for hazardous waste management facilities); and add §§ 75.270 - 75.282 (hazardous waste management permit program), as set forth in Annex A hereto. The proposed amendments implement the Solid Waste Management Act, the act of July 7, 1980 (P. L. 380, No. 97), and are necessary to obtain final authorization under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901 *et seq.*

This notice is given under Board order at its meeting of December 18, 1984.

A. Statutory Authority

The proposed amendments are authorized by sections 104 and 105 of the Solid Waste Management Act, the act of July 7, 1980 (P. L. 380, No. 97) (35 P. S. §§ 6018.104 and 6018.105) and section 1920-A of The Administrative Code, the act of April 9, 1929 (P. L. 177, No. 22) (71 P. S. § 510-20).

B. Contact Person

For further information concerning this proposal, please contact Leon Kuchinski, Division of Hazardous Waste Management, Bureau of Solid Waste Management, Department of Environmental Resources, 8th Floor, Fulton

Building, P. O. Box 2063, Harrisburg, Pa. 17120 (telephone: (717) 787-7381) or Cathy Curran Myers, Assistant Counsel, Bureau of Regulatory Counsel, 505 Executive House, P. O. Box 2357, Harrisburg, Pa. 17120 (telephone: (717) 787-7060).

C. Effective Date

These amendments will go into effect upon publication as final rulemaking in the *Pennsylvania Bulletin*.

D. Background

The Federal Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 *et seq.*, authorizes states to administer and enforce the RCRA hazardous waste program by obtaining final authorization from the United States Environmental Protection Agency (EPA). In order to obtain final authorization, the Commonwealth must demonstrate that it has a hazardous waste regulatory program equivalent to, consistent with, and no less stringent than the Federal program, which is set forth at 40 C.F.R. Subchapter I. In addition, the Commonwealth must adopt EPA's public notice and hearing requirements and assure EPA that the Commonwealth will provide adequate enforcement of the RCRA requirements. See 42 U.S.C. § 6926.

The Environmental Quality Board has already adopted several regulatory elements necessary for final authorization under RCRA. On August 2, 1980, the Environmental Quality Board adopted regulations identifying and listing hazardous wastes. On November 18, 1980, the Board adopted regulations governing the manifest system, notifications, generators, transporters, and operational requirements for new and existing facilities. On the basis of these regulations, the Commonwealth was able to apply for and obtain Federal Phase I Interim Authorization giving the Commonwealth authority to conduct those elements of the regulatory program covered by the regulations.

On February 16, 1982, the Environmental Quality Board adopted regulations establishing design, construction

and permitting requirements for hazardous waste storage, treatment and disposal facilities. With the enactment of those regulations, the Commonwealth began the process of applying for EPA final authorization to conduct all aspects of the hazardous waste management program. The Federal regulations have undergone numerous revisions since the adoption of the February, 1982 regulations. The Environmental Quality Board proposed a package of revisions to the Department's regulations in October of 1983, which were adopted as final rules on January 22, 1985, 15 Pa. B. 2065 (June 1, 1985).

After reviewing the October, 1983 proposed rulemaking package, EPA identified a number of additional areas in which equivalent State regulations do not yet exist, as well as areas in which the State regulations should be modified to assure consistency with the Federal program. The present proposed amendments are a second package of conforming amendments, intended to respond to the EPA comments and to assure that the Commonwealth has adopted all regulations necessary to obtain final RCRA authorization. The Board has also adopted the hazardous waste bonding and financial responsibility regulations which were published as final rulemaking on March 9, 1985 (15 Pa. B. 895).

E. Purpose of Regulations

These regulations are being proposed in order to conform the Commonwealth's hazardous waste management program to Federal requirements. The proposed regulations will make Pennsylvania's regulatory program equivalent to and consistent with the Federal standards in effect as of December 31, 1984, and will enable Pennsylvania to obtain final authorization from EPA for the Commonwealth's hazardous waste program. Many of the proposed amendments are necessitated by recent changes in Federal requirements. Others are proposed in response to comments by EPA which identified areas in which there are no Commonwealth regula-

Material proposed to be added to an existing rule or regulation is printed in **bold face** and material proposed to be deleted from such a rule or regulation is enclosed in brackets [] and printed in **bold face**. Asterisks indicate ellipsis of *Pennsylvania Code* text retained without change. Proposed new or additional regulations are printed in standard type face.

For details relating to fiscal notes see the box at the bottom of the first page of the **Rules and Regulations** heading of the *Pennsylvania Bulletin*.

tions equivalent to Federal requirements or areas in which the Commonwealth regulations are not as stringent as or consistent with Federal requirements. The major revisions are summarized below.

First, new §§ 75.270 — 75.282 have been proposed which would establish permit procedures in addition to those set forth in § 75.265(z). Second, all existing hazardous waste disposal facilities which accepted hazardous waste on or after July 26, 1982, are required by § 75.264(a) to obtain permits from the Department for closure if new permits for the continued operation of such facilities are not obtained. This regulation, in accordance with Federal regulations, will assure that every facility which accepted waste after July 26, 1982, obtains either a permit requiring closure in accordance with closure regulations or a permit regulating the continued operation and subsequent closure of the facility.

A new § 75.260(c) authorizes the Department to approve equivalent testing or analytical methods if such methods are equal or superior to the methods prescribed in the regulations. This will provide the Department more flexibility to respond to advances in testing and analytical methodologies.

The proposed amendments contain minor changes to the existing definitions, adding definitions for closure, draft permit, household waste, and other terms. The definitions are based upon the corresponding EPA regulations. There are also a few minor wording changes to existing regulations for clarification.

The proposed revisions to § 75.261 concerning criteria, identification, and listing of hazardous waste include all modifications made by EPA to the Federal regulations through December 31, 1984. One such modification of significance in Pennsylvania is the general exemption of pickle liquor sludge generated by lime stabilization of spent pickle liquor in the iron and steel industry from the definition of hazardous waste (§ 75.261(b)(3)(ii)). In addition, the proposal would incorporate all future Federal exclusions by reference unless the State by regulation modifies or amends the Federal promulgation as applied to Pennsylvania. The lists of hazardous wastes and related appendices from 40 C.F.R. Part 261 are also incorporated by reference to assure timely updating and avoid unnecessary duplication of the lists which are already available in published form.

An amendment in § 75.261(h)(1) retains the one difference in State application of EPA's Appendix VII; total chromium rather than hexavalent

chromium is used as the basis for listing a waste as hazardous. The use of total chromium is a more conservative measurement, which provides a more stringent and more reliable analysis of potentially hazardous chromium content.

Section 75.262 is being revised to conform the generator manifest requirements to the new uniform requirements recently promulgated by EPA. Consequently, § 75.262(e) has been completely rewritten. Other minor revisions have been made for clarification. The transporter regulations at § 75.263 have likewise been revised to conform to the EPA uniform manifest regulations; § 75.263(d), relating to transporter manifest requirements, has been completely rewritten.

A number of changes have been made to § 75.264 (relating to new and existing hazardous waste management facilities applying for a permit):

The most significant revision is a new requirement that existing facilities that accepted hazardous waste on or after July 26, 1982 obtain closure permits if those facilities do not obtain permits authorizing continued operation (§ 75.264(a)). This section also will now exempt a person disposing of hazardous waste by ocean disposal or underground injection from obtaining a permit for such an activity (§ 75.264(a)(3)(ix), (x)).

Licensed transporters will now not be required to obtain a permit for in-transit storage, provided that they do not store for more than 3 days (§ 75.264(a)(3)(xi)).

The manifest requirements have been rewritten to conform the State system with the new EPA uniform manifest system (§ 75.264(ii)).

Owners and operators of captive facilities will now be required to submit annual reports on the types and quantities of waste handled (§ 75.264(m)(3)).

Owners and operators of surface impoundments used for storage or treatment will, under these regulations, be required to submit closure and postclosure contingency plans in the event they are unable to completely remove all waste and containment system components (§ 75.264(s)(3)(xxxi)).

New performance standards for the final cover and closure of landfills have been added (§ 75.264(v)(3)).

Finally, for incinerators, some additional trial burn plans will now be required as part of the permit application (§ 75.264(w)(25)). This plan details the type of data and format for trial burns.

A comprehensive revision of the groundwater monitoring regulations has been proposed for § 75.264(n);

revisions to the liner regulations are proposed for § 75.264(t); and other revisions to the liner, reporting, and monitoring requirements have been proposed for § 75.264(u)(21), (v)(3), and (z)(22).

Revised standards for the continued operation of interim status facilities have been proposed for § 75.265. New manifest requirements are proposed for § 75.265(j); revised reporting and public notice requirements are proposed for § 75.265(m)(1)(i) and (o). Additional standards for hazardous waste piles and landfills are proposed for § 75.265(t) and (v). Finally, the permit requirements set forth in § 75.265(z) have been modified to conform to revised EPA regulations, and a cross-reference to §§ 75.270 — 75.282 has been included to alert permit applicants and permittees to the additional permit regulations set forth in §§ 75.270 — 75.282.

The permitting requirements in §§ 75.270 — 75.282 have been added to the regulations to conform to the Federal permit requirements. Section 75.270 sets forth a number of general permit conditions which apply to all permitted facilities. Section 75.271 provides for the exclusion of emergency clean-up activities from permit requirement. Section 75.272 establishes requirements for interim status facilities. Section 75.273 (general application requirements) and § 75.274 (contents of Part A permit applications) describe permit application requirements.

Section 75.275 (standard conditions for permits) describes the conditions that will be included in permits and duties of the permittee to comply with the permit conditions. Section 75.276 describes recordkeeping and reporting of monitoring results. Section 75.277 (schedules of compliance) authorizes the Department to include a compliance schedule within a permit. Sections 75.278 — 75.280 establish criteria and procedures for revocation, modification and reissuance of permits. Section 75.281 establishes public notice requirements and § 75.282 deals with public hearings. The proposed §§ 75.270 — 75.282 are virtually identical to the corresponding EPA regulations set forth at 40 C.F.R. Part 270.

F. Executive Order 1982-2

Benefits and Costs

Executive Order 1982-2 requires a statement of the benefits of a proposal and the costs that may be imposed. The direct benefits of the proposal includes the increased protection of human health and the environment and the decreased costs of abating pollu-

tion as a result of the adoption of more comprehensive regulations concerning hazardous waste management activities. In addition, the proposed amendments are necessary to obtain final authorization for the Commonwealth's hazardous waste management program.

Permit applicants and facility owners and operators who comply with legislative and regulatory requirements in Pennsylvania will benefit from final authorization; they will achieve compliance more expeditiously and economically because there will be only a single State regulatory program, rather than a dual program administered at both the State and Federal levels. As long as the Commonwealth is unable to obtain final authorization, private entities which manage hazardous waste in Pennsylvania will be forced to pay the costs of obtaining permits from both the State and Federal governments and are subject to regulatory programs at both levels of government. Adoption of these proposed amendments will avoid potential conflict between Federal and State regulatory requirements and will assure a more efficient and uniform hazardous waste management program in Pennsylvania. Finally, without final authorization, the Commonwealth may lose several million dollars per year in Federal funding.

The proposed amendments would impose costs upon those persons preparing and submitting applications for permits for hazardous waste storage, treatment, and disposal activities and, to a lesser extent, upon hazardous waste facility operators, due to the new permitting and operation requirements. However, the Federal regulations upon which the proposed amendments are based are currently in effect nationwide regardless of whether Pennsylvania has equivalent regulations. Thus, all hazardous waste permit applicants, permittees, and owners and operators must comply with these proposed regulations under the Federal program, whether or not the regulations are adopted by the Environmental Quality Board.

Paperwork Requirements

Executive Order 1982-2 also requires a statement of the need for, and a description of, any forms, reports, or other paperwork required as a result of this proposal. Because the proposed amendments are based upon minimum Federal requirements which apply nationwide regardless of the Commonwealth's rulemaking, the proposed amendments impose no paperwork not already required under the Federal program.

G. Sunset Date

Because the amendments are necessary in order for the Commonwealth to obtain RCRA authorization, a sunset date has not been proposed. The effectiveness of the Commonwealth's program will be evaluated on an ongoing basis by both the Department and EPA and, if any deficiencies are found, they will be addressed in program modifications or revised regulations, as appropriate.

H. Regulatory Review Act

The Regulatory Review Act of 1982 (P. L. 633, No. 181) establishes a procedure for review of proposed amendments by the Independent Regulatory Review Commission and the relevant standing committees in each house of the General Assembly. Under section 5(a) of that act, a copy of this proposal was submitted to the Independent Regulatory Review Commission and to the chairpersons of the Senate Committee on Environmental Resources and the House Conservation Committee on May 22, 1985. In addition to the proposal, the Commission and the committees were provided with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1982-2, "Improving Government Regulations." A copy of this material is available from Leon Kuchinski, whose address and telephone number are provided in Section B. The Board will consider any comments or suggestions received from the Commission and the committees, together with other public comments, prior to adopting a final amendment.

As provided in sections 5(c) and 7(a) of the Regulatory Review Act, these amendments will be deemed approved by the Committee on June 11, 1985 and by the Independent Regulatory Review Commission on June 20, 1985, unless the committees or the Commission recommend disapproval before these dates. If either the committees or the Commission recommend disapproval of the amendments, the Regulatory Review Act specifies detailed procedures for review by the Department, the Governor, and the General Assembly of the objections raised.

I. Public Participation

The Environmental Quality Board will hold three public hearings on the proposal. The hearings will be held on the following dates, times, and locations:

July 1, 1985, 3 p.m. — 8 p.m., Sheraton Inn, Salon A, 3400 Airport Road, Allentown.

July 2, 1985, 3 p.m. — 8 p.m., Holi-

day Inn, Emporium Room, 1450 S. Atherton St., State College.

July 9, 1985, 3 p.m. — 8 p.m., Behrend Campus, Penn State University, Reed Bldg., 2nd floor lecture hall, Room 117, Erie.

Persons wishing to present testimony at these hearings should contact David Hess, Deputy Director for Regulatory Analysis, Office of Policy, 2nd floor Fulton Bldg., P. O. Box 2063, Harrisburg, Pa. 17120, (717) 783-1303, at least 1 week in advance of the hearing at which the testimony is to be given. Oral testimony will be limited to 10 minutes for each witness, and two written copies of oral testimony should be submitted. Organizations are requested to designate one witness to present testimony on behalf of affected organizations.

Interested persons are also invited to submit written comments, suggestions, or objections regarding the proposal to the Environmental Quality Board, P. O. Box 2063, Harrisburg, Pa. 17120, with a copy to Leon Kuchinski, whose address is provided in Section B. These comments must be received by July 16, 1985. Interested persons may also submit a summary of their comments to the Board and Mr. Kuchinski. The summary will be provided to each member of the Board in the agenda packet and distributed prior to each meeting. The summary shall not exceed one page in length and must be received by July 16, 1985.

NICHOLAS DeBENEDICTIS,
Chairman

Fiscal Note: 7-114. No fiscal impact; (8) recommends adoption. These proposed amendments would make the Commonwealth's hazardous waste management program equivalent to and consistent with Federal EPA standards now in effect and thus enable the State to obtain primary enforcement responsibilities. The Commonwealth would be eligible to receive \$2.4 million from EPA to assist in administering the program.

Annex A

TITLE 25. ENVIRONMENTAL RESOURCES

PART I. DEPARTMENT OF ENVIRONMENTAL RESOURCES

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE I. LAND RESOURCES

CHAPTER 75. SOLID WASTE MANAGEMENT

Subchapter D. HAZARDOUS WASTE

PROPOSED RULEMAKING

§ 75.260. Definitions and requests for determinations.

(a) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Approved program or approved state — A state or interstate program which has been approved or authorized by the EPA under 40 C.F.R. Part 271 (relating to requirements for authorizations of state hazardous waste programs).

* * * * *

Closure — The act of securing a hazardous waste management facility under the requirements of §§ 75.264 and 75.265 (relating to new and existing hazardous waste management facilities applying for a permit and interim status standards for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities).

* * * * *

Draft permit — A document indicating the Department's tentative decision to issue, deny, modify, amend, revoke and reissue, or revoke a permit. A notice of intent to revoke, and a notice of intent to deny a permit are types of draft permits. Draft permits shall contain conditions, compliance schedules, and monitoring requirements.

* * * * *

EPA manifest document number — The EPA twelve digit identification number assigned to the generator plus a unique five digit document number assigned to the manifest by the generator for recording and reporting purposes.

* * * * *

Equivalent method — A testing or analytical method determined by the Department under § 75.260(c) (relating to definitions and requests for determinations) to be equivalent to methods specified in this chapter.

* * * * *

Fact sheet — A document that sets forth the principal facts, and the significant factual, legal, methodological, and policy questions considered in preparing a draft permit that the Department finds is the subject of widespread public interest or raises major issues, or a draft permit that incorporates a variance or requires an explanation.

* * * * *

Food processing waste — Residual materials in liquid or solid form generated in the slaughtering of poultry and livestock, or in processing and converting fish, seafood, milk, meats, and

eggs to food products [;] . [t] The term also [means] includes residual materials generated in the processing, converting, or manufacturing of fruits, vegetables, crops and other commodities into marketable food items.

* * * * *

Household waste — Waste material — including garbage, trash, and sanitary wastes in septic tanks — derived from households — including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas.

* * * * *

Identification number — The number assigned by the EPA or the number provided to the Department by the EPA for assignment to each generator, transporter, and treatment, storage, or disposal facility handling hazardous waste.

* * * * *

International shipment — The transportation of hazardous waste into or out of the jurisdiction of the United States.

* * * * *

Manifest — [A] The shipping document EPA Form 8700-22, and if necessary, EPA Form 8700-22A, originated, [and] signed, [by the generator, which provides information required by § 75.262 (relating to generators of hazardous waste)] and distributed in accordance with the instructions supplied with the manifest form.

* * * * *

Manifest system — [A written record] The manifest, instructions supplied with the manifest, and distribution system for copies of the manifest which together identify [ing] the [quantity, composition,] origin, routing, and destination of hazardous waste from the point of generation to the point of treatment, storage, or disposal under §§ 75.262(e), 75.263(d), 75.264(j), and 75.265(j) (relating to generators of hazardous waste, transporters of hazardous waste, new and existing hazardous waste management facilities applying for a permit and interim status standards for hazardous waste management facilities and permit programs for new and existing hazardous waste management facilities).

* * * * *

Movement — Hazardous waste transported to a facility in an individual vehicle.

* * * * *

100-year flood — The flood magnitude expected to be equalled or exceeded on the average of once in 100 years; it may

also be expressed as the flood having a 1.0% chance of being equalled or exceeded in a given year.

100-year floodplain — The lands adjoining a river or stream that have been or may be expected to be inundated by flood waters in a 100-year frequency flood.

* * * * *

Permit — A written document issued by the Department under the act which authorizes the recipient to undertake the treatment storage or disposal of hazardous waste under the act. The term does not include interim status or a permit which has not yet been the subject of final Department action, such as a draft permit or a proposed permit.

Permit by rule — A reference in this subchapter § 75.265(z)(14) (relating to interim status standards for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities) stating that a facility or activity is deemed to have a hazardous waste management permit if it meets the requirements of § 75.265(z)(14).

* * * * *

Schedule of compliance — A schedule of remedial measures that may be included in a permit, or other written document, including an enforceable sequence of interim requirements — for example: actions, operations, or milestone events — leading to compliance with the appropriate act and regulations.

* * * * *

State manifest document number — The state abbreviation, the letter, and [T] the unique number assigned to [a particular] the manifest, usually preprinted on the form, [form, usually printed in the upper right corner of the form] for recording and reporting purposes.

* * * * *

Transfer facility — A transportation related facility including loading docks, parking areas, storage areas, and similar areas where shipments of hazardous waste are held during the normal course of transportation.

* * * * *

Washout — The uncontrolled movements of hazardous waste from the active portion of the facility by floodwaters as a result of flooding.

* * * * *

(b) Written requests. Written requests to determine if a waste generated at a particular facility does not exhibit the properties nor contain the substances which were the bases for listing that waste as a hazardous

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waste in § 75.261 (relating to criteria, identification and listing of hazardous wastes) shall consist of the following:

* * * * *

(2) The procedures in this subsection may also be used to request the Department for a determination of nonapplicability of § 75.261(b)(1) (i) or (ii) or (3) [(relating to criteria, identification and listing of hazardous waste)] to a waste listed in § 75.261(h) [(relating to criteria, identification and listing of hazardous waste)] containing a waste listed in § 75.261(h) [(relating to criteria, identification and listing of hazardous waste)], or derived from a waste listed in § 75.261(h) [(relating to criteria, identification and listing of hazardous waste)]. This determination shall only apply to a particular generating, storage, treatment, or disposal facility. The request shall be accompanied by demonstrated proof that the subject waste generated at the facility does not meet any of the criteria under § 75.261(g) [(relating to criteria, identification and listing of hazardous waste)]. However, if the waste is a mixture of solid waste and one or more hazardous wastes listed under § 75.261(h) [(relating to criteria, identification and listing of hazardous waste)], or is derived from one or more hazardous wastes, the demonstration may be performed specific to each constituent listed waste, or to the waste mixture as a whole.

* * * * *

(c) Requests for determination of equivalent testing or analytical methods.

(1) No person or municipality may use a testing or analytical method not specified in §§ 75.261, 75.264, or 75.265 unless the method is approved in writing by the Department. The Department will not approve an equivalent method unless the person or municipality demonstrates to the satisfaction of the Department that:

(i) The proposed method is equal to or superior to the corresponding method prescribed in §§ 75.261, 75.264, or 75.265, in terms of its sensitivity, accuracy and precision, that is, reproductibility.

(ii) The method is equivalent to a method set forth in the EPA publication *Test Methods for the Evaluation of Solid Waste: Physical/Chemical Methods (SW 846)*.

(2) A person or municipality who requests Department approval of an equivalent method shall submit the following information to the Department:

- (i) The requestor's name and address.
(ii) A statement of the requestor's interest in the proposed method.

(iii) A description of the proposed method.

(iv) A statement of the need and justification for the proposed method, including supporting tests, studies, or other information.

(v) A full description of the proposed method, including procedural steps and equipment used in the method.

(vi) A description of the types of wastes or waste matrices for which the proposed method may be used.

(vii) Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in the §§ 75.261, 75.264, or 75.265.

(viii) An assessment of factors which may interfere with, or limit the use of the proposed method.

(ix) A description of the quality control procedures necessary to ensure the sensitivity, accuracy and precision of the proposed method.

(3) A person or municipality who requests approval of an equivalent method shall submit to the Department additional information on the proposed method which may be reasonably required by the Department to evaluate the method.

(4) Testing or analytical methods approved by the EPA administrator under 40 C.F.R. Part 260.21 (relating to petitions for equivalent testing or analytical methods) shall be deemed to be approved by the Department as an equivalent testing or analytical method.

§ 75.261. Criteria, identification, and listing of hazardous waste.

* * * * *

(b) Determination of hazardous waste.

(1) A [hazardous] solid waste is a [solid] hazardous waste [which] if it is not excluded as a hazardous waste under subsection (c) and meets any of the following criteria:

* * * * *

(3) Unless and until it meets the criteria of paragraph (4):

* * * * *

(ii) [Any s] Solid waste generated from the treatment, storage or disposal of a hazardous waste, including [any] sludge, spill residue, ash, emission control dust or leachate — but not including precipitation run-off — is a hazardous waste. Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC codes 331 and 332) is not a hazardous waste even though it is generated from the treatment of a hazardous

waste, unless it exhibits one or more of the characteristics of a hazardous waste identified in subsection (g).

(4) [Any s] Solid waste described in paragraph (3) is not a hazardous waste if it meets one of the following criteria:

(i) In the case of [any] solid waste, it does not exhibit any of the characteristics of hazardous waste identified in subsection (g).

* * * * *

(c) Exclusions. The following solid wastes are specifically excluded as hazardous wastes:

* * * * *

(6) [Industrial lunchroom or office waste and h] Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered, [() such as refuse-derived fuel] , or reused.

* * * * *

(16) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries, so long as the chromium in the waste is exclusively — or nearly exclusively — trivalent chromium, the waste is generated from an industrial process which uses trivalent chromium exclusively or nearly exclusively, the process does not generate hexavalent chromium, and the waste is managed in non-oxidizing environments. If the waste meets any of the characteristics of hazardous wastes identified in subsection (g), except for the characteristic of E. P. toxicity for chromium, this paragraph shall not apply and the waste shall be considered a hazardous waste subject to all applicable requirements of this chapter.

* * * * *

(18) Waste excluded under 40 C.F.R. § 261.4 (relating to exclusions) after December 31, 1984, is incorporated by reference and effective on the date established by the Federal regulations unless otherwise established in this title.

* * * * *

(d) Special requirements for hazardous waste generated by small quantity generators.

* * * * *

(9) [A large quantity generator may notify according to § 75.267 (relating to notification of hazardous waste activities) as a small quantity generator when he first qualifies as a small quantity generator according to this subsection.] A person or municipality whose status changes from a small quantity generator to a large quantity generator shall file a notification form with the Department under

PROPOSED RULEMAKING

§ 75.267 (relating to notification of hazardous waste activities) and shall comply with §§ 75.262 — 75.266, 75.270 — 75.282, and 75.301 — 75.335. A person or municipality who changes status from a large quantity to a small quantity generator may notify the Department under § 75.267.

(10) If a small quantity generator mixes a solid waste with a hazardous waste so that the resultant mixture exceeds a quantity exclusion level of this section, the mixture is subject to regulation as a hazardous waste.

(e) *Special requirements for hazardous waste which is used, reused, recycled or reclaimed.*

(1) Except as provided in paragraph (2) [A] a generator or transporter of hazardous waste identified in subsection (g) or an owner or operator of a facility which beneficially uses [,] or reuses, or legitimately recycles or reclaims a hazardous waste [which] that is being beneficially used [,] or reused, [or] legitimately recycled or reclaimed [; or] , transported, accumulated, stored or physically, chemically, or biologically treated prior to the beneficial use or reuse or legitimate recycling or reclamation shall be subject to the applicable notification, manifest, and quarterly report requirement of this chapter, except that a license for transportation [shall] is not [be] required. The requirements of this [subsection] paragraph [shall] do not apply to materials which are destined to be recycled and which have a commercial value, have historically had a commercial value, [and] have a history of routine commercial trade and have been so verified in writing by the Department.

(g) *Characteristics of hazardous waste.*

(2) *Characteristic of ignitability.*

(i) A solid waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(A) It is a liquid with a flash point less than 60°C (140°F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79, D-93-80, or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78, or as determined by an equivalent test method approved by the Department under § 75.260(c) (relating to definitions and requests for determinations). An aqueous solution containing less than 24 [percent] % alcohol by volume is

excluded from this definition.

(3) *Characteristic of corrosivity.*

(i) A solid waste exhibits the characteristic of corrosivity if a representative sample of the waste has either of the following properties:

(A) It is aqueous and has a pH less than or equal to 2.0 or greater than or equal to 12.5, as determined by a pH meter using either the test method specified in the "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (also described in "Methods for Analysis of Water and Wastes" EPA 600/4-79-020, March 1979), or an equivalent test method approved by the Department under § 75.260(c).

(5) *Characteristic of EP toxicity.*

(i) A solid waste exhibits the characteristic of EP toxicity if, using the test methods described in Appendix II or equivalent methods approved by the Department under § 75.260(c), the extract from a representative sample of the waste contains any of the contaminants listed in Table I at a concentration equal to or greater than the respective value given in that Table. When the waste contains less than 0.5% filterable solids as determined by the test procedure described in Appendix II, the waste itself, after filtering, is considered to be the extract for the purposes of this subsection.

(h) *Lists of hazardous wastes.* [Lists of hazardous waste shall conform with the following:]

(1) *General.* [Hazardous wastes shall be:]

(i) A solid waste is a hazardous waste if it is listed or referenced in this subsection unless it has been exempted under § 75.260 [(relating to definitions and requests for determinations)].

(ii) [The basis for listing the classes or types of wastes listed in this subsection is indicated by one or more of the following hazard codes:

- (A) Ignitable Waste (I)
- (B) Corrosive Waste (C)
- (C) Reactive Waste (R)
- (D) EP Toxic Waste (E)
- (E) Acute Hazardous Waste (H)
- (F) Toxic Waste (T)

Appendix VII identifies the constituent(s) that cause the waste to be listed as an EP Toxic Waste (E) or Toxic Waste

(T) in paragraphs (2) or (3).] This subsection incorporates by reference the Federal hazardous waste lists promulgated under RCRA at 40 C.F.R. Part 261, Subpart D (relating to lists of hazardous wastes) and 40 C.F.R. §§ 261.30(b) and 261.33(e) and (f) (relating to discarded and commercial chemical products, off-specification species, container residues and spill residues thereof) pertaining to the lists. In Appendix VII of Part 261, total chromium replaces hexavalent chromium as a basis for listing hazardous waste.

(iii) Each hazardous waste listed or referenced in this subsection is assigned a Hazardous Waste Number which precedes the name of the waste. This number shall be used in complying with the notification requirements and certain recordkeeping and reporting requirements under § 75.262 — 75.267.

(Editor's Note: The Department proposes to delete the listing following the heading in § 75.261(h)(2) and replace it by the following:)

(2) *List of hazardous waste from nonspecific sources.* The list of hazardous wastes from nonspecific sources promulgated under RCRA at 40 C.F.R. § 261.31 (relating to hazardous waste from nonspecific sources) is incorporated by reference. Additions, revisions or deletions to the list adopted by EPA are incorporated into this chapter and are effective on the date established by the Federal regulations, unless otherwise established by regulation of the Department.

(Editor's Note: The Department proposes to delete the listing following the heading in § 75.261(h)(3) in its entirety and replace it with the following:)

(3) *List of hazardous waste from specific sources.* The list of hazardous waste from specific sources promulgated under RCRA at 40 C.F.R. § 261.32 (relating to hazardous waste from specific sources) is incorporated by reference. Additions, revisions or deletions to the list adopted by EPA are incorporated into this chapter and are effective on the date established by the Federal regulations, unless otherwise established by regulation of the Department.

(4) *Commercial chemical products.* The following containers and commercial chemical products, off-specification species, and spill residues thereof are hazardous wastes if and when they are discarded or intended to be discarded:

[(v) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial

chemical products or manufacturing chemical intermediates which, if they meet specifications, would have a generic name listed in this subparagraph, that are referred to in subparagraphs (i) — (iv) are identified as acute hazardous wastes (H) and are subject to the small quantity exclusion defined in subsection (d)(1) and (2). For convenience of the regulated community, the primary hazardous properties of these materials have been identified by the letters T (toxic) and R (reactive). Absence of a letter indicates that the compound is only listed as acute hazardous. These wastes and their corresponding hazardous waste numbers are:]

(Editor's Note: Under 1 Pa. Code § 3.31 (relating to publication of official synopsis in lieu of full text), a synopsis of the following change is being published in lieu of reproducing 25 Pa. Code 75.261(h)(4)(v) in its entirety. The Department proposes to delete the listing following the introductory paragraph in § 75.261(h)(4)(v) in its entirety and replace it with the following:)

(v) The list of discarded commercial chemical products, off-specification species, container residues, and spill residues promulgated under RCRA at 40 C.F.R. § 261.33(e) is incorporated by reference. Additions, revisions, or deletions from the list adopted by EPA are incorporated into this chapter and are effective on the date established by Federal regulations, unless otherwise established in this title.

[(vi) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products or manufacturing chemical intermediates, which if they meet specifications, would have a generic name listed in this subparagraph, that are referred to in subparagraphs (i), (ii), and (iv) are identified as toxic wastes (T) unless otherwise designated and are subject to the small quantity exclusion in paragraph (1) and (2). For the convenience of the regulated community, the primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability) and C (Corrosivity). Absence of a letter indicates that the compound is only listed for toxicity. These wastes and their corresponding hazardous waste numbers are:]

(Editor's Note: The Department proposes to delete the listing following the introductory paragraph in § 75.261(h)(vi) in its entirety and replace it with the following:)

(vi) The list of discarded commercial chemical products, off-specification species, container residues, and spill residues promulgated under RCRA at 40

C.F.R. § 261.33(f) is incorporated by reference. Additions or revisions to or deletions from the list adopted by EPA are incorporated into this chapter and are effective on the date established by Federal regulations, unless otherwise established in this title.

(Editor's Note: The Department proposes to delete Appendices I, II, III, VII and VIII of § 75.261 in their entirety and replace them with the following:)

(vii) The appendices in 40 C.F.R. Part 261 (relating to identification and listing of hazardous waste) are incorporated by reference. Revisions to the appendices are incorporated into this chapter and are effective on the date established by Federal regulations, unless otherwise established in this title.

§ 75.262. Generators of hazardous waste.

(a) Scope.

(1) This section establishes standards for a generator of hazardous waste identified in § 75.261 (relating to criteria, identification, and listing of hazardous waste) who is located within this Commonwealth. [Any other] A generator who is located outside this Commonwealth and whose hazardous waste is designated for treatment, storage, or disposal within [the] this Commonwealth shall be subject to all the requirements of this section except subsections (g),(l),(m), and (n). Small quantity generators identified in § 75.261(d) (relating to criteria, identification and listing of hazardous waste) are subject only to the requirements of subsection (b).

* * * * *

(4) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility shall comply with the generator standards established in this section.

(b) Hazardous waste determination.

(1) A person or municipality who generates a solid waste as defined in [Article I] section 103 of the act (35 P. S. [§] § [6018.101 — 6018.108] 6018.103) shall determine if that waste is a hazardous waste using the following procedure:

* * * * *

(iii) If the waste is not listed, in 75.261(h), he shall determine whether the waste is identified in § 75.261(g) [(relating to criteria, identification and listing of hazardous waste)] by either:

(A) [t] Testing the waste according to the methods set forth in § 75.261 [(relating to criteria, identification and listing of hazardous waste)] or accord-

ing to an equivalent method approved by the Department under § 75.260(c) [; or (relating to definitions and requests for determinations)] .

(B) [a] Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

* * * * *

(c) Identification numbers.

* * * * *

(2) A generator who has not received an identification number may obtain one by applying to the Department using [the notification form] DER Form ER-SWM-53. Upon receiving the request, the Department will assign an identification number to the generator.

* * * * *

(e) Manifest.

[(1) General requirements for a manifest shall consist of the following:

(i) A generator who transports or offers for transportation a shipment of hazardous waste to an off-site treatment, storage, or disposal facility shall complete a manifest before the waste is transported off-site.

(ii) For all hazardous waste shipments designated for off-site treatment, storage, or disposal within this Commonwealth, the generator shall use the manifest forms provided by the Department and shall use the manifest forms according to the instructions specified on the manifest.

(iii) For all hazardous waste shipments generated in this Commonwealth and designated for treatment, storage, or disposal outside this Commonwealth, the generator shall use the EPA authorized disposer state manifest form or format, or a manifest form meeting the minimum EPA requirements.

(iv) A generator shall designate on the manifest one facility which is permitted to manage the waste described on the manifest.

(v) The Department manifest shall require the following information as a minimum:

(A) A unique manifest document number.

(B) The names, site addresses, telephone numbers, and identification numbers of the generator, transporters, and treatment, storage, or disposal facility.

(C) The proper United States Department of Transportation shipping name, United States Department of Transportation hazard class, and U. N. number of the waste as outlined in the United States Department of Transportation 49 C.F.R. §§ 172.101, 172.202, and 172.203.

PROPOSED RULEMAKING

(D) The physical form (solid, liquid, or gas), the total quantity of each hazardous waste by units of weight or volume, and the type and number of containers.

(E) A certification equivalent to the following: "This is to certify that the above named materials are properly classified, described, packaged, marked and labelled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation, United States EPA, and the State. The wastes described were consigned to the transporter named. The treatment, storage, or disposal (TSD) facility can and will accept the shipment, and has a valid permit to do so. I certify that the foregoing is true and correct to the best of my knowledge."

(2) The hazardous waste manifest shall consist of six copies, with copies 1, 2, and 3 detaching into two parts, A and B. The manifest form shall be completed and routed as follows, except that manifests for bulk shipments transported by rail or water shall be completed and routed according to the scheme set forth in paragraph (7).

(i) The generator shall complete Part A of all copies of the manifest. The generator shall instruct the initial transporter's authorized representative to sign, date, and certify the receipt of the shipment.

(ii) For shipments of hazardous waste generated within the Commonwealth of Pennsylvania and to be disposed of within the Commonwealth, the generator shall retain a complete Copy 2 of the manifest and Part A of Copy 3 for his records.

(iii) In the case of an interstate shipment of hazardous waste, the generator shall detach Part A of Copies 1, 2, and 3, distribute Part A, Copy 1 to the disposer state, Part A, Copy 2 to the generator state, and retain Part A, Copy 3 for his records.

(iv) The transporter's authorized representative shall carry the remaining copies of the manifest along with the shipment.

(v) Upon delivery of the shipment to the designated treatment, storage, or disposal facility, or to transporter number two, transporter number one shall sign and date and certify delivery of the shipment, obtain the signature, date of receipt of shipment, and certification of the treatment, storage, or disposal facility's authorized representative or the authorized representative of transporter number two and detach and retain Copy 5 of the manifest.

(vi) Upon delivery of the shipment to the designated treatment, storage, or disposal facility by transporter number two, transporter number two shall sign and

date and certify the delivery of shipment, obtain the signature, date of receipt of shipment, and certification of the treatment, storage, or disposal facility's authorized representative and detach and retain Copy 6 of the manifest.

(vii) For shipments within this Commonwealth, the treatment, storage, or disposal facility's authorized representative shall retain complete Copies 1 and 4 of the manifest and return Part B of Copy 3 of the manifest.

(viii) In the case of the interstate shipment of hazardous waste, the treatment, storage, or disposal facility's authorized representative shall detach and distribute Part B of Copies 1, 2, and 3 of the manifest in the following manner:

(A) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 1 of the manifest to the state in which the designated treatment, storage, or disposal facility is located.

(B) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 2 of the manifest to the state in which the installation generating the hazardous waste is located and shall return Part B of Copy 3 of the manifest to the generator within 24 hours after the delivery of the shipment. The treatment, storage, or disposal facility shall retain Copy 4 for its records.

(3) Each manifest form shall record a maximum of two transporters. If more than two transporters use to be utilized, the generator shall complete additional manifest forms and reference the first manifest document number on such additional manifest forms.

(4) If more than four hazardous wastes from the same generator are to be shipped in the same shipment, the generator shall complete additional manifests for each group of four or less hazardous wastes.

(5) Copies of the manifest retained by the generator and the treatment, storage, or disposal facility shall be furnished to the Department upon request.

(6) If the transporter is unable to deliver the hazardous waste to the designated facility, the generator shall prepare a new manifest designating another facility which is permitted to handle the waste described in the manifest or instruct the transporter to return the waste to the generator.

(7) For bulk shipment of hazardous waste designated for treatment, storage, or disposal within this Commonwealth solely by railroad or water, the manifest shall be completed and routed as follows:

(i) The generator shall complete Part A of all copies of the manifest. The generator shall instruct the initial transporter's

authorized representative to sign and date and certify the receipt of the shipment.

(ii) For shipments of hazardous waste generated within this Commonwealth and to be disposed of within this Commonwealth, the generator shall retain a complete Copy 2 of the manifest and Part A of Copy 3 for his records.

(iii) In the case of an interstate shipment of hazardous waste, the generator shall detach Part A of Copies 1, 2, and 3, distribute Part A of Copy 1 to the disposer state, Part A of Copy 2 to the generator state, and retain Part A of Copy 3.

(iv) The generator or the initial transporter delivering a shipment of hazardous waste to the rail or water transporter shall obtain the signature and date and certification of the rail or water transporter on the manifest and forward the remaining copies of the manifest, except those for additional transporters, to the designated treatment, storage, or disposal facility. Each transporter other than the rail or water transporter shall retain his copy of the manifest for his records.

(v) The rail or water transporter shall carry, along with the shipment, either his copy of the manifest or the shipping paper containing all the information required on the manifest in paragraph (1)(v) except the identification numbers, generator's certification, and signatures.

(vi) The delivering rail or water transporter shall obtain the signature, date of receipt of shipment, and certification of the authorized representative of the treatment, storage, or disposal facility on either the manifest or the shipping paper.

(vii) The designated treatment, storage, or disposal facility's authorized representative shall sign and date and certify the acceptance of the shipment on the manifest forwarded by the generator or initial transporter and shall obtain the signature, date of delivery of shipment, and certification of the rail or water transporter.

(viii) For shipments within this Commonwealth, the treatment, storage, or disposal facility's authorized representative shall retain completed Copies 1 and 4 of the manifest and return Part B of Copy 3 to the generator.

(ix) In the case of the interstate shipment of hazardous waste the treatment, storage, or disposal facility's authorized representative shall detach and distribute Part B of Copies 1, 2, and 3 of the manifest in the following manner:

(A) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 1 of the manifest to the state in which the designated treatment, storage, or disposal facility is located.

(B) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 2 of the manifest to the state in which the installation generating the hazardous waste is located, and shall return Part B of Copy 3 of the manifest to the generator within 24 hours after the delivery of the shipment. The treatment, storage, and disposal facility shall retain Copy 4 for its records.]

(1) A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal shall prepare a manifest according to the instructions supplied with the manifest.

(2) A generator who transports or offers for transportation hazardous waste for off-site treatment, storage, or disposal in this Commonwealth shall obtain the manifest from the Department.

(3) A generator who transports or offers for transportation hazardous waste for off-site treatment, storage, or disposal outside this Commonwealth shall obtain the manifest from the destination state.

(4) If the destination state does not supply the manifest, the generator shall obtain the manifest from the Department.

(5) A generator shall designate on the manifest one facility which is permitted to handle the waste described on the manifest.

(6) If the transporter is unable to deliver the hazardous waste to the designated facility, the generator shall instruct the transporter to return the waste.

(7) The generator shall provide the following information on each manifest he prepares before the off-site transportation of the manifested waste occurs:

(i) The generator's EPA ID Number and the unique five digit number assigned to this manifest by the generator — EPA manifest document number.

(ii) Total number of pages used to complete the manifest.

(iii) The name, mailing address, and telephone number of the generator.

(iv) The State manifest document number assigned by the Department.

(v) Each transporter's company name, EPA ID Number, Pennsylvania Hazardous Waste Transporter License Number, and telephone number.

(vi) The designated facility's name, site address, EPA ID Number, and telephone number.

(vii) The U.S. Department of Transportation Proper Shipping Name, Hazard Class, and ID Number — UN or NA — for each waste as identified by 40

C.F.R. §§ 171 — 177 (relating to hazardous materials regulations).

(viii) The number of containers and container type, and the total quantity of the waste by either weight or volume.

(ix) The hazardous waste numbers for each waste.

(x) The physical state and hazard codes for each waste.

(xi) Special handling instructions and any necessary additional information for proper handling and treatment of the waste during transportation.

(xii) The generator's written certification stating: "I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national governmental regulations, and all applicable State laws/regulations."

(xiii) The printed or typed name and the signature of the generator's authorized representative and the date of the shipment.

(xiv) The printed or typed name and the signature of each transporter's authorized representative and each date of receipt.

(xv) The printed or typed name and the signature of the designated facility's authorized representative and the date of receipt.

(xvi) A continuation sheet, EPA Form 8700-22A, when there are more than two transporters, or for lab packs when there are more than four different waste streams in one shipment.

(8) If there are more than four different waste streams in one shipment, except for lab packs, the generator shall complete another manifest according to the instructions.

(9) The manifest shall consist of eight copies.

(10) The generator shall read and sign by hand the certification statement on the manifest.

(11) The generator shall obtain the printed or typed name, the handwritten signature of the initial transporter, and the date of acceptance on the manifest before the shipment is transported off-site.

(12) The generator shall detach copies 6, 7 and 8 of the manifest.

(13) A generator located in this Commonwealth and designating a facility in this Commonwealth shall retain copies 6, 7, and 8 of the manifest for his records under subsection (h).

(14) A generator located outside this Commonwealth and designating a facility in this Commonwealth shall submit copy 6 of the manifest to the Department and copy 7 to the generator state within 7 days of the date of the shipment and retain copy 8 for his records under subsection (h).

(15) A generator located in this Commonwealth and designating a facility within a state that does not supply the manifest shall submit copy 7 of the manifest to the Department and copy 6 to the destination state within 7 days of the date of the shipment and retain copy 8 for his records under subsection (h).

(16) A generator located in this Commonwealth and designating a facility within a state that supplies the manifest shall provide the information and distribute the copies as required by the manifest in accordance with the instructions supplied with the manifest and retain one copy for his records under subsection (h).

(17) The generator shall ensure that the required information on all copies of the manifest is capable of being read.

(18) The generator shall give the transporter the remaining copies of the manifest.

(19) For shipments of hazardous waste designated for treatment, storage, or disposal in this Commonwealth solely by railroad or solely by water — bulk shipments only — the generator shall send the remaining copies of the manifest dated and signed under this subsection to the owner or operator of the designated facility within 7 days of the date of the shipment. Copies of the manifest are not required for each transporter.

(20) Copies of the manifest retained by the generator under this subsection shall be furnished to the Department upon request.

* * * * *

(i) Quarterly report.

(1) A generator who ships hazardous waste off-site shall submit quarterly reports:

(i) To the Department on a form designated by the Department. The form shall contain as a minimum the following information.

* * * * *

(D) The name, identification number, and address of each HWM facility. For exported shipments, the report shall give the name and address of the foreign facility.

* * * * *

(2) A generator who treats, stores, or disposes of only his own hazardous waste at an on-site facility [shall] may

not submit quarterly reports to the Department. The generator shall, however, submit an annual report to the Department under §§ 75.264(m)(3) or 75.265(m)(3) (relating to new and existing hazardous waste management facilities applying for a permit and interim status standards for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities) as applicable. [He shall, however, maintain records of hazardous waste treatment, storage, and disposal activity pursuant to §§ 75.264(k) or 75.265(k) as applicable. These records shall be kept on a form specified by the Department, and shall be maintained for the life of the facility as a part of its operating record. These records shall be made available to the Department upon request.]

* * * * *

§ 75.263. Transporters of hazardous waste.

(a) *Scope.*

(1) This section [shall apply] applies to [any] a person or municipality who transports hazardous wastes which are generated, stored, treated or disposed of [within the] in this Commonwealth [.], except that transporters transporting hazardous waste through this Commonwealth, neither picking up or delivering hazardous waste in this Commonwealth, need only comply with the EPA transporter requirements in 40 C.F.R. § 263 (relating to standards applicable to transporters of hazardous waste).

* * * * *

(b) *Identification number.*

* * * * *

(2) A transporter who has not received an identification number may obtain one by applying to the Department using [the notification] Department form ER-SWM-53. Upon receiving the request, the Department will assign an identification number to the transporter.

* * * * *

(d) *Manifest.*

[(1) General requirements for a manifest shall consist of the following:

(i) A generator who transports or offers for transportation a shipment of hazardous waste to an off-site treatment, storage, or disposal facility shall complete a manifest before the waste is transported off-site.

(ii) For all hazardous waste shipments designated for off-site treatment, storage, or disposal within this Commonwealth, the generator shall use the manifest forms provided by the Department and shall dis-

tribute the manifest form according to the instructions specified on the manifest.

(iii) For all hazardous waste shipments generated in this Commonwealth and designated for treatment, storage, or disposal outside this Commonwealth, the generator shall use the EPA-authorized disposer state manifest form or format, or a manifest form meeting the minimum EPA requirements.

(iv) A generator shall designate on the manifest one facility which is permitted to manage the waste described on the manifest.

(v) The Department manifest will require the following information as a minimum:

(A) A unique manifest document number.

(B) The names, site addresses, telephone numbers, and identification numbers of the generator, transporter, and treatment, storage, or disposal facility.

(C) The proper United States Department of Transportation shipping name, United States Department of Transportation hazard class, and U. N. number of the waste in accordance with regulations of the United States Department of Transportation under 49 C.F.R. §§ 172.101, 172.202, and 172.203.

(D) The physical form — solid, liquid, or gas — the total quantity of each hazardous waste by units of weight or volume, and the type and number of containers.

(E) A certification equivalent to the following: "This is to certify that the above named materials are properly classified, described, packaged, marked and labelled and are in proper condition for transportation according to the applicable regulations of the U. S. Department of Transportation, U. S. EPA, and the State. The wastes described were consigned to the transporter named. The treatment, storage, or disposal (TSD) facility can and will accept the shipment, and has a valid permit to do so. I certify that the foregoing is true and correct to the best of my knowledge."

(2) The hazardous waste manifest shall consist of six copies, with Copies 1, 2, and 3 detaching into two parts, A and B. The manifest form shall be completed and routed as follows, except that manifests for bulk shipments transported by rail or water shall be completed and routed according to the scheme set forth in paragraph (11).

(i) The generator shall complete Part A of all copies of the manifest. The generator shall instruct the initial transporter's authorized representative to sign, date, and certify the receipt of the shipment.

(ii) For shipments of hazardous waste generated within the Commonwealth of Pennsylvania and to be disposed of within the Commonwealth of Pennsylvania, the generator shall retain a complete Copy 2 of the manifest and Part A of Copy 3 for his records.

(iii) In the case of an interstate shipment of hazardous waste, the generator shall detach Part A of Copies 1, 2, and 3, distribute Part A, Copy 1 to the disposer state, Part A, Copy 2 to the generator state, and retain Part A, Copy 3 for his records.

(iv) The transporter's authorized representative shall carry the remaining copies of the manifest along with the shipment.

(v) Upon delivery of the shipment to the designated treatment, storage, or disposal facility, or to transporter number two, transporter number one shall sign and date and certify delivery of the shipment, obtain the signature, date of receipt of shipment, and certification of the treatment, storage, or disposal facility's authorized representative or the authorized representative of transporter number two and detach and retain Copy 5 of the manifest.

(vi) Upon delivery of the shipment to the designated treatment, storage, or disposal facility by transporter number two, transporter number two shall sign and date and certify the delivery of shipment, obtain the signature, date of receipt of shipment, and certification of the treatment, storage, or disposal facility's authorized representative and detach and retain Copy 6 of the manifest.

(vii) For shipments within the Commonwealth of Pennsylvania, the treatment, storage, or disposal facility's authorized representative shall retain complete Copies 1 and 4 of the manifest and return Part B of Copy 3 to the generator.

(viii) In the case of the interstate shipment of hazardous waste, the treatment, storage, or disposal facility's authorized representative shall detach and distribute Part B of Copies 1, 2, and 3 of the manifest in the following manner:

(A) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 1 of the manifest to the state in which the designated treatment, storage, or disposal facility is located.

(B) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 2 of the manifest to the state in which the installation generating the hazardous waste is located and shall return Part B of Copy 3 of the manifest to the generator within 24 hours after the delivery of the shipment. the treat-

ment, storage, or disposal facility shall retain Copy 4 for its records.

(3) Each manifest form shall record a maximum of two transporters. If more than two transporters are to be utilized, the generator shall complete additional manifest forms and reference the first manifest document number on such additional manifest forms.

(4) If more than four hazardous wastes from the same generator are to be shipped in the same shipment, the generator shall complete additional manifests for each group of four or less hazardous wastes.

(5) Copies of the manifest retained by the generator and the treatment, storage, or disposal facility shall be furnished to the Department upon request.

(6) Except as otherwise provided in § 75.261(d) and (e) (relating to criteria, identification, and listing of hazardous waste) and subsection (g), a transporter shall not accept a shipment of hazardous waste from a generator or another transporter unless the shipment is accompanied by a completed manifest.

(7) A transporter shall not accept or transport a shipment of hazardous waste:

(i) which is in containers or packaging which are leaking or appear to be leaking, damaged, or otherwise not in compliance with § 75.262 (relating to generators of hazardous waste);

(ii) which is not labeled, marked, and placarded in accordance with § 75.262 (relating to generators of hazardous waste); and

(iii) unless the number and type of containers to be transported are as stated on the manifest.

(8) Except as otherwise provided in § 75.261(d)(7) (relating to criteria, identification, and listing of hazardous waste), hazardous waste shipments shall be transported only to:

(i) the hazardous waste storage, treatment, or disposal facility which the generator has designated on the manifest as a facility permitted by the Department to manage such waste or as a facility not within this Commonwealth which is authorized to manage such waste by a State or Federal government; or

(ii) the next designated transporter.

(9) A transporter of hazardous waste shall ensure the following are performed:

(i) The number of copies to the manifest required by this subsection accompany the shipment of hazardous waste at all times.

(ii) The shipment complies with all applicable United States Department of Transportation requirements and Pennsylvania Department of Transportation

regulations.

(iii) Delivery of the entire quantity of hazardous waste which he has accepted from a generator or a transporter.

(10) If the hazardous waste cannot be delivered in accordance with paragraphs (2) and (11), the transporter shall contact the generator for further instruction.

(11) For bulk shipment of hazardous waste designated for treatment, storage, or disposal within this Commonwealth solely by railroad or water, the manifest shall be completed and routed as follows:

(i) The generator shall complete Part A of all copies of the manifest. The generator shall instruct the initial transporter's authorized representative to sign and date and certify the receipt of the shipment.

(ii) For shipments of hazardous waste generated within this Commonwealth and to be disposed of within this Commonwealth, the generator shall retain a complete Copy 2 of the manifest and Part A of Copy 3 for his records.

(iii) In the case of an interstate shipment of hazardous waste, the generator shall detach Part A of Copies 1, 2, and 3, distribute Part A of Copy 1 to the disposer state, Part A of Copy 2 to the generator state, and retain Part A of Copy 3.

(iv) The generator or the initial transporter delivering a shipment of hazardous waste to the rail or water transporter shall obtain the signature and date and certification of the rail or water transporter on the manifest and forward the remaining copies of the manifest, except those for additional transporters, to the designated treatment, storage, or disposal facility. Each transporter other than the rail or water transporter shall retain his copy of the manifest for his records.

(v) The rail or water transporter shall carry, along with the shipment, either his copy of the manifest or the shipping paper containing all the information required on the manifest in paragraph (1)(v) except the identification numbers, generator's certification, and signatures.

(vi) The delivering rail or water transporter shall obtain the signature, date of receipt of shipment, and certification of the authorized representative of the treatment, storage, or disposal facility on either the manifest or the shipping paper.

(vii) The designated treatment, storage, or disposal facility's authorized representative shall sign and date and certify the acceptance of the shipment on the manifest forwarded by the generator and the initial transporter and shall obtain the signature, date of delivery of shipment, and certification of the rail or water transporter.

(viii) For shipments within this Com-

monwealth, the treatment, storage, or disposal facility's authorized representative shall retain completed Copies 1 and 4 of the manifest and return Part B of Copy 3 to the generator.

(ix) In the case of the interstate shipment of hazardous waste, the treatment, storage, or disposal facility's authorized representative shall detach and distribute Part B of Copies 1, 2, and 3 of the manifest in the following manner:

(A) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 1 of the manifest to the state in which the designated treatment, storage, or disposal facility is located.

(B) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 2 of the manifest to the state in which the installation generating the hazardous waste is located, and shall return Part B of Copy 3 of the manifest to the generator within 24 hours after the delivery of the shipment. The treatment, storage, or disposal facility shall retain Copy 4 for its records.]

(1) A transporter may not accept hazardous waste from a generator or another transporter unless it is accompanied by a manifest which has been completed and signed by the generator under § 75.262 (relating to generators of hazardous waste).

(2) Before transporting the hazardous waste, the transporter shall print or type his name, sign, and date the manifest and, by his signature, acknowledge his acceptance of the hazardous waste from the generator. The transporter shall return the appropriate number of copies of the manifest according to the instructions supplied with the manifest to the generator before leaving the generator's property.

(3) The transporter shall ensure that the manifest accompanies the hazardous waste.

(4) A transporter who delivers a hazardous waste to another transporter or to the designated facility shall:

(i) Obtain on the manifest the date of delivery, the printed or typed name, and the handwritten signature of the subsequent transporter or of the owner, operator or authorized representative of the designated facility.

(ii) Retain one copy of the manifest according to the instructions supplied with the manifest under subsection (f).

(iii) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(5) The requirements of paragraphs (3) and (4) do not apply to rail or wa-

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ter — bulk shipment — transporters if:

(i) The hazardous waste is delivered by rail or water — bulk shipment — to the designated facility.

(ii) A shipping paper containing all the information required on the manifest — excluding the EPA ID Numbers, generator certification, signatures, and optional state information accompanies the hazardous waste.

(iii) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper.

(iv) The person delivering the hazardous waste to the initial rail or water — bulk shipment — transporter obtains the date of delivery, the printed or typed name, and signature of the rail or water — bulk shipment — transporter on the manifest and forwards it to the designated facility within 7 days of the date of delivery.

(v) A copy of the shipping paper or manifest is retained by each rail or water — bulk shipment — transporter in accordance with the instructions supplied with the manifest and subsection (f).

(vi) The remaining copies of the manifest are forwarded to the designated facility.

(6) Transporters who transport hazardous waste out of the United States shall:

(i) Indicate on the manifest the date the hazardous waste left the United States.

(ii) Sign the manifest and retain one copy in accordance with the instructions supplied with the manifest and subsection (f).

(iii) Return a signed copy of the manifest according to the instructions supplied with the manifest to the generator within 7 days of the date of delivery.

(7) The transporter shall deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter to one of the following:

(i) The designated facility listed on the manifest.

(ii) The next designated transporter listed on the manifest.

(iii) The designated facility outside the United States listed on the manifest.

(8) If the hazardous waste cannot be delivered under paragraph (7), the transporter shall return the waste to the generator.

(9) A transporter of hazardous waste shall ensure that the shipment complies with all applicable United States Department

of Transportation regulations and 67 Pa. Code Part I (relating to Department of Transportation).

(10) A transporter may not accept or transport a shipment of hazardous waste if one of the following occurs:

(i) The waste is in containers or packaging which are or appear to be leaking, damaged, or otherwise do not comply with § 75.262.

(ii) The waste is in containers or packaging not marked under § 75.262(f) (1)(iii).

(iii) The number and type of containers to be transported do not correspond with the number and type stated in the manifest.

* * * * *

(f) Recordkeeping.

* * * * *

(2) For shipments delivered to the designated hazardous waste management facility in bulk by rail or water, each rail or water transporter shall retain a copy of a shipping paper containing all the information required in subsection (d) [(9)] for a period of 20 years.

* * * * *

§ 75.264. New and existing hazardous waste management facilities applying for a permit.

(a) Scope.

(1) Except as provided in paragraph (4), this section establishes the following:

(i) The [acceptable] minimum standards for new hazardous waste management facilities as defined in § [75.261 (relating to criteria, identification, and listing of hazardous waste)] 75.260 (relating to definitions and request for determinations) and for existing hazardous waste management facilities subject to the requirements of § 75.265(z) (relating to interim status standards for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities) and §§ 75.270 — 75.282 (relating to hazardous waste management permit program).

(ii) The minimum standards for the closure and post-closure care of a hazardous waste surface impoundment, waste pile, land treatment or landfill facility that accepted hazardous waste on or after July 26, 1982 which does not have a hazardous waste permit and is required to have post-closure ground-water monitoring under subsection (n). These HWM facilities shall be subject to applicable requirements of this section, and shall also apply for and obtain a permit for post-

closure care required under subsection (o) in accordance with the procedures set forth in § 75.265(z) and §§ 75.270 — 75.282. These HWM facilities will not be required to meet the liner requirements — this does not exclude applicable cap requirements — leachate collection system requirements, ground-water isolation distance requirements, leachate collection and storage requirements, and leachate treatment facility requirements as specified in subsections (s), (t), or (v) for post-closure permitting, unless otherwise specified by the Department.

* * * * *

(3) The requirements of this section do not apply to the following:

* * * * *

(ix) A person or municipality who disposes of hazardous waste by ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C.A. §§ 1401 — 1445. This section does apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea, as provided in paragraph (2).

(x) A person or municipality who disposes of hazardous waste underground by means of a Class I underground injection well subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act (42 U.S.C.A. §§ 300f — 300j-10). Class I injection wells are those wells injecting hazardous waste beneath the lowest known underground source of drinking water. This section does apply to the above ground treatment or storage of hazardous waste before it is injected underground, as provided in paragraph (2).

(xi) A licensed transporter that has a valid license issued under the act utilizing normal in-transit storage of manifested shipments of hazardous waste in containers that meet the requirements of § 75.262(f) (relating to generators of hazardous waste) for a period not to exceed 3 days, or for a period not to exceed 5 days if the transporter has an in-transit storage preparedness, prevention, and contingency plan approved in writing by the Department.

* * * * *

(e) General inspection and construction inspection requirements.

* * * * *

(3) The frequency of the inspection may vary for the items on the schedule. However, it should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health inci-

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dent if the deterioration or malfunction or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, shall be inspected daily when in use. The inspection schedule shall be submitted with Part B of the permit application § 75.265(z). At a minimum, the inspection schedule shall include the terms and frequencies of inspections required under subsections (d) and (q) — [(y)] (w), and § 75.265(x) and (y).

* * * * *

(g) *General requirements for ignitable, reactive, or incompatible wastes.*

* * * * *

(2) When specifically required by other subsections of this section, the owner or operator of a facility that treats, stores, or disposes of ignitable or reactive waste, or mixes incompatible wastes and other materials, shall take precautions to prevent reactions which:

(i) Generate [uncontrolled] extreme heat or pressure, fire or explosion, or violent reactions.

* * * * *

(i) *Preparedness, Prevention, and Contingency (PPC) Plan and emergency procedures.*

* * * * *

(12) Whenever there is an imminent or actual emergency situation, the emergency coordinator shall immediately:

* * * * *

(ii) [n] Notify State and local agencies with designated response roles if their help is needed.

* * * * *

(j) *Manifest system and discrepancy reporting.*

[(1) Requirements in this subsection apply to owners and operators of off-site facilities and on-site facilities receiving hazardous waste from off-site sources, except as otherwise provided in subsection (a).

(2) General requirements for a manifest shall consist of the following:

(i) A generator who transports or offers for transportation a shipment of hazardous waste to an off-site treatment, storage, or disposal facility shall complete a manifest before the waste is transported off-site.

(ii) For all hazardous waste shipments designated for off-site treatment, storage, or disposal within this Commonwealth, the generator shall use the manifest form provided by the Department and shall dis-

tribute the manifest form according to the instructions specified on the manifest.

(iii) For all hazardous waste shipments generated in this Commonwealth and designated for treatment, storage, or disposal outside this Commonwealth, the generator shall use the EPA-authorized disposer state manifest form or format, or a manifest form meeting the minimum EPA requirements.

(iv) A generator shall designate on the manifest one facility which is permitted to manage the waste described on the manifest.

(v) The Department manifest shall require the following information as a minimum:

(A) A unique manifest document number.

(B) The names, site addresses, telephone numbers, and identification numbers of the generator, transporters, and treatment, storage, or disposal facility.

(C) The proper United States Department of Transportation shipping name, United States Department of Transportation hazard class, and U. N. number of the waste in accordance with regulations of the United States Department of Transportation under 49 C.F.R. §§ 172.101, 172.202, and 172.203.

(D) The physical form (solid, liquid or gas), the total quantity of each hazardous waste by units of weight or volume, and the type and number of containers.

(E) A certification equivalent to the following: "This is to certify that the above named materials are properly classified, described, packaged, marked, and labelled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation, United States EPA, and the State. The wastes described were consigned to the transporter named. The treatment, storage, or disposal (TSD) facility can and will accept the shipment, and has a valid permit to do so. I certify that the foregoing is true and correct to the best of my knowledge."

(3) The hazardous waste manifest shall consist of six copies, with Copies 1, 2, and 3 detaching into two parts, A and B. The manifest form shall be completed and routed as follows, except that manifests for bulk shipments transported by rail or water shall be completed and routed according to scheme set forth in paragraph (9).

(i) The generator shall complete Part A of all copies of the manifest. The generator shall instruct the initial transporter's authorized representative to sign, date, and certify the receipt of the shipment.

(ii) For shipments of hazardous waste

generated within this Commonwealth and to be disposed of within this Commonwealth, the generator shall retain a complete Copy 2 of the manifest and Part A of Copy 3 for his records.

(iii) In the case of an interstate shipment of hazardous waste, the generator shall detach Part A of Copies 1, 2, and 3, distribute Part A, Copy 1 to the disposer state, Part A, Copy 2 to the generator state, and retain Part A, Copy 3 for his records.

(iv) The transporter's authorized representative shall carry the remaining copies of the manifest along with the shipment.

(v) Upon delivery of the shipment to the designated treatment, storage, or disposal facility, or to transporter number two, transporter number one shall sign and date and certify delivery of the shipment, obtain the signature, date of receipt of shipment, and certification of the treatment, storage, or disposal facility's authorized representative or the authorized representative of transporter number two and detach and retain Copy 5 of the manifest.

(vi) Upon delivery of the shipment to the designated treatment, storage, or disposal facility by transporter number two, transporter number two shall sign and date and certify the delivery of shipment, obtain the signature, date of receipt of shipment, and certification of the treatment, storage, or disposal facility's authorized representative and detach and retain Copy 6 of the manifest.

(vii) For shipments within this Commonwealth, the treatment, storage, or disposal facility's authorized representative shall retain complete copies 1 and 4 of the manifest and return Part B of Copy 3 to the generator within 24 hours after delivery of the shipment.

(viii) In the case of the interstate shipment of hazardous waste, the treatment, storage, or disposal facility's authorized representative shall detach and distribute Part B of Copies 1, 2, and 3 of the manifest in the following manner:

(A) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 1 of the manifest to the state in which the designated treatment, storage, or disposal facility is located.

(B) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 2 of the manifest to the state in which the installation generating the hazardous waste is located and shall return Part B of Copy 3 of the manifest to the generator within 24 hours after the delivery of the shipment. The treatment, storage, or disposal facility shall retain Copy 4 for its records.

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(4) Each manifest form shall record a maximum of two transporters. If more than two transporters are to be utilized, the generator shall complete additional manifest forms and reference the first manifest document number on such additional manifest forms.

(5) If more than four hazardous wastes from the same generator are to be shipped in the same shipment, the generator shall complete additional manifests for each group of four or less hazardous wastes.

(6) Copies of the manifest retained by the generator and the treatment, storage, or disposal facility shall be furnished to the Department upon request.

(7) Note any significant discrepancies in the manifest as defined in paragraph (10) on each copy of the manifest.

(8) Retain at the facility a copy of each manifest for at least 20 years from the date of delivery.

(9) For bulk shipment of hazardous waste designated for treatment, storage, or disposal within this Commonwealth solely by railroad or water, the manifest shall be completed and routed as follows:

(i) The generator shall complete Part A of all copies of the manifest. The generator shall instruct the initial transporter's authorized representative to sign and date and certify the receipt of the shipment.

(ii) For shipments of hazardous waste generated within the Commonwealth of Pennsylvania and to be disposed of within the Commonwealth of Pennsylvania, the generator shall retain a complete Copy 2 of the manifest and Part A of Copy 3 for his records.

(iii) In the case of an interstate shipment of hazardous waste, the generator shall detach Part A of Copies 1, 2, and 3, distribute Part A of Copy 1 to the disposer state, Part A of Copy 2 to the generator state, and retain Part A of Copy 3.

(iv) The generator or the initial transporter delivering a shipment of hazardous waste to the rail or water transporter shall obtain the signature and date and certification of the rail or water transporter on the manifest and forward the remaining copies of the manifest, except those for additional transporters, to the designated treatment, storage, or disposal facility. Each transporter, other than the rail or water transporter, shall retain his copy of the manifest for his records. The rail or water transporter may retain a copy at their discretion.

(v) The rail or water transporter shall carry along with the shipment either his copy of the manifest or the shipping paper containing all the information required on the manifest in § 75.263(d)(1)(v) (relating to transporters of hazardous waste) except the identifica-

tion numbers, generator's certification, and signatures.

(vi) The delivering rail or water transporter shall obtain the signature, date of receipt of shipment, and certification of the authorized representative of the treatment, storage, or disposal facility on either the manifest or the shipping paper.

(vii) The designated treatment, storage, or disposal facility's authorized representative shall sign and date and certify the acceptance of the shipment on the manifest forwarded by the generator or initial transporter and shall obtain the signature and date and certification of the rail or water transporter.

(viii) For shipments within this Commonwealth, of the treatment, storage, or disposal facility's authorized representative shall retain completed Copies 1 and 4 of the manifest and return Part B of Copy 3 to the generator.

(ix) In the case of the interstate shipment of hazardous waste, the treatment, storage, or disposal facility's authorized representative shall detach and distribute Part B of Copies 1, 2, and 3 of the manifest in the following manner:

(A) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 1 of the manifest to the state in which the designated treatment, storage, or disposal facility is located.

(B) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 2 of the manifest to the state in which the installation generating the hazardous waste is located, and shall return Part B of Copy 3 of the manifest to the generator within 24 hours after the delivery of the shipment. The treatment, storage, or disposal facility shall retain Copy 4 for its records.

(10) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives.

(i) Significant discrepancies in quantity are:

(A) for bulk waste, variations greater than 2.0% in weight; and

(B) for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload.

(ii) Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper, or differences in physical form, color, odor, and the like.

(11) Upon discovering a significant discrepancy, the owner or operator shall reconcile the discrepancy with the waste generator or transporter before the waste is stored, treated, or disposed at the HWM facility. If the discrepancy is not resolved within three days after receiving the waste, the owner or operator shall immediately notify the Department by telephone and a letter describing the discrepancy and attempts to reconcile it, enclosing a copy of the manifest or shipping paper at issue.]

(1) The requirements in this subsection apply to owners and operators of off-site facilities and on-site facilities receiving hazardous waste from off-site sources except as otherwise provided in subsection (a). This subsection does not apply to owners and operators of on-site facilities that do not receive hazardous waste from off-site sources.

(2) Except as otherwise provided in paragraph (4), no owner or operator may accept hazardous waste shipments received from an off-site sources unless the shipment is accompanied by the Department's manifest.

(3) The owner or operator of the facility, or his authorized representative, shall:

(i) Print or type his name, sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received.

(ii) Note significant discrepancies in the manifest, as defined in paragraphs (9) and (10), on each copy of the manifest.

(iii) Immediately give the transporter at least one copy of the signed manifest.

(iv) Detach copies 1, 2, 3, and 4 of the manifest.

(v) Within 7 days after the date of delivery, send copy 3 of the manifest to the generator.

(vi) If the generator is located in this Commonwealth, retain copies 1 and 2 at the facility for its records under paragraph (5).

(vii) If the generator is located outside this Commonwealth, within 7 days after the date of delivery, send copy 1 of the manifest to the Department and copy 2 to the generator state.

(viii) Retain at the facility copy 4 of the manifest for his records under paragraph (5).

(4) If a facility receives, from a rail or water — bulk shipment — transporter, hazardous waste which is accompanied by a shipping paper that contains the information required on the manifest — excluding EPA ID Numbers, generator's certification, and signatures, and optional State information — the owner or

operator, or his authorized representative, shall:

(i) Sign and date each copy of the shipping paper to certify that the hazardous waste covered by the shipping paper was received.

(ii) Note significant discrepancies in the shipping paper, as defined in paragraphs (9) and (10), on each copy of the shipping paper.

(iii) Immediately give the rail or water — bulk shipment — transporter at least one copy of the shipping paper.

(iv) Within 7 days after the date of delivery, send a copy of the shipping paper to the generator.

(v) Detach copies 1, 2, 3 and 4 of the manifest.

(vi) Within 7 days after the date of delivery, send copy 3 of the manifest to the generator.

(vii) If the generator is located in this Commonwealth, retain copies 1 and 2 for the owner or operator's records under paragraph (5).

(viii) If the generator is located outside this Commonwealth, within 7 days after the date of delivery, send copy 1 of the manifest to the Department and copy 2 to the generator state.

(ix) Retain a copy of each shipping paper and manifest for the owner or operator's records under paragraph (5).

(5) The owner or operator of the facility shall retain the required copies of the manifest or shipping paper for at least 20 years from the date of delivery.

(6) Copies of the manifest and shipping paper retained by the owner or operator under this subsection shall be furnished to the Department upon request.

(7) An owner or operator of a facility, or his authorized representative, who transports, or offers for transportation, hazardous waste for offsite treatment, storage, or disposal shall comply with § 75.262 (relating to generators of hazardous waste) and prepare a manifest in accordance with the instructions supplied with the manifest.

(8) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source shall notify the Department in writing at least 4 weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

(9) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest

or shipping paper, and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are:

(i) For bulk waste, variations greater than 2.0% in weight.

(ii) For batch waste, a variation in piece count, such as a discrepancy of one drum in a truckload. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper, or differences in physical state, color, odor, and the like.

(10) If there is a significant manifest discrepancy, as defined in paragraph (9), the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter, for example with telephone conversations, before the waste is treated, stored, or disposed at the facility. If the discrepancy is not resolved within 3 days after receiving the waste, the owner or operator shall immediately notify the Department by telephone and send a letter to the Department describing the discrepancy and attempts to reconcile it, including a copy of the manifest or shipping paper at issue.

(k) Operating record.

* * * * *

(2) The following information shall be recorded, as it becomes available, and be maintained in the operating record until closure of the facility:

* * * * *

(ii) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste shall be recorded on a map or diagram of each cell or disposal area. The maps or diagrams shall be drawn to scale and tied to permanently surveyed benchmarks. For all facilities, this information shall include cross-references to specific State manifest document numbers and EPA manifest document numbers, if the waste was accompanied by a manifest.

* * * * *

(m) Quarterly facility report and additional reports.

(1) Except as otherwise provided by paragraph (3), the owner or operator of an on-site or off-site facility shall submit quarterly reports:

(i) To the Department on a form designated by the Department. The form shall contain as a minimum the following information:

* * * * *

(D) The name, identification number and address of each generator; for imported shipments the report shall give the name and address of the foreign generator.

(E) The description, Department of Transportation hazard class, and hazardous waste number, and date of treatment, storage, or disposal of the hazardous waste. For off-site facilities, this information must be listed by the identification number of each generator.

(F) The amount and units of measure of each hazardous waste in a shipment and the method of treatment, storage, or disposal for each hazardous waste.

* * * * *

(3) The owner or operator of a [C] captive treatment or disposal facility or an on-site storage facility [facilities] [shall] may not submit quarterly reports to the Department. The owner or operator of the facility shall, however, submit a single copy of an annual report to the Department, on a form specified by the Department, by March 1 of each year. The report shall describe facility activities during the previous calendar year and shall include the information required in subsection (m)(1)(i)(A), (B), (E), (H), and (J), a description of each hazardous waste managed, the amount and units of measure of each hazardous waste managed, and the method of treatment, storage, or disposal for each hazardous waste for the calendar year covered by the report. [They shall however, maintain record of hazardous waste treatment storage, and disposal activity pursuant to subsection (k) on a form specified by the Department.] This form shall be maintained for the life of the facility as a part of its operating record. These records shall be made available to the Department upon request.

* * * * *

(o) Closure and post-closure.

(1) Except as otherwise provided in subsection (a), paragraphs (2) — (9) apply to owners and operators of all hazardous waste management facilities, and paragraphs (10) — (21) [shall] also apply to owners and operators of all hazardous waste disposal facilities except incinerators.

* * * * *

(3) The owner or operator of a hazardous waste management facility shall have a written closure plan. The plan shall be submitted with the permit application for approval in writing by the Department. A copy of the approved plan and all revisions to the plan shall be retained at the facility un-

til closure is completed and certified in accordance with paragraph (9). The plan shall identify steps necessary to completely or partially close the facility at any point during its intended operating life and to completely close the facility at the end of its intended operating life. The closure plan shall include, at least:

(i) A description of how and when the facility will be partially closed, if applicable, and ultimately closed. The description shall identify the maximum extent of the operation which will not be closed during the life of the facility, and how the requirements of paragraphs (2) and (6) - (9), and the applicable closure requirements of subsections (q) - (w), and § 75.265(x) and (y) will be met.

* * * * *

(r) Tanks.

* * * * *

(4) Uncovered tanks shall be operated to ensure at least 60 centimeters (two feet) of freeboard to prevent overtopping by wave or wind action or by precipitation, unless the tank is equipped with an overflow alarm, [and] an overflow device to a standby tank with a capacity equal to or exceeding the volume of the top 60 centimeters (two feet) of the uncovered tank, [or equipped with] and a waste feed cutoff system.

* * * * *

(12) Incompatible waste, or incompatible wastes and materials, as set forth in Appendix IV of § [§ 75.264 and] 75.265 [shall] may not be placed in the same tank except in compliance with subsection (g)(2).

* * * * *

(s) Surface impoundments.

* * * * *

(3) The following are the minimum general design standards required:

(i) A surface impoundment shall be designed, constructed, operated and maintained with sufficient freeboard to prevent [any] overtopping of the dike by overfilling [,] ; wave action [,] ; normal or abnormal operations; wind action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; human error; or [a] storms. There shall be at least 60 centimeters - [two] 2 feet - of freeboard at all times, unless otherwise specified by the Department.

* * * * *

(xxi) During and after construction [or] and installation, liner systems

and cover systems shall be inspected for uniformity, damage, and imperfections, such as holes, cracks, thin spots, and foreign materials. Earth material liner systems shall be inspected for imperfections, including lenses, cracks, channels, root holes, or other structural non-uniformities, and shall be tested for compaction density, moisture content, and permeability after placement. Manufactured liner materials shall be inspected to ensure tight seams and joints and the absence of tears or blisters.

* * * * *

(xxx) For surface impoundments used for disposal, the closure and post-closure care shall conform to subsection (o) and the following specific requirements:

(A) After eliminating any free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues, [A] a final layer of cover material compacted to a minimum uniform depth of [two] 2 feet shall be placed over the entire surface of the surface impoundment. The final cover shall be soils that fall within the United States Department of Agriculture (USDA) textural classes of sandy loam, loam, sandy clay loam, silty clay loam, and silt loam. All other final cover materials [shall] will be approved in writing by the Department. The soil shall compact well, not crack excessively when dry, and support a vegetative cover. The coarse fragment content - fragments not passing the No. 10 mesh sieve, 2 mm. - shall not exceed 50% by volume, and the combustible [and/] or coal content or both [shall] may not exceed 12% by volume. Boulders and stones as classified by USDA shall be excluded from soils used for cover material. The source and volume of final cover necessary and available shall be specified and supported by calculations.

* * * * *

(E) The owner and operator shall:

(I) Maintain the integrity and effectiveness of the final cover, including repair of the cap as necessary to correct the effects of settling, subsidence, erosion, or other events.

(II) Maintain and monitor the leachate detection zone as required by permit or regulation.

(III) Maintain and monitor the ground-water monitoring system and comply with other applicable requirements of subsection (n).

(IV) Prevent run-on and runoff from eroding or otherwise damaging the final cover.

(F) During the post-closure care period, if liquids leak into the leachate detection zone the owner or operator shall notify the Department of the leak in writing within seven days after detecting the leak.

(xxxi) Closure of surface impoundments used for treatment or storage, shall conform to the closure requirements of subsection (o), and, at closure, all hazardous waste, hazardous waste residues and contaminated subsoils shall be removed from the impoundment. Any component of the impoundment, any component of the liner system, or any appurtenant structures or equipment - such as discharge platforms, pipes, baffles, skimmers, aerators, or other equipment - containing or contaminated with hazardous waste or hazardous waste residues shall be decontaminated or removed. [Such] The wastes shall be subject to all applicable regulations. In the event the owner or operator is not able to close the surface impoundment under this subparagraph, the owner or operator shall comply with the closure and post-closure care requirements for surface impoundments used for disposal. At the time of permit application, the owner or operator shall include as part of his closure and post-closure plans:

(A) Contingent closure and post-closure plans for complying with applicable requirements of paragraph (3)(xxx).

(B) Cost estimates for complying with the contingent closure and post-closure plans need not include the cost of removing all hazardous waste, hazardous waste residues, contaminated subsoils or any component of the liner system or appurtenant structures or equipment.

* * * * *

(4) The following are the minimum general operating standards for surface impoundments:

* * * * *

(iii) The owner or operator shall inspect the following as specified below and after storms:

(A) The freeboard level at least once each operating day to detect sudden drops in liquid level and also to insure the minimum freeboard level is being maintained.

* * * * *

(D) Systems to control overtopping, weekly for deterioration, malfunctions or improper operation.

* * * * *

(vii) Whenever there is [any] an indication of a possible failure of the

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surface impoundment, such as leaks or sudden drops in the liquid level, and the drop is not known to be caused by a controlled change in the flow into or out of the impoundment, the impoundment shall be inspected [in accordance with the provisions of] under the Surface Impoundment Evaluation and Repair (SIER) Plan required by subparagraph (x).

* * * * *

(ix) If the surface impoundment is removed from service as required by subparagraph (viii) the owner or operator shall:

* * * * *

(C) [i] Immediately take measures which will stop the leak [; and] .

(D) [i] If the leak cannot be stopped by any other means, empty the impoundment.

(E) Take other necessary steps to stop or prevent catastrophic failure.

(F) Notify the Department of the problem immediately and file a written report within 7 days after detecting the problem describing the nature of the problem and the measures taken to remedy the problem.

* * * * *

(xii) A surface impoundment that has been removed from service due to failure and that is not being repaired shall be closed [in accordance with] under [sub] paragraph [(ix).] (3)(xxx) for surface impoundments used for disposal or paragraph (3)(xxxi) for surface impoundments used for treatment or disposal.

* * * * *

(5) The Department will specify or reference in the permit design and operating practices which the Department deems necessary to ensure that the requirements of this subsection are satisfied. The Department may also require a permittee to take measures, whether or not specified or referenced in the permit, reasonable or necessary to ensure compliance with the act and this subchapter or necessary to protect public health and environment.

(t) Waste piles.

* * * * *

(46) The Department will specify or reference in the permit design and operating practices which the Department deems necessary to ensure that the requirements of this subsection are satisfied.

* * * * *

(v) Landfills.

* * * * *

(3) The following are the minimum general design standards required:

* * * * *

(xiv) All hazardous waste disposed of in a landfill shall be completely underlain by a liner system during its active life and completely enclosed by a liner and cap system at closure. The liner shall be installed to cover all surrounding earth likely to be in contact with the waste or leachate. The landfill liner and cap system shall be constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, the stress of installation and the stress of daily operation. The landfill liner and cap system shall also be designed and constructed with the following components starting from the bottom of the system.

* * * * *

(E) A protective cover zone/leachate collection zone, a minimum of [one] 1 foot thick capable of protecting the primary liner from the hazardous waste and capable of allowing free flow of all liquids and leachate passing through or generated within the hazardous waste. The protective cover shall be stable, uniform, smooth, free of debris, plant material, or other foreign material and shall be constructed of materials that are chemically resistant to the waste managed in the landfill and the leachate expected to be generated. The permeability of this zone shall be greater than 1×10^{-4} cm/sec and the maximum particle size shall be 0.25 inches. A perforated piping system shall be installed within the protective cover which is capable of intercepting the liquids and leachate within the protective cover zone and transmitting them to a collection sump or point, and capable of withstanding all anticipated loads. The piping system design and the pipe spacing, grade, and size shall insure that all liquids and leachate drain through the protective cover at a rate twice the maximum expected rate of infiltration through the waste above. This shall be supported with calculations and drawings. A positive projecting installation design of the piping system shall be used unless otherwise approved in writing by the Department. Stones or aggregate surrounding the pipes shall be large enough to prevent clogging of the pipe and fine enough to prevent damage to the liner. Further measures to prevent

clogging or damage to the pipe and additional measures to prevent damage to the liner shall be installed if required by the Department.

* * * * *

(xvi) The outer perimeter of all liners, caps, and liner and cover systems shall be well protected and well marked through all stages of construction, closure and final closure.

* * * * *

(xxvi) Closure of a landfill shall conform to subsection (o) and the following specific requirements:

* * * * *

(E) The cover system in conjunction with the cap shall also:

(I) Minimize the migration of liquids for the life of the facility through the closed landfill.

(II) Function with minimum maintenance.

(III) Promote drainage and minimize erosion or abrasion of the cover.

(IV) Accommodate settling and subsidence of the landfill so that the cover's integrity is maintained.

(F) After final closure, the owner or operator shall comply with all post-closure requirements contained in subsection (o), including maintenance and monitoring, throughout the post-closure care period. The owner or operator shall also:

(I) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events.

(II) Maintain and monitor the leachate detection zone as required by permit or regulation.

(III) Continue to operate the leachate collection and removal system until leachate is no longer detected.

(IV) Maintain and monitor the ground-water monitoring system and comply with all other applicable requirements of subsection (n).

(V) Prevent run-on and runoff from eroding or otherwise damaging the final cover.

(VI) Protect and maintain all permanent surveyed benchmarks.

(G) During the post-closure care period, if liquid leaks into a leachate detection zone, the owner or operator shall notify the Department of the leak in writing within 7 days after detecting the leak.

* * * * *

(4) The following are the minimum general operating standards required:

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(xix) While a landfill is in operation, the owner or operator shall inspect the following as specified and after storms:

(A) The run-on and runoff control systems at least weekly, for deterioration, malfunctions, or improper operation.

(B) The collection sump or point, [shall be inspected] at least daily, to detect leakage through the top liner. However, the owner or operator [shall not be] is not required to inspect the collection sump or point daily [provided that] if:

(I) The collection sump or point is equipped with an alarm system capable of detecting any accumulation of liquids in the sump of one inch or greater[;] .

(II) [t] The alarm system is maintained in proper working order[; and] .

(III) [t] The owner or operator has received prior written approval from the Department.

(C) Proper functioning of wind dispersal control systems, where present, at least weekly.

(D) The leachate collection and removal systems, at least weekly, for the presence of leachate and the proper functioning of the system.

(5) The Department will specify or reference in the permit design and operating practices which the Department deems necessary to ensure the requirements of this subsection are satisfied.

(w) Incinerators. [Incinerators shall comply with the following:]

(2) A permit shall be required for the construction and operation of an incinerator and related appurtenances. The permit shall include provisions for a trial burn as necessary to meet the requirements of paragraphs (27) — (30), except as otherwise provided for by paragraph (5) or (26).

(3) Before an owner or operator incinerates his own specific hazardous waste or a specific hazardous waste from a specific generator for the first time he shall submit to the Department an analysis of the waste including the following information either with the permit application or on a form specified by the Department. The following parameters of the waste feed shall be analyzed and quantified along with additional parameters as may be required by the Department in order to provide data as required by paragraph (9). Each analysis shall include sample data, sample methods, sample descrip-

tion and collection conditions, analysis data, and laboratory name, address, contact, and telephone number. All analyses submitted shall specify the analytical techniques utilized along with [any] special preparation or deviation from accepted techniques:

(i) General properties.

(C) Heat [ing] value (BTU/lb.)

(G) Identification of any [H] hazardous organic constituents listed in 75.261, Appendix VIII (relating to criteria, identification and listing of hazardous waste) [as appropriate (percent by weight)] which are present in the waste to be burned, except that the application need not analyze for constituents listed in §§ 75.261, Appendix VIII which would reasonably not be expected to be found in the waste. The constituents excluded from analysis shall be identified and the basis for the exclusion stated. The waste analysis shall rely on analytical techniques specified in *Test Methods for the Evaluation of Solid Wastes, Physical/Chemical Methods (SW-846)* or other equivalent method, under § 75.260(c) (relating to definitions and requests for determinations).

(I) An approximate quantification of the hazardous constituents identified in the waste, within the precision produced by the analytical methods specified in *Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods (SW-846)* or other equivalent method under § 75.260(c).

(5) The owner or operator of a hazardous waste incinerator shall burn only wastes specified in his permit and only under operating conditions specified for those wastes. Other hazardous wastes shall be burned only after operating conditions have been specified in a new permit or a permit modification or as otherwise approved in writing by the Department. Operating requirements for new wastes shall be based on the analyses required in paragraph (3) and trial burn results. In lieu of actual trial burn of the waste to be incinerated, alternative data from operational or other trial burns in which similar waste has been incinerated under similar conditions may be substituted to support the contention that a trial burn is not needed. [Such] The data shall demonstrate that the wastes and the incinerator units are sufficiently similar and shall include:

(i) A quantification of the Principal

Organic Hazardous Constituents (POHC's) which the applicant has identified in the waste for which permit or approval is sought, and [any] differences from the POHC's in the waste for which burn data are provided. [Such] The data shall demonstrate compliance with the performance standards in paragraph (6).

(ii) The engineering design and operating conditions of the incinerator unit to be used, compared with that for which comparative burn data are available including:

(A) Manufacturer's name and model number of incinerator.

(B) Type of incinerator.

(C) Linear dimension of incinerator unit, including cross sectional area of combustion chamber.

(D) Description of auxiliary fuel system (type/feed).

(E) Capacity of prime mover.

(F) Description of automatic waste feed cutoff systems.

(G) Stack gas monitoring and pollution control monitoring system.

(H) Nozzle and burner design.

(I) Construction materials.

(J) Location and description of temperature, pressure, and flow indicating devices and control devices.

(iii) A description of the results submitted from [any] previously conducted trial burns including:

(B) Methods and results of monitoring temperatures, waste feed rates, [air feed rates] combustion gas velocity, and carbon monoxide.

(iv) A description and analysis of the waste to be burned compared with the waste for which data from operational or trial burns are provided to support the contention that a trial burn is not needed. The data shall include those items listed in paragraph (3).

(v) The expected incinerator operation information to demonstrate compliance with paragraphs (6) and (7), including:

(A) Expected carbon monoxide (CO) level in the stack exhaust gas.

(B) Waste feed rate.

(C) Combustion zone temperature.

(D) Indication of combustion gas velocity.

(E) Expected stack gas volume, flow rate, and temperature.

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(F) Computed residence time for waste in the combustion zone.

(G) Expected hydrogen halide removal efficiency.

(H) Expected fugitive emissions and their control procedures.

(I) Proposed waste feed cut-off limits based on the identified significant operating parameters.

(vi) Supplemental information the Department finds necessary to achieve the purposes of this subparagraph.

(6) An incinerator burning hazardous waste shall be designed, constructed, and maintained so that, when operated [in accordance with] under operating requirements specified in paragraph (7) it will meet the following performance standards:

(i) An incinerator burning hazardous waste shall achieve a destruction and removal efficiency (DRE) of 99.99% for each Principal Organic Hazardous Constituent (POHC) designated in its permit or approval for each waste feed. DRE is determined for each POHC from the following equation:

$$[DRE = \frac{(Win - Wout)}{Win} \times 100\%]$$

$$DRE = (1 - \frac{Wout}{Win}) \times 100\%$$

Where:

Win = Mass feed rate of one POHC in the waste stream feeding the incinerator; and

Wout = Mass emission rate of the same POHC present in exhaust emissions prior to release to the atmosphere.

(ii) [containing more than 0.5% halogens shall remove 99% of each hydrogen halide from the exhaust gas.] An incinerator burning hazardous waste and producing stack emissions of more than 1.8 kilograms per hour — 4 pounds per hour — of hydrogen halide shall control hydrogen halide emissions so that the rate of emission is no greater than the larger of either 1.8 kilograms per hour or 1.0% of the hydrogen halide in the stack gas prior to entering any pollution control equipment.

* * * * *

(8) Principal Organic Hazardous Constituents (POHC's) in the waste feed shall be treated to the extent required by the performance standards and shall be designed based on the following:

* * * * *

(ii) [The POHC's shall be determined based upon an acceptable ambient concentration (AAC) of the POHC's and/or by-products considering the degree of difficulty of incineration, relative amounts in its waste feed system, and the physical characteristics of the incinerator and the surrounding environment. Clause (A) shows an acceptable AAC for POHC is an ambient air quality standard as referenced in Chapter 131 (relating to ambient air quality standards); clause (B) is the threshold limit value (TLV) as contained in the registry of toxic effects of chemical substances, or cited; or in the absence of either, (C) the lethal concentration (50 percentile) or lethal dose (50 percentile) mammalian as contained in the registry of toxic effects of chemical substances and modified as follows:] The POHCs shall be specified based on the degree of difficulty of incineration of the organic constituents in the waste and on their concentration or mass in the waste feed. Organic constituents which represent the greatest degree of difficulty of incineration, or those present in large quantities or concentrations, are those most likely to be designated as POHCs.

[(A) AAC (ug/m³) = LC₅₀ (mg/m³)/50 or

(B) AAC (ug/m³) = LD₅₀ (mg/kg)/123]

(iii) The POHCs may also be determined based upon an acceptable ambient concentration (AAC) of the POHCs or by-products, or both, and the physical characteristics of the incinerator and the surrounding environment. An AAC for a POHC is an ambient air quality standard as referenced in Chapter 131 (relating to ambient air quality standards) or the threshold limit value (TLV) as contained in the registry of toxic effects of chemical substances, or cited, or in the absence of either, the lethal dose — 50 percentile — mammalian as contained in the registry of toxic effects of chemical substances and modified as follows:

(A) AAC (ug/m³) = LC₅₀ (mg/m³)/50; or

(B) AAC (ug/m³) = LD₅₀ (mg/kg)/123

(9) The owner or operator shall conduct, as a minimum, the following monitoring and inspection while incinerating hazardous waste, and record the data:

(i) Combustion temperature, waste feed rate, [and] air feed rate, and combustion gas velocity on a continuous basis.

* * * * *

(25) The owner or operator of a new hazardous waste incinerator shall comply

with all permit conditions for each of the applicable requirements of this subsection, including, but not limited to, allowable waste feeds and operating conditions necessary to meet the requirements of paragraph (7). The owner or operator shall also comply with the following standards:

(i) For the period beginning with initial introduction of hazardous waste to the incinerator and ending with initiation of the trial burn, and only for the minimum time required to establish operating conditions required in subparagraph (25)(ii), not to exceed a duration of 720 hours operating time for treatment of hazardous waste, the operating requirements shall be those which will ensure compliance with the performance standards of paragraph (6), based on the Department's engineering judgment. The Department may extend the duration of this period once for up to 720 additional hours when good cause for the extension is demonstrated by the applicant.

(ii) For the duration of the trial burn, the operating requirements shall be sufficient to demonstrate compliance with the performance standards of paragraphs (6) and (7) and shall be in accordance with the approved trial burn plan.

(iii) For the period immediately following completion of the trial burn, and only for the minimum period sufficient to allow sample analysis, data computation, and submission of the trial burn results by the applicant, and review of the trial burn results and modification of the facility permit by the Department, the operating requirements shall be those most likely to ensure compliance with the performance standards of paragraph (6) based on the Department's engineering judgment.

(iv) For the remaining duration of the permit, the operating requirements shall be those demonstrated, in a trial burn or by alternative data specified in paragraph (5), as sufficient to ensure compliance with the performance standards of paragraph (6).

(26) After consideration of the waste analysis included with Part B of the permit application, and documentation the applicant may include to demonstrate that the conditions in subparagraphs (i) — (iii) are met, the Department, in establishing the permit conditions, may exempt the applicant from requirements of this subsection, except paragraphs (3), (4) and paragraph (10) if the applicant submits documentation that demonstrates that the following conditions are met:

(i) The Department finds that the waste to be burned is one of the following:

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(A) Listed as a hazardous waste in § 75.261 (relating to criteria, identification, and listing of hazardous waste) solely because it is ignitable (Hazard Code D), corrosive (Hazard Code C), or both.

(B) Listed as a hazardous waste in § 75.261 solely because it is reactive (Hazard Code R) for characteristics other than those in § 75.261(g)(4)(i)(D) and (E); and will not be burned when other hazardous wastes are present in the combustion zone.

(C) A hazardous waste solely because it possesses the characteristic of ignitability, corrosivity, or both, as determined by the test for characteristics of hazardous wastes under § 75.261.

(D) A hazardous waste solely because it possesses a reactivity characteristic described by § 75.261(g)(4)(i)(A) — (C) and (F) — (H), and will not be burned when other hazardous wastes are present in the combustion zone.

(ii) The waste analysis shows that the waste contains none of the hazardous constituents listed in § 75.261, Appendix VIII (relating to hazardous constituents), which would reasonably be expected to be in the waste.

(iii) The waste to be burned is one which is described by subparagraph (i)(A), (B), (C) or (D) and contains insignificant concentrations of the hazardous constituents listed in § 75.261, Appendix VIII. The Department may, in establishing permit conditions, exempt the applicant from requirements of this subsection, except paragraphs (3) and (4) — waste analysis — and paragraph (10) — closure — after consideration of the waste analysis included with Part B of the permit application, unless the Department finds that the waste will pose a threat to human health and the environment when burned in an incinerator.

(27) Except as specified in paragraphs (5) or (26), a trial burn plan for conducting trial burns shall be submitted with the application for a permit. This plan shall include the following:

(i) An analysis of the waste as specified in paragraph (3).

(ii) A detailed engineering description of the incinerator for which the permit is sought including the following information:

(A) Manufacturer's name and model number of incinerator (if available).

(B) Type of incinerator.

(C) Linear dimensions of the incinerator unit including the cross sectional area of combustion chamber.

(D) Description of the auxiliary fuel system — type/feed.

(E) Capacity of prime mover.

(F) Description of automatic waste feed cut-off systems.

(G) Stack gas monitoring and pollution control equipment.

(H) Nozzle and burner design.

(I) Construction materials.

(J) Location and description of temperature, pressure, and flow indicating and control devices.

(iii) A detailed description of sampling and monitoring procedures, including sampling and monitoring locations in the system, the equipment to be used, sampling and monitoring frequency, and planned analytical procedures for sample analysis.

(iv) A detailed test schedule for the waste for which the trial burn is planned including the date, duration, quantity of waste to be burned, and other factors relevant to the Department's decision under paragraph (28)(ii).

(v) A detailed test protocol, including, for the waste identified, the ranges of temperature, waste feed rate, combustion gas velocity, use of auxiliary fuel, and other relevant parameters that will be varied to affect the destruction and removal efficiency of the incinerator.

(vi) A description of, and planned operating conditions for, emission control equipment which will be used.

(vii) Procedures for rapidly stopping waste feed, shutting down the incinerator, and controlling emissions in the event of an equipment malfunction.

(viii) For new incinerators, a statement identifying suggested conditions to comply with paragraphs (6) and (7) in accordance with paragraphs (25)(i) and (iii).

(ix) Additional or supplemental information as the Department reasonably finds necessary to determine whether to approve the trial burn plan in light of the purposes of this paragraph and the criteria in paragraph (28)(ii).

(28) After review of a trial burn plan, the Department will do the following:

(i) Based on the waste analysis data in the trial burn plan, specify as trial Principal Organic Hazardous Constituents (POHCs), those constituents for which destruction and removal efficiencies shall be calculated during the trial burn. These trial POHCs will be specified by the Department under paragraph (8).

(ii) Approve a trial burn plan if it finds the following:

(A) The trial burn is likely to determine whether the incinerator performance standard required by paragraph (6) can be met.

(B) The trial burn itself will not present an imminent hazard to human health or the environment.

(C) The trial burn will help the Department to determine operating requirements to be specified under paragraph (7).

(D) The information sought in subparagraphs (ii)(A) and (B) cannot reasonably be developed through other means.

(29) After Department approval of the trial burn plan, the applicant shall do the following:

(i) During an approval trial burn (or as soon after the burn as is practicable), make the following determinations:

(A) A quantitative analysis of the trial POHCs in the waste feed to the incinerator.

(B) A quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial POHCs, oxygen (O₂) and hydrogen halide.

(C) A quantitative analysis of the scrubber water — if any, ash residues and other residues, for the purpose of estimating the fate of the trial POHCs.

(D) A computation of destruction and removal efficiency (DRE), under the DRE formula specified in paragraph (6)(i).

(E) If the hydrogen halide emission rate exceeds 1.8 kilograms of hydrogen halide per hour (4 pounds per hour), a computation of hydrogen halide removal efficiency under paragraph (6)(ii).

(F) A computation of particulate emissions, under paragraph (6)(ii).

(G) An identification of sources of fugitive emissions and their means of control.

(H) A measurement of average, maximum, and minimum temperatures and combustion gas velocity.

(I) A continuous measurement of carbon monoxide (CO) in the exhaust gas.

(J) Other information as the Department may specify as necessary to ensure that the trial burn will determine compliance with the performance standards in paragraph (6) and to establish the operating conditions required by paragraph (7) as necessary to meet that performance standard.

(ii) Submit to the Department a certification that the trial burn has been carried out according to the approved trial burn plan, and the results of the determinations required in subparagraph (iii). This submission shall be made within 90 days of completion of the trial burn, or later if approved by the Department.

(iii) After completion of the trial burn, submit to the Department data collected during a trial burn.

(iv) Certify data and reports under § 75.265(z)(13) (relating to interim status standards for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities).

(30) Based on the results of the trial burn, the Department will set the operating requirements in the final permit in accordance with paragraph (7). The permit modification shall be treated as a minor modification under § 75.278(c)(3) (relating causes for permit modification or revocation and reissuance).

§ 75.265. Interim status standards for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities.

(a) *Scope.*

* * * * *

(2) The standards of this section apply to [any] a person or municipality who treats, stores, or disposes of hazardous waste who has fully complied with the requirements for interim status until final administrative disposition of their permit application is made unless otherwise specified in this section or in § 75.261 (relating to criteria, identification and listing of hazardous waste). The standards of this section also apply to an owner and operator of a facility in existence on November 19, 1980, who has failed to provide timely notification as required by § 75.267 (relating to notification of hazardous waste activities) or failed to file Part A of the permit application as required by this subchapter.

(3) The requirements of this section do not apply to the following:

* * * * *

(viii) A person or municipality disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research and Sanctuaries Act of 1972, 33 U.S.C.A. §§ 1401 — 1445. The requirements of this section do apply to the treatment or storage of hazardous waste before it is loaded onto an ocean vessel for incineration or disposal at sea, as provided in paragraph (2).

(ix) A person or municipality disposing of hazardous waste underground by means of a Class I injection well which has received, or applied for, a permit under the Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act 42 U.S.C.A. §§ 300f — 300j-10. A Class I injection well is a well injecting hazardous

waste beneath the lowest known underground source of drinking water. The requirements of this section do apply to the above ground treatment or storage of hazardous waste before it is injected underground and to other wells used to inject hazardous waste underground.

* * * * *

(i) *Preparedness, Prevention and Contingency (PPC) Plan and emergency procedures.*

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(12) Whenever there is an imminent or actual emergency situation, the emergency coordinator shall immediately:

* * * * *

(ii) [n] Notify State and local agencies with designated response roles if their help is needed.

* * * * *

(j) *Manifest system and discrepancy reporting.*

[(1) Requirements under this section apply to owners and operators of off-site facilities and on-site facilities receiving hazardous waste from off-site sources, except as otherwise provided in this section.

(2) General requirements for a manifest shall consist of the following:

(i) A generator who transports or offers for transportation a shipment of hazardous waste to an off-site treatment, storage, or disposal facility shall complete a manifest before the waste is transported off-site.

(ii) For all hazardous waste shipments designated for off-site treatment, storage, or disposal within this Commonwealth, the generator shall use the manifest forms provided by the Department and shall complete and distribute such manifest forms according to the instructions specified on the manifest.

(iii) For all hazardous waste shipments generated in this Commonwealth and designated for treatment, storage, or disposal outside this Commonwealth, the generator shall use the EPA-authorized disposer state manifest form or format, or a manifest form meeting the minimum EPA requirements.

(iv) A generator shall designate on the manifest one facility which is permitted to manage the waste described on the manifest.

(v) The Department manifest shall require the following information as a minimum:

(A) A unique manifest document number.

(B) The names, site addresses, telephone numbers, and identification numbers of the generator, transporters, and treatment, storage, or disposal facility.

(C) The proper United States Department of Transportation shipping name, United States Department of Transportation hazard class, and U. N. number of the waste as outlined in the United States Department of Transportation regulations, 49 C.F.R. §§ 172.101, 172.202, and 172.203.

(D) The physical form — solid, liquid, or gas — and the total quantity of each hazardous waste by units of weight or volume, and the type and number of containers.

(E) A certification equivalent to the following: "This is to certify that the above named materials are properly classified, described, packaged, marked, and labelled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation, U. S. EPA, and the State. The wastes described were consigned to the transporter named. The treatment, storage, or disposal (TSD) facility can and will accept the shipment, and has a valid permit to do so. I certify that the foregoing is true and correct to the best of my knowledge."

(3) The hazardous waste manifest shall consist of six copies, with Copies 1, 2, and 3 detaching into two parts, A and B. The manifest form shall be completed and routed as follows, except that manifests for bulk shipments transported by rail or water shall be completed and routed according to the scheme set forth in paragraph (9).

(i) The generator shall complete Part A of all copies of the manifest. The generator shall instruct the initial transporter's authorized representative to sign, date, and certify the receipt of the shipment.

(ii) For shipments of hazardous waste generated within this Commonwealth and to be disposed of within this Commonwealth, the generator shall retain a complete Copy 2 of the manifest and Part A of Copy 3 for his records.

(iii) In the case of an interstate shipment of hazardous waste, the generator shall detach Part A of Copies 1, 2, and 3, distribute Part A of Copy 1 to the disposer state, Part A of Copy 2 to the generator state, and retain Part A of Copy 3 for his records.

(iv) The transporter's authorized representative shall carry the remaining copies of the manifest along with the shipment.

(v) Upon delivery of the shipment to the designated treatment, storage, or dis-

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posal facility, or to transporter number two, transporter number one shall sign and date and certify delivery of the shipment, obtain the signature, date of receipt of shipment, and certification of the treatment, storage, or disposal facility's authorized representative or the authorized representative of transporter number two and detach and retain Copy 5 of the manifest.

(vi) Upon delivery of the shipment to the designated treatment, storage, or disposal facility by transporter number two, transporter number two shall sign and date and certify the delivery of the shipment, obtain the signature, date of receipt of shipment, and certification of the treatment, storage, or disposal facility's authorized representative and detach and retain Copy 6 of the manifest.

(vii) For shipments within this Commonwealth, the treatment, storage, or disposal facility's authorized representative shall retain complete Copies 1 and 4 of the manifest and return Part B of Copy 3 to the generator within 24 hours of delivery of the shipment.

(viii) In the case of the interstate shipment of hazardous waste, the treatment, storage, or disposal facility's authorized representative shall detach and distribute Part B of Copies 1, 2, and 3 of the manifest in the following manner:

(A) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 1 of the manifest to the state in which the designated treatment, storage, or disposal facility is located.

(B) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 2 of the manifest to the state in which the installation generating the hazardous waste is located and shall return Part B of Copy 3 of the manifest to the generator within 24 hours after the delivery of the shipment. The treatment, storage, or disposal facility shall retain Copy 4 for its records.

(4) Each manifest form shall record a maximum of two transporters. If more than two transporters are to be utilized, the generator shall complete additional manifest forms and reference the first manifest document number on such additional manifest forms.

(5) If more than four hazardous wastes from the same generator are to be shipped in the same shipment, the generator shall complete additional manifests for each group of four or less hazardous wastes.

(6) Copies of the manifest retained by the generator and the treatment, storage, or disposal facility shall be furnished to the Department upon request.

(7) Note any significant discrepancies in paragraph (10) on each copy of the manifest.

(8) Retain at the facility a copy of each manifest for at least 20 years from the date of delivery.

(9) For bulk shipment of hazardous waste designated for treatment, storage, or disposal within this Commonwealth solely by railroad or water, the manifest shall be completed and routed as follows:

(i) The generator shall complete Part A of all copies of the manifest. The generator shall instruct the initial transporter's authorized representative to sign and date and certify the receipt of the shipment.

(ii) For shipments of hazardous waste generated within this Commonwealth and to be disposed of within this Commonwealth, the generator shall retain a complete Copy 2 of the manifest and Part A of Copy 3 for his records.

(iii) In the case of an interstate shipment of hazardous waste, the generator shall detach Part A of Copies 1, 2, and 3, distribute Part A of Copy 1 to the disposer state, Part A of Copy 2 to the generator state, and retain part A of Copy 3 for his records.

(iv) The generator or the initial transporter delivering a shipment of hazardous waste to the rail or water transporter shall obtain the signature and date of receipt of shipment and certification of the rail or water transporter on the manifest and forward the remaining copies of the manifest, except those for additional transporters, to the designated treatment, storage, or disposal facility. Each transporter other than the rail or water transporter shall retain his copy of the manifest for his records.

(v) The rail or water transporter shall carry along with the shipment either his copy of the manifest or the shipping paper containing all the information required on the manifest in paragraph (2)(v) except the identification numbers, generator's certification, and signatures.

(vi) The delivering rail or water transporter shall obtain the signature, date of receipt of shipment, and certification of the treatment, storage, or disposal facility's authorized representative on either the manifest or the shipping paper.

(vii) The designated treatment, storage, or disposal facility's authorized representative shall sign and date and certify the acceptance of the shipment on the manifest forwarded by the generator or initial transporter and shall obtain the signature, date of delivery of shipment, and certification of the rail or water transporter.

(viii) For shipments within this Com-

monwealth, the treatment, storage, or disposal facility's authorized representative shall retain completed Copies 1 and 4 of the manifest and return Part B of Copy 3 to the generator.

(ix) In the case of the interstate shipment of hazardous waste, the treatment, storage, or disposal facility's authorized representative shall detach and distribute Part B of Copies 1, 2, and 3 of the manifest in the following manner:

(A) Treatment, storage, or disposal facility's authorized representative shall forward Copy 1 of the manifest to the state in which the designated treatment, storage, or disposal facility is located.

(B) Treatment, storage, or disposal facility's authorized representative shall forward Part B of Copy 2 of the manifest to the state in which the installation generating the hazardous waste is located, and shall return Part B of Copy 3 of the manifest to the generator within 24 hours after the delivery of the shipment. The treatment, storage, and disposal facility shall retain Copy 4 for its records.

(10) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives.

(i) Significant discrepancies in quantity are:

(A) for bulk waste, variations greater than 2.0% in weight; or

(B) for batch waste, any variation in piece count, such as a discrepancy of one drum in a truckload.

(ii) Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper or differences in physical form, color, odor, and the like.

(11) Upon discovering a significant discrepancy, the owner or operator shall reconcile the discrepancy with the waste generator or transporter before the waste is stored, treated, or disposed by the HWM facility. If the discrepancy is not resolved within three days after receiving the waste, the owner or operator shall immediately notify the Department by telephone and a letter describing the discrepancy and attempts to reconcile it, enclosing a copy of the manifest or shipping paper at issue.]

(1) The requirements in this subsection apply to an owner or operator of an off-site facility or on-site facility receiving hazardous waste from an off-site source, except as specified in subsection (a). This

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subsection does not apply to an owner and operator of an on-site facility that does not receive hazardous waste from off-site sources.

(2) A hazardous waste shipment received from an off-site source shall be accompanied by the Department's manifest, except as under paragraph (4).

(3) The owner or operator of the facility, or an authorized representative, shall do the following:

(i) Print or type his name, sign and date each copy of the manifest at the time the shipment is received to certify that the hazardous waste covered by the manifest was received.

(ii) Note significant discrepancies in the manifest (as defined in paragraphs (9) and (10)) on each copy of the manifest.

(iii) Immediately give the transporter at least one copy of the signed manifest.

(iv) Detach copies 1, 2, 3, and 4 of the manifest.

(v) Within 7 days after the date of delivery, send copy 3 of the manifest to the generator.

(vi) If the generator is located within this Commonwealth, retain copies 1 and 2 for the owner or operator's records under paragraph (5).

(vii) If the generator is located outside of this Commonwealth, within 7 days after the date of delivery, send copy 1 of the manifest to the Department and copy 2 to the generator State.

(viii) Retain copy 4 of the manifest at the facility for the owner or operator's records under paragraph (5)

(4) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing the information required on the manifest (excluding EPA ID Numbers, generator's certification, and signatures, and optional State information), the owner or operator, or an authorized representative, shall do the following:

(i) Sign and date each copy of the shipping paper at the time the shipment is received to certify that the hazardous waste covered by the shipping paper was received.

(ii) Note significant discrepancies, in the shipping paper (defined under paragraphs (9) and (10)) on each copy of the shipping paper;

(iii) Immediately give the rail or water (bulk shipment) transporter at least one copy of the shipping paper.

(iv) Within 7 days after the date of delivery, send a copy of the shipping paper to the generator.

(v) Detach copies 1, 2, 3 and 4 of the manifest.

(vi) Within 7 days after the date of delivery, send copy 3 of the manifest to the generator.

(vii) If the generator is located within this Commonwealth, retain copies 1 and 2 for the owner or operator's records under paragraph (5);

(viii) If the generator is located outside of this Commonwealth, within 7 days after the date of delivery, send copy 1 of the manifest to the Department and copy 2 to the generator State.

(ix) Retain a copy of each shipping paper and manifest for the owner or operator's records under paragraph (5).

(5) The owner or operator of the facility shall retain the required copies of the manifest or shipping paper for at least 20 years from the date of delivery.

(6) Copies of the manifest and shipping paper retained by the owner or operator under this subsection shall be furnished to the Department upon request.

(7) The owner or operator of a facility, or an authorized representative, who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal shall comply with § 75.262 (relating to generators of hazardous waste) and prepare a manifest in accordance with the instructions supplied with the manifest.

(8) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source shall notify the Department in writing at least 4 weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

(9) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually received. Significant discrepancies in quantity include the following:

(i) For bulk waste, variations greater than 2.0% in weight.

(ii) For batch waste, a variation in piece count, such as a discrepancy of one drum in a truckload. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper, or differences in physical state, color, odor, and the like.

(10) Upon discovering a significant manifest discrepancy as defined in

§ 75.265(j)(9), the owner or operator shall attempt to reconcile the discrepancy with the waste generator or transporter — for example, with telephone conversations — before the waste is treated, stored, or disposed at the facility. If the discrepancy is not resolved within 3 days after receiving the waste, the owner or operator shall immediately notify the Department by telephone and send a letter to the Department describing the discrepancy and attempts to reconcile it, and include a copy of the manifest or shipping paper at issue.

* * * * *

(m) *Quarterly facility report and additional reports.*

(1) The owner or operator of an off-site facility or on-site facility receiving hazardous waste from off-site sources shall submit quarterly reports:

(i) To the Department on a form designated by the Department. The form shall contain as a minimum the following information:

* * * * *

(D) The name, identification number, and address of each generator; for imported shipments of hazardous waste, the report shall give the name and address of the foreign generator.

(E) The description, Department of Transportation hazard class and hazardous waste number [, and date of treatment, storage, or disposal] of the hazardous waste. For off-site facilities, this information shall be listed by the identification number of each generator.

(F) The amount and units of measure of each hazardous waste in a shipment and the date and method of treatment, storage, or disposal for each hazardous waste.

* * * * *

(J) The most recent closure cost estimate under subsection (p), and for disposal facilities, the most recent post-closure estimate under subsection (p).

* * * * *

(3) The owner or operator of a [C] captive treatment or disposal facility or an on-site storage facility[facilities] shall not submit quarterly reports to the Department. The owner or operator of a facility shall submit a single copy of an annual report to the Department, on a form specified by the Department, by March 1 of each year. The report shall describe facility activities during the previous calendar year and shall include, along with the dates of the calendar year covered by the report, the information required in subsection (m)(1)(i)(A), (B), (E), (H), and (J), a description of each hazardous waste man-

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aged, the amount and units of measure of each hazardous waste managed, and the method of treatment, storage, or disposal for each hazardous waste. [They shall, however, maintain records of hazardous waste treatment, storage, and disposal activity pursuant to subsection (k) on a form specified by the Department.] This form shall be maintained for the life of the facility as a part of its operating record. These records shall be made available to the Department upon request.

* * * * *
 (o) Closure and post-closure.
 * * * * *

(6) The Department will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the closure plan and request modifications of the plan within 30 days of the date of the notice. The Department will also, in response to a request or at its own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning a closure plan. The Department will give public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined. The Department may in writing modify, approve, or disapprove the plan within 90 days of receipt [and after providing the owner or operator and the affected public the opportunity to submit written comments] . If the closure plan is disapproved by the Department, the owner or operator shall modify the plan or devise a new plan, either of which shall be submitted for written Department approval within 30 days of notice of disapproval. If the Department modifies the plan, this modified plan shall become the approved closure plan.

(7) Within 90 days after receiving the final volume of hazardous waste, or 90 days after approval of the closure plan, whichever is later, the owner or operator shall treat, remove from the site, or dispose of on-site [all] hazardous waste in accordance with the approved closure plan. The Department may approve in writing a longer period if the owner or operator demonstrates [that] one of the following:

(i) [t] The activities required to comply with this subsection will, of necessity, take [him] longer than 90 days to complete, and the owner or operator will continue to take measures necessary to ensure safety to human health and the environment [; or] .

(ii) [t] The facility has additional capacity under its permit, someone other than the present owner or operator will obtain a permit to recommence operation of the site, closure would be incompatible with continued operation of the site, and the owner or operator will continue to take all measures necessary to ensure safety to human health and the environment.

(8) The owner or operator shall complete closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of wastes, or 180 days after approval of the closure plan, whichever is later. The Department may in writing approve a longer closure period if the owner or operator demonstrates [that;] the following:

(i) [t] The closure activities will, of necessity, take [him] longer than 180 days to complete, and the owner or operator will continue to take measures necessary to ensure safety to human health and the environment [; or] .

(ii) [t] The facility has additional capacity under its permit, someone other than the owner or operator will obtain a permit to recommence operation of the site, closure would be incompatible with continued operation of the site, and the owner or operator will continue to take all measures necessary to ensure safety to human health and the environment.

* * * * *

(18) The Department will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the post-closure plan and request modifications of the plan, including modification of the 30 year post-closure period required in paragraph (11), within 30 days of the date of the notice. The Department may also, in response to a request or at its own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the post-closure plan. The Department will give the public notice of the hearing at least 30 days before it occurs. Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments, and the two notices may be combined. The Department will approve, modify, or disapprove the plan within 90 days of its receipt. If the Department does not approve the plan, the owner or operator shall modify the plan or submit a new plan for approval within 30 days of the disapproval. If the Department modifies the plan, this modified plan shall become the approved post-closure plan.

* * * * *

(s) Surface impoundments.

* * * * *

(4) Whenever a surface impoundment is to be used to chemically treat a hazardous waste which is substantially different from waste previously treated in that impoundment, or chemically treat hazardous waste with a substantially different process than any previously used in that impoundment, the owner or operator shall, before treating the different waste or using the different process, conduct waste analyses and trial treatment tests, or obtain written, documented information on similar treatment of similar waste under similar operating conditions to show that this treatment will comply with subsection (g)(2).

* * * * *

(9) If the owner or operator does not remove all the impoundment materials listed in paragraph (7), or does not make the demonstration described in paragraph (8), he shall close the impoundment and provide post-closure care as for landfill under subsections (o), [y] and (v)(7). If necessary to support the final cover specified in the approved closure plan, the owner or operator shall treat remaining liquids, residues, and soils by removal of liquids, drying, or other means.

* * * * *

(t) Waste piles.

* * * * *

(5) If leachate or runoff from a pile is a hazardous waste, then either:

(i) [the pile shall be placed on an impermeable base that is compatible with the waste under conditions of treatment or storage, run-on shall be diverted away from the pile, and any leachate and runoff from the pile shall be collected and managed as hazardous waste;] The facility owner or operator shall do the following:

(A) Place the pile on an impermeable base that is compatible with the waste under the conditions of treatment or storage.

(B) Design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portion of the pile during peak discharge from at least a 25-year storm.

(C) Design, construct, operate, and maintain a runoff management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(D) Ensure that collection and holding facilities — for example, tanks or basins — associated with run-on and run-

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off control systems shall be emptied or otherwise managed expeditiously to maintain design capacity of the system.

* * * * *

(11) At closure, the owner or operator shall remove or decontaminate waste residues, contaminated containment system components — for example, liners — contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste, unless § 75.261(b)(4) (relating to criteria, identification and listing of hazardous waste) applies; or if after removing or decontaminating residues and making reasonable efforts to effect removal or decontamination of contaminated components, subsoils, structures, and equipment as required, the owner or operator finds that not all contaminated subsoils can be practically removed or decontaminated, he shall close the facility and perform post-closure care in accordance with the closure and post-closure requirements that apply to landfills in subsection (v).

(u) Land Treatment.

* * * * *

(3) [Run-on shall be diverted away from the land treatment facility.] The owner or operator shall do the following:

(i) Design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portions of the facility during peak discharge from at least a 25-year storm.

(ii) Design, construct, operate, and maintain a runoff management system capable of collecting and controlling a water volume at least equivalent to a 24-hour, 25-year storm.

(iii) Ensure that collection and holding facilities — for example, tanks or basins — associated with run-on and runoff control system shall be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

(iv) Manage the facility to control wind dispersal if particulate matter may be subject to wind dispersal.

* * * * *

(10) Food chain crops shall not be grown on a land treatment facility receiving waste that contains cadmium unless [all the following] the requirements of subparagraphs (i) — (iii) or the requirements of subparagraphs (iv) — (ix) are met:

* * * * *

(20) In addition to the requirements of subsection (o) [(10) — (13)], during the closure and post-closure care period, the owner or operator of a land

treatment facility shall do the following:

(i) [m] Maintain [any] an unsaturated zone monitoring system, and collect and analyze samples from this system in a manner and frequency specified in the closure and post-closure plans, except that soil pore liquid monitoring may be terminated, if approved in writing by the Department, 90 days after the last application of waste[;] .

(ii) [r] Restrict access to the facility as appropriate for its post-closure use [; and] .

(iii) [a] Assure that growth of food chain crops complies with paragraphs (7) — (10) [; and] .

(iv) Control wind dispersal of hazardous waste.

(21) Ignitable or reactive waste shall not be land treated unless approved by the Department and the following conditions are met:

(i) The waste is immediately incorporated into the soil so that the following applies:

(A) The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste.

(B) Subsection (g)(2) is complied with.

(ii) The waste is managed in a way that it is protected from material or conditions which may cause it to ignite or react.

* * * * *

(v) Landfills.

* * * * *

(2) [Run-on shall be diverted away from the landfill.] The owner or operator of a landfill shall do the following:

(i) Design, construct, operate, and maintain a run-on control system capable of preventing flow onto the active portions of the landfill during peak discharge from at least a 25-year storm.

(ii) The owner or operator shall design, construct, operate and maintain a runoff management system to collect and control at least the water volume resulting from a 24-hour, 25-year storm.

(iii) Ensure that collection and holding facilities — for example, tanks or basins — associated with run-on and runoff control systems shall be emptied or otherwise managed expeditiously after storms to maintain design capacity of the system.

* * * * *

(7) The owner or operator shall place a final cover over the landfill, and the closure plan under paragraphs (o)(3) — (5) shall specify the function

and design of the cover. In the post-closure plan, under paragraphs (o)(15) — (17), the owner or operator shall include the post-closure care requirements of paragraph (10).

* * * * *

(11) Ignitable or reactive waste shall not be placed in a landfill, unless approved by the Department and the following conditions are met;

(i) The resulting waste, mixture, or dissolution of materials no longer meets the definition of ignitable or reactive waste under § 75.261(g).

(ii) Subsection (g)(2) is complied with.

* * * * *

(z) Hazardous waste management permit program.

(1) This subsection sets forth specific requirements for the Hazardous Waste Management (HWM) Permit program. In addition to these requirements, the following sections have been added which each HWM facility owner or operator of a new or existing HWM facility is subject to:

(i) § 75.270 (relating to hazardous waste permit program).

(ii) § 75.271 (relating to exclusions from permit requirements).

(iii) § 75.272 (relating to interim status facilities).

(iv) § 75.273 (relating to general application requirements).

(v) § 75.274 (relating to contents of Part A permit applications).

(vi) § 75.275 (relating to standard conditions for permits).

(vii) § 75.276 (relating to requirements for recording and reporting of monitoring results).

(viii) § 75.277 (relating to schedules of compliance).

(ix) § 75.278 (relating to cause for permit modification or revocation and reissuance).

(x) § 75.279 (relating to revocation of permits).

(xi) § 75.280 (relating to procedures for permit issuance, modification, revocation and reissuance, or revocation).

(xii) § 75.281 (relating to public notice requirements).

(xiii) § 75.282 (relating to public hearings).

* * * * *

(4) For an existing facility, notification completed [pursuant to] under section 3010 of the Resource Conservation and Recovery Act (42 U.S.C.

§ 6930) and submission of Part A of the Consolidated Permit Application forms to EPA [pursuant to] under 40 C.F.R. Part 122, Federal Register, May 19, 1980 shall be deemed to satisfy the requirements of paragraphs (2)(i) and (ii) and (3)(i) and (ii).

(5) HWM facility owners or operators having interim status shall be treated as having been issued a permit until such time as final Department action on Part B [A] of the permit application is made. During the Department's revision or subsequent review of Part A of the permit application, if it is determined that the HWM facility fails to meet the standards under this section or if the application is deficient, the Department will notify the owner or operator of the determination and may notify the HWM facility that it is no longer entitled to interim status.

* * * * *

(8) [No later than 30 days after the effective date of any revisions to § 75.261 (relating to criteria, identification, and listing of hazardous wastes), listing or designating additional wastes as hazardous, the owner or operator of an HWM facility treatment, storing, or disposing of such wastes shall file a Part A or an amended Part A application with the Department.] An owner or operator of an existing hazardous waste management facility shall submit Part A of the permit application to the Department no later than 6 months after the date of publication of regulations which first require compliance with the standards under §§ 75.265 or 75.266, or shall submit Part A 30 days after the date first becoming subject to the standards under §§ 75.265 or 75.266 whichever first occurs. If an owner or operator of a HWM 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 no later than the effective date of regulatory provisions listing or designating wastes as hazardous if the facility is treating, storing, or disposing of any of those newly listed or designated wastes. The owner or operator of a HWM facility who fails to comply with this requirement [shall] may not receive interim status as to wastes not covered by a [duly] filed Part A permit application.

* * * * *

(11) [All] An applicant[s] for an HWM permit[s] shall at a minimum provide [all] the information required in the Part A application form (Hazardous Waste Permit Application — Part A) and the Part B application forms. The Department may require additional information. The Department will

return incomplete applications to the applicant. An incomplete application does not contain the information required in paragraphs (18) — (21); the Part A and Part B application forms; and the information required in § 75.274. The Part B application form is comprised of the following properly completed modules and forms:

- (i) The TSD application checklist.
- (ii) The Module 9 form provided by the Department (general environmental, social and economic information).
- (iii) The contractual consent of landowner (landowner consent form provided by the Department).
- (iv) Other modules and forms the Department deems necessary for submitting a complete application.
- (v) An application fee in the amount specified in paragraph (26).

* * * * *

(13) It shall be the operator's duty to obtain a permit and the owner and operator shall sign the permit application.

(i) [All permit applications shall be signed as follows] The owner and operator shall sign the permit application as follows:

(A) [by a principal executive officer of at least the level of vice-president for a corporation;] if the owner or operator is a corporation, a responsible corporate officer shall sign the application. For the purpose of this subparagraph (i), a responsible corporate officer is one of the following:

(I) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function or another person who performs similar policy- or decisionmaking functions for the corporation.

(II) The manager of a manufacturing, production or operating facility employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million — in second-quarter 1980 dollars — if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(B) [by a general partner or the proprietor, for a partnership or sole proprietorship, respectively; or] If the owner or operator is a partnership or sole proprietorship, the general partner or the proprietor shall sign the application.

(C) [by either a principal executive officer or ranking elected official for a municipal, State, Federal, or other public agency.] If the owner or operator is a business entity or government agency

other than a corporation, partnership, or sole proprietorship, a principal executive officer or ranking elected official shall sign the application. For purposes of this section, a principal executive officer of a Federal agency includes one of the following:

(I) The chief executive officer of the agency.

(II) A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency.

(ii) [All r] Reports required by permits and other information requested by the Department shall be signed by a permittee or municipality described in subparagraph (13)(i), or by an authorized representative. The Department shall be notified in writing of [any] a change in authorization. A person is an authorized representative only if the following applies:

(A) The authorization is made in writing by a person described in subparagraph (13)(i).

(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 an individual occupying a named position).

(C) The written authorization is submitted to the Department.

(iii) For certification, [any] a person signing a document under subparagraph (13)(i) and (ii) of this section shall certify as follows:

["I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment."] "I certify under penalty of law that this document and 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 be 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."

(iv) If an authorization under subparagraph (13)(ii) is no longer accurate because a different individual or a person in a different position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subparagraph (13)(ii) shall be submitted to the Department prior to or together with a report, information, or an application to be signed by an authorized representative.

(14) A publicly-owned treatment works (POTW) which accepts hazardous waste for treatment shall be deemed to have an HWM permit if the following conditions are met:

* * * * *

(ii) Complies with the conditions of that permit.

(iii) Complies with the following provisions:

(A) § 75.264(b) (relating to new and existing hazardous waste management facilities applying for a permit [;]).

(B) § 75.264(j) [(relating to new and existing hazardous waste management facilities applying for a permit);].

(C) § 75.264(k) [(relating to new and existing hazardous waste management facilities applying for a permit); and].

* * * * *

(18) The following general information, at a minimum, shall accompany the submission of [all] Part B applications for new and existing HWM facilities [:]. The application shall also contain the information required under paragraph (11).

* * * * *

(20) The following specific information is required to be submitted with Part B of the application for all waste piles, landfills, surface impoundments, and land treatment facilities. For these HWM facilities, the application shall be submitted in two phases (Phases I and II) for written Department approval. These phases may be submitted separately or together.

* * * * *

(21) The following specific information is required to be submitted with Part B of the application for [all] incinerators, [waste piles,] tanks, thermal treatment facilities, chemical, physical, and biological treatment facilities, and storage facilities.

* * * * *

(23) Any modification to the design

or operation that the Department deems does not need a permit amendment under § 75.278(c) (relating to causes for permit modification or revocation and reissuance) shall be considered minor and shall be shown on "as-built" drawings and indicated in the report required by [paragraph] subsection (z)(21)(iii)(E) and shall be made available to the Department upon request. [All such] Minor modifications shall require approval of the Department in writing.

(24) Except under paragraph (23), [Any] any modification to the design or operation of a facility shall require a permit amendment under § 75.278 [except as otherwise provided in paragraph (23)].

* * * * *

§ 75.270. Hazardous waste permit program.

(a) A person or municipality may not own or operate a hazardous waste storage, treatment, or disposal facility unless the person or municipality has first obtained a permit for the facility from the Department, or as otherwise provided by § 75.265(z)(5) (relating to interim status for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities).

(b) A hazardous waste treatment, storage, or disposal facility which has an NPDES permit shall also obtain a HWM permit issued under the act. However, a publicly owned treatment works (POTWs) receiving hazardous waste will be deemed to have a HWM permit for that waste if the facility complies with the requirements of § 75.265(z)(14).

(c) The issuance of a permit does not convey property rights or an exclusive privilege.

(d) A permit is not transferable or assignable to another person or municipality.

§ 75.271. Exclusions from permit requirements.

(a) In addition to exclusions under §§ 75.264(a) (relating to new and existing hazardous waste management facilities applying for a permit) and 75.265(a) (relating to interim status for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities). The Department may waive the HWM permit requirement for treatment, cleanup, or containment activities taken during an immediate response to 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 which, when discharged, is a hazardous waste.

(b) A person or municipality who initiates or continues hazardous waste treatment, cleanup, or containment activities after the immediate response is over is subject to applicable requirements of §§ 75.265(z), 75.270 — 75.282, and 75.301 — 75.335.

§ 75.272. Interim status facilities.

(a) Requirements for interim status. The owner or operator of an existing HWM facility as defined in § 75.260 (relating to definitions and requests for determinations) shall have interim status and be treated as having been issued a permit so long as the owner or operator has complied with the following:

(1) The requirements of § 75.267 (relating to notification of hazardous waste activities).

(2) The requirements of § 75.273 (relating to general application requirements) governing submission of Part A applications and the applicable requirements of § 75.265(z) (relating to interim status for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities).

(b) Deficiency of application. If the Department has reason to believe upon examination of a Part A application that it fails to meet an applicable provision of this subchapter, it will notify the owner or operator in writing of the apparent deficiency. The notice will specify the grounds for the Department's belief that the application is deficient. The owner or operator shall have 30 days from receipt to respond to the notification and to explain or cure the alleged deficiency in the Part A application. If after the notification and opportunity for response the Department determines that the application is deficient, it may take appropriate enforcement action and the facility's interim status shall terminate without further action by the Department.

(c) Operation during interim status.

(1) The facility may not do the following during the interim status:

(i) Treat, store, or dispose of hazardous waste not specified in Part A of the permit application or in a Department permit for that facility or in written approval from the Department.

(ii) Employ processes not specified in Part A of the permit application or in a Department permit for that facility.

(iii) Exceed the design capacities specified in Part A of the permit application or in a Department permit for that facility.

(2) During interim status, an owner or

operator shall comply with the interim status standards set forth in § 75.265.

(d) *Termination of interim status.* Interim status shall terminate when one of the following occurs:

(1) The Department makes a final administrative disposition of the permit application.

(2) The owner or operator fails to furnish a requested Part B application by the date specified by the Department, or fails to furnish in full the information required by the Part B application.

(3) The owner or operator fails to comply with the applicable interim status standards of § 75.265.

(4) The facility poses a substantial present or potential hazard to human health or the environment.

§ 75.273. General application requirements.

(a) A person or municipality required to have a permit (including a new applicant and permittee with an expiring permit), shall complete, sign, and submit an application to the Department as described in § 75.265(z) (relating to interim status for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities) and in §§ 75.270 — 75.282. A person or municipality owning or operating a facility currently having interim status shall apply for permits when required by the Department. A person or municipality covered by HWM permits-by-rule need not apply for individual permits so long as they comply with applicable requirements for a permit-by-rule.

(b) The permit applicant shall comply with the signature and certification requirements of § 75.265(z)(13).

(c) When a facility or activity is owned by one person or municipality but is operated by another person or municipality, the operator shall obtain a permit. However, the owner shall also sign the permit application submitted by the operator.

(d) An applicant for HWM permits shall provide applicable information required in § 75.265(z) and § 75.274 (relating to contents of the Part A permit applications) and shall supply the information on application forms specified by the Department.

(e) The Department will not process a permit unless it has received a complete application for a permit. An application for a permit is complete when the Department receives the information required by § 75.265(z)(11).

(f) The owner or operator of a HWM facility with an effective permit shall submit a new complete application to the De-

partment at least 180 days before the expiration date of the effective permit, unless permission for a later date is obtained in writing by the Department. However, an application may not be submitted later than the expiration date of the existing permit.

§ 75.274. Contents of Part A permit applications.

(a) An applicant for a HWM permit shall submit Part A of the HWM application.

(b) Part A of the HWM application shall include but not be limited to the following:

(1) A description of the activities conducted by the applicant for which it is required to obtain a HWM permit.

(2) The name, mailing address, and location, including latitude and longitude, of the facility for which the application is submitted.

(3) Up to four Standard Industrial Codes (SIC) which best reflect the principal products or services provided by the facility.

(4) The operator's name, address, telephone number, ownership status, and whether the operator is a Federal, State, private, public, or other entity.

(5) The name, address, and phone number of the owner of the facility.

(6) Whether the facility is located on Indian lands.

(7) An indication of whether the facility is new or existing and whether it is a first or revised application.

(8) For existing facilities the following shall be included:

(i) A scale drawing of the facility showing the location of past, present, and future treatment, storage, and disposal areas.

(ii) Photographs of the facility clearly delineating existing structures; existing treatment, storage, and disposal areas; and sites of future treatment, storage, and disposal areas.

(9) A description of the processes to be used for treating, storing, and disposing of hazardous waste, and the design capacity of these items.

(10) A specification of the hazardous wastes listed or designated under § 75.261 (relating to criteria, identification and listing of hazardous waste) 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.

(11) A listing of permits or construction approvals received or applied for un-

der the following programs:

(i) The Hazardous Waste Management program under the act.

(ii) The Underground Injection Control program under the Safe Drinking Water Act, 42 U.S.C.A. §§ 300h — 300h-4, 300j-1 — 300j-10.

(iii) The NPDES program under Chapter 92 (relating to National Pollutant Discharge Elimination System).

(iv) The Prevention of Significant Deterioration (PSD) program under Chapter 127.

(v) The nonattainment program under Chapter 121 (relating to general programs).

(vi) The National Emission Standards for Hazardous Pollutants (NESHAPS) preconstruction approval under Chapter 124.

(vii) Ocean dumping permits under the Marine Protection Research and Sanctuaries Act of 1972, 33 U.S.C.A. §§ 1401 — 1445.

(viii) Dredge or fill permits under section 404 of the Federal Water Pollution Control Act, 33 U.S.C.A. § 1344.

(ix) Other relevant environmental Federal and State permits.

(12) A topographic map (or other map if a topographic map is unavailable) extending 1 mile beyond the property boundaries of the facility, depicting the facility and its intake and discharge structures; its hazardous waste treatment, storage, or disposal facilities; wells where fluids from the facility are injected underground; and those wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known to the applicant within ¼ mile of the facility property boundary.

(13) A brief description of the nature of the business.

(14) Other information as the Department may require.

§ 75.275. Standard conditions for permits.

(a) A HWM permit shall include either expressly or through incorporation by reference, permit conditions necessary to achieve compliance with the act and this subchapter including the applicable requirements specified in §§ 75.264 — 75.282 and 75.301 — 75.335 (relating to financial responsibility).

(b) The following conditions apply to HWM permits, and shall be incorporated into permits either expressly or by reference. If incorporated by reference, a specific citation to this subchapter shall be given in the permit.

(1) The permittee shall comply with

conditions of the permit. Noncompliance with a condition of the permit constitutes a violation of the act and this subchapter and is grounds for enforcement action; for permit modification, revocation and reissuance, or revocation; or for denial of a permit renewal application.

(2) If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee shall apply for and obtain a new permit under § 75.265(z) (relating to interim status for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities) and §§ 75.270 — 75.282.

(3) It may 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 the permit.

(4) The permittee shall take necessary steps to prevent and abate the release of hazardous waste to the environment and shall carry out measures necessary to prevent significant adverse impacts on human health or the environment, upon noncompliance with the act, this subchapter or the permit.

(5) The permittee shall properly operate and maintain facilities and systems of storage, treatment and control (and related appurtenances) which are installed or used by the permittee required under the act, this subchapter, and the conditions of the 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. The permittee shall provide and operate back-up or auxiliary facilities or similar systems if required under the act, this subchapter and the conditions of the permit.

(6) The permit may be modified, revoked and reissued, or revoked by the Department for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or revocation, or a notification of planned changes or anticipated noncompliance may not stay or supersede a permit condition.

(7) The permit does not convey a property right, or exclusive privilege, not may a permit be transferred or assigned to another person or municipality.

(8) The permittee shall furnish to the Department, within a reasonable time, relevant information which the Department may request to determine whether

cause exists for modifying, revoking and reissuing, or revoking the permit, or to determine compliance with this permit. The permittee shall also furnish to the Department, upon request, copies of records required to be kept by the permittee pursuant to the act, this subchapter, or a permit condition.

(9) The permittee shall allow the Department, its agent and authorized representatives, upon the presentation of credentials and other documents as may be required by statute to do the following:

(i) Enter at reasonable times upon the permittee's premises where a regulated facility or activity is located or conducted, or where records concerning the regulated facility or activity are kept.

(ii) Have access to and copy, at reasonable times, records that are kept concerning the regulated facility or activity.

(iii) Inspect at reasonable times facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the act, this subchapter, or the permit.

(iv) Sample or monitor substances or parameters at a location for the purposes of assuring permit compliance or as authorized by the act or this subchapter.

(10) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(11) The permittee shall retain records of monitoring information, including calibration and maintenance records and original strip chart recordings for continuous monitoring instrumentation, copies of reports required by the act, this subchapter or the permit, and records of data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. The permittee shall retain the records for a longer period of time if requested by the Department. The permittee shall maintain records of ground-water quality and ground-water surface elevations for the active life of the facility and during the post-closure care period as well.

(12) The permittee shall keep monitoring records which include the following information:

(i) The date, exact place, and time of sampling or measurements.

(ii) The individual who performed the sampling or measurements.

(iii) The date analyses were performed.

(iv) The individual who performed the analyses.

(v) The analytical techniques or methods used.

(vi) The results of the analyses.

(vii) Other information as the Department may require.

(13) Applications, reports, or information submitted to the Department shall be signed and certified by the applicant under this subchapter.

(14) The permittee shall give notice to the Department as soon as possible of planned physical alterations or additions to the permitted facility; the permittee may not modify the facility without first obtaining a permit or modified permit from the Department.

(15) The permittee shall report monitoring results to the Department at the intervals specified in paragraph (17) and as required in the permit or by this subchapter.

(16) The permittee shall submit written reports of compliance or noncompliance with interim and final requirements contained in a compliance schedule of the permit to the Department no later than 14 days following the schedule date.

(17) The permittee shall report the following:

(i) Noncompliance with the act, this subchapter or a condition of the permit or an occurrence or event at the HWM facility which may endanger health or the environment orally to the Department as soon as reasonably possible but in no case shall the time exceed 24 hours from the time the permittee becomes aware of the circumstances, including the following:

(A) Information concerning release or potential release of hazardous waste from the HWM facility that may cause an endangerment to public drinking water supplies under Chapter 109 of this title (relating to safe drinking water).

(B) Information of a release, potential release or discharge of hazardous waste from the HWM facility or information of a potential or actual fire or explosion at the HWM facility, which may threaten the environment or human health.

(ii) The description of the occurrence and its cause shall include the following:

(A) The name, address, and telephone number of the owner or operator.

(B) The name, address, and telephone number of the facility.

(C) The date, time, and type of incident.

(D) The name and quantity of material involved.

(E) The extent of injuries.

(F) An assessment of actual or potential hazards to the environment and human health at or near the facility.

(G) The estimated quantity and dis-

position of recovered material that resulted from the incident.

(iii) The permittee shall also submit to the Department within 5 days of the time the permittee becomes aware of the circumstances a written report containing 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 planned to reduce, eliminate, and prevent recurrence of the noncompliance. The Department may extend the 5 day requirement to 15 days upon good cause shown in writing to the Department.

(18) The permittee shall report to the Department instances of noncompliance not reported under paragraphs (15) — (17) at the time monitoring reports are submitted. A monitoring report shall contain the information listed in paragraph (17).

(19) Where the permittee becomes aware that it failed to submit relevant facts in a permit application, or submitted incorrect information in a permit application or in a report to the Department, it shall promptly submit the facts or information to the Department.

§ 75.276. Requirements for recording and reporting of monitoring results.

(a) The permittee shall comply with all recordkeeping, reporting, and monitoring requirements specified in this subchapter or in the permit.

(b) The recordkeeping, reporting and monitoring requirements shall include but not be limited to the following:

(1) Requirements concerning the proper use, maintenance, and installation of monitoring equipment or methods including biological monitoring methods when appropriate.

(2) Monitoring requirements, including type, intervals, and frequency of monitoring sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring.

(3) Applicable reporting requirements based upon the impact of the regulated activity and as specified in §§ 75.264 — 75.267. Reporting shall be as frequent as specified in this subchapter.

(4) Requirements for establishing background values of the groundwater monitoring parameters or procedures to be used to determine these values.

§ 75.277. Schedules of compliance.

(a) The permit may, when necessary, specify a schedule of compliance leading

to compliance with the act and this subchapter.

(1) Schedules of compliance under this section shall require compliance as soon as possible.

(2) Except as provided in subsection (b)(1)(ii), if a permit establishes a schedule of compliance which exceeds 1 year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

(i) The time between interim dates may not exceed 1 year.

(ii) If the time necessary for completion of an interim requirement is more than 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.

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

(b) A permit applicant or permittee may cease conducting regulated activities — by receiving the final volume of hazardous waste and, for treatment and storage HWM facilities, closing under applicable requirements; and, for disposal HWM facilities, closing and conducting post-closure care under applicable requirements — rather than continue to operate and meet permit requirements as follows:

(1) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued one of the following shall apply:

(i) The permit may be modified to contain a new or additional schedule leading to timely cessation of activities.

(ii) The permittee shall cease conducting permitted activities before noncompliance with an interim or final compliance schedule requirement already specified in the permit.

(2) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements.

(3) If the permittee is undecided whether to cease conducting regulated activities, the Department may issue or modify a permit to contain two schedules as follows:

(i) Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities.

(ii) One schedule shall lead to timely compliance with applicable requirements.

(iii) The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements.

(iv) A permit containing two schedules shall include a requirement that after the permittee has made a final decision under subparagraph (i), it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

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

§ 75.278. Causes for permit modification or revocation and reissuance.

(a) The Department may modify, or alternatively revoke and reissue a permit for cause which includes, but is not limited to the following:

(1) If circumstance set forth in § 75.279 (relating to revocation of permits) exists and the Department determines that modification, or revocation and reissuance is appropriate.

(2) If the Department has received information which was not available at the time of permit issuance and would have justified the application of different permit conditions at the time of issuance.

(3) If the standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations.

(4) If the Department determines good cause exists for changing 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.

(5) If the permittee fails to comply with Subchapter E (relating to financial responsibility for hazardous waste, storage, treatment and disposal facilities).

(b) The Department may also modify a permit in the following instances:

(1) When modification of a closure plan is authorized under § 75.264(o)(6)

(relating to new and existing hazardous waste management facilities applying for a permit) or (17).

(2) When necessary include conditions applicable to a facility that were not previously included in the facility's permit.

(3) When the Department: receives the notification of the expected closure date under § 75.264(o)(5); determines that extension of the 90 to 180 day period under § 75.264(o)(6) and (7), modification of the 30-year post-closure period under § 75.264(o)(10), continuation of security requirements under § 75.264(o)(12), or permission to disturb the integrity of the containment system under § 75.264(o)(14), is unwarranted.

(c) The Department may also modify a permit without following the procedures under § 75.280 (relating to procedures for permit issuance, modification, revocation and reissuance, or revocation) where:

(1) The modification is considered a minor modification. Minor modifications are changes to the design or operation of a facility for which the Department determines that no actual change to the permit is needed. The changes shall include the following:

- (i) Typographical errors.
- (ii) Monitoring or reporting frequency changes.
- (iii) Compliance date changes in compliance schedules that are not more than 120 days after the date specified in the existing permit.
- (iv) Emergency coordinator or equipment changes.
- (v) Inventory estimate changes.
- (vi) Operational changes that the Department determines are minor and will enhance or improve the treatment, storage or disposal operation at the facility.

(2) The modification is approved in writing by the Department.

§ 75.279. Revocation of permits.

(a) The Department may revoke a permit at any time or deny a permit renewal application for cause, including but not limited to the following causes:

- (1) Noncompliance by the permittee with a provision of the act, this subchapter or a condition of the permit.
- (2) The permittee's misrepresentation or failure in the application or during the permit issuance process to disclose fully a relevant fact or the permittee's misrepresentation or nondisclosure of a relevant fact at any time.
- (3) A determination by the Department that the permitted activity or facility

endangers human health or the environment.

(4) Another reason authorized under the act or this subchapter.

(b) The Department will follow the applicable procedures in § 75.280 (relating to procedures for permit issuance, modification, revocation and reissuance, and revocation) in revoking a permit.

§ 75.280. Procedures for permit issuance, modification, revocation and reissuance, or revocation.

(a) A person who requires a permit under the hazardous waste program shall complete, sign, and submit to the Department an application for a hazardous waste permit.

(b) The Department will not begin the processing of a permit until the applicant has complied with the application requirements for that permit.

(c) The Department will review for completeness every hazardous waste permit application for a new or existing HWM facility (both Parts A and B of the application). Upon completing the review, the Department will notify the applicant in writing whether the application is complete. If the application is incomplete, the Department will list the information necessary to make the application complete. When the application is for an existing HWM facility, the Department will specify in the notice of deficiency a date for submitting the necessary information. If the applicant thereafter submits a complete application, the Department will notify the applicant that the application is complete. After the application is completed, the Department may request additional information from an applicant if necessary to clarify, modify, or supplement previously submitted material. Requests for additional information will not render an application incomplete.

(d) If an applicant fails or refuses to correct deficiencies in the application, the permit may be denied and appropriate enforcement actions may be taken under applicable statutory provisions.

(e) If the Department decides that a site visit is necessary in conjunction with the processing of an application, it will notify the applicant; the applicant shall provide the Department access for a site visit at a reasonable time.

(f) The effective date of an application is the date on which the Department notifies the applicant that the application is complete as provided in subsection (c).

(g) Once an application is complete, the Department will tentatively decide whether to prepare a draft permit or to deny the application.

(h) If the Department tentatively decides to deny the permit application, it will issue a notice of intent to deny the application. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as a draft permit prepared under this section. If, after issuing a notice of intent to deny, the Department's final decision is to issue the permit, the notice of intent to deny will be withdrawn and the Department will proceed to prepare a draft permit under subsection (i).

(i) A draft permit prepared by the Department will contain the following information.

(1) Conditions under § 75.275 (relating to standard conditions for permits).

(2) Proposed compliance schedules under § 75.277 (relating to schedules of compliance).

(3) Monitoring requirements under § 75.264 (relating to new and existing hazardous waste management facilities applying for a permit), § 75.265 (relating to interim status for hazardous waste management facilities and permit program for new and existing hazardous waste management facilities), and § 75.275.

(4) Hazardous waste permit standards for treatment, storage, and disposal and other permit conditions under § 75.275.

(j) A draft permit prepared under this section shall be accompanied by a statement of basis, under subsection (k) or a fact sheet under subsection (l), publicly noticed under § 75.281 (relating to public notice and comment requirements) and made available for public comment under § 75.282 (relating to public hearings). The Department will give notice of the opportunity for a public hearing under § 75.282 and respond to comments under subsection (m).

(k) The Department will prepare a statement of basis for every draft permit for which a fact sheet under subsection (l) is not prepared. The statement of basis will briefly describe the derivation of the conditions of the draft permit and the reasons for them or, in the case of notices of intent to deny or revoke, reasons supporting the tentative decision. The statement of basis will be sent to the applicant and, on request, to other persons.

(l) Preparation of fact sheets.

(1) A fact sheet will be prepared by the Department for every draft permit for a major HWM facility or activity, and for every draft permit which the Department determines is the subject of widespread public interest or raises major issues. The fact sheet will briefly set forth the principal facts and the significant factual, legal,

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methodological, and policy questions considered in preparing the draft permit. The Department will send this fact sheet to the applicant and, on request, to other persons.

(2) The fact sheet shall include the following when applicable:

(i) A brief description of the type of facility or activity which is the subject of the draft permit.

(ii) The type and quantity of wastes which are proposed to be or are being treated, stored, or disposed of.

(iii) A brief summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions.

(iv) Reasons why requested variances or alternatives to required standards do or do not appear justified.

(v) A description of the procedures for reaching a final decision on the draft permit including the following:

(A) The beginning and ending dates of the comment period under § 75.281 and the address where comments will be received.

(B) Procedures for requesting a hearing and the nature of that hearing.

(C) Other procedures by which the public may participate in the final decision.

(vi) The name and telephone number of a person to contact for additional information.

(m) At the time that a final permit is issued, the Department will also issue a response to comments. This response will state the following:

(1) Specify which provisions, if any, of the draft permit have been changed in the final permit decisions, and the reasons for the change.

(2) Briefly describe the response to significant comments on the draft permit raised during the public comment period or during a hearing.

(n) The Department will make available to the public its response to public comments.

(o) The Department will follow the following procedures if it modifies, revokes and reissues, or revokes a permit:

(1) The Department may modify, revoke and reissue, or revoke a permit either at the request of an interested person (including the permittee) or upon the Department's initiative for reasons specified under § 75.278 (relating to causes for permit modification or revocation and reissuance) or § 75.279 (relating to revocation of permits) and for a reason

authorized under the act, this subchapter or the terms and conditions of the permit. A request shall be in writing and contain facts or reasons supporting the request.

(2) If the Department decides the request is not justified, the Department will send a brief written response giving a reason for the decision to the requestor. The Department's refusal to modify, revoke and reissue, or revoke a permit pursuant to a request is not subject to public notice, comment, or hearings.

(3) If the Department tentatively decides to modify or revoke and reissue a permit, under § 75.278(a) and (b), it will prepare a draft permit under this section incorporating the proposed changes. The Department may request additional information from the permittee and may require the permittee to submit an updated permit application. In the case of revoked and reissued permits the Department will require the submission of a new application. The permittee shall submit additional information or an updated or new application under a request by the Department within the time specified by the Department.

(4) In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. Other aspects of the existing permit shall remain in effect for the duration of the permit. When the permit is revoked and reissued, the entire permit is reopened just as if the permit had expired and was being reissued.

(5) If the Department tentatively decides to revoke a permit under § 75.279 it will issue a notice of intent to revoke. A notice of intent to revoke is a type of draft permit which follows the same procedures as a draft permit prepared under this section.

(6) Minor modifications under § 75.278 are not subject to the requirements of this section.
§ 75.281. Public notice and comment requirements.

(a) The Department will give public notice that the following actions have occurred:

(1) A permit application has been tentatively denied under § 75.280(h) (relating to procedures for permit issuance, modification, revocation and reissuance or revocation).

(2) A draft permit has been prepared under § 75.280(i).

(3) A hearing has been scheduled under § 75.282(b) (relating to public hearings).

(b) A public notice of the preparation of a draft permit (including a notice of in-

tent to deny a permit application) required under subsection (a) will provide for at least 45 days for public comment.

(c) The Department will give public notice of a public hearing at least 30 days before the hearing. Public notice of the hearing may be given at the same time as public notice of the draft permit, and the two notices may be combined.

(d) The Department will give public notice of activities described in subsection (a) by the following methods:

(1) By mailing a copy of a notice to the following persons otherwise entitled to receive notice under this paragraph may waive the right to receive notice for any classes and categories of permits:

(i) The applicant.

(ii) An agency which the Department knows has issued or is required to issue a RCRA, UIC, PSD, NPDES, or 404 permit for the same facility or activity (including EPA).

(iii) An appropriate Federal or State agency with jurisdiction over fish, shellfish, and wildlife resources or coastal zone management plans, State Historic Preservation Officers, Advisory Council on Historic Preservation, and other appropriate government authorities, including an affected state.

(iv) A person on a mailing list developed by the Department, which will include those who submit to the Department a request in writing to be on the list, those solicited for area lists from participants in past permit proceedings in that area, and by notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in regional and State funded newsletters, environmental bulletins, or State law journals. The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed. The Department may delete from the list the name of a person who fails to respond to the request.

(v) A unit of local government having jurisdiction over the area where the facility is proposed to be located.

(vi) A State agency having authority under State statute with respect to the construction or operation of the facility.

(2) Publication of a notice in a daily or weekly major local newspaper of general circulation and broadcast over local radio stations.

(3) In a manner constituting legal notice to the public under State statute.

(4) By another method reasonably calculated to give actual notice of the action in question to a person potentially af-

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fectured by it, including press releases or another form or medium to elicit public participation.

(e) The content of a public notice issued under this section shall contain the following minimum information:

(1) The name and address of the office processing the permit action for which notice is being given.

(2) The name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit.

(3) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit.

(4) The name, address and telephone number of a person from whom an interested person may obtain further information, including copies of the draft permit, the statement of basis or fact sheet, and the application.

(5) A brief description of the comment procedures required by § 75.282 and the time and place of a 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.

(6) Additional information which the Department considers necessary or proper.

(f) In addition to the general public notice described in subsection (e), the public notice of a hearing under § 75.282 (relat-

ing to public hearings) shall contain the following information:

(1) A reference to the date of previous public notices relating to the permit.

(2) The date, time, and place of the hearing.

(3) A brief description of the nature and purpose of the hearing, including the applicable procedures.

(g) In addition to the general public notice described in subsection (e), a person identified in subsection (d)(1)(i) —

(iv) will be mailed a copy of the fact sheet or statement of basis, the draft permit and, if applicable, the permit application.

§ 75.282. Public hearings.

(a) During the public comment period provided under § 75.281 (relating to public notice and comment requirements), an interested person may submit written comments on the draft permit and may request a public hearing, if a hearing has not already been scheduled. A request for a public hearing must be in writing and state the nature of the issues proposed to be raised in the hearing. The Department will consider comments in making its final decision and will answer these comments as provided in § 75.280(m) (relating to procedures for permit issuance, modification, revocation and reissuance, or revocation).

(b) The Department will follow the following procedures in a public hearing held under this subchapter:

(1) The Department will hold a public hearing whenever, on the basis of re-

quests received under subsection (a), it determines that a significant degree of public interest in a draft permit exists.

(2) The Department may, in its discretion, hold a public hearing whenever a hearing might clarify issues involved in the permit decision.

(3) The Department will hold a public hearing whenever it receives written notice of opposition to a draft permit and a request for a hearing within 45 days of public notice, under § 75.281.

(4) The Department will, when possible, schedule a hearing under this section at a location convenient to the nearest population center to the proposed facility.

(5) The Department will give public notice of the hearing under § 75.281.

(6) A person may submit oral or written statements and data concerning the draft permit before or after the public hearing. The Department may set reasonable limits upon the time allowed for oral statements and may require the submission of statements in writing. The public comment period under § 75.281 will automatically be extended to the close of a public hearing under this section. The Department's hearing officer may also extend the comment period by so stating at the hearing.

(7) The Department will make a tape recording or written transcript of the hearing available to the public.

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